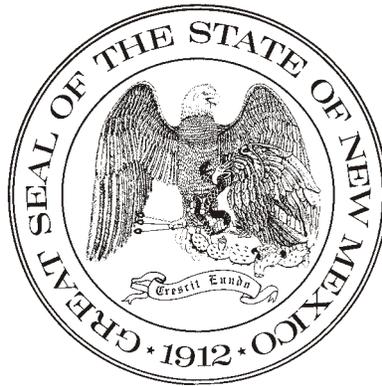


LAND GRANT COMMITTEE



2006 INTERIM FINAL REPORT to the FORTY-EIGHTH LEGISLATURE FIRST SESSION

New Mexico Legislative Council Service
Santa Fe, New Mexico
April 2007

LAND GRANT COMMITTEE

2006
REPORT

Santa Fe, New Mexico
April 2007
File No. 205.207-06

LEGISLATIVE INTERIM LAND GRANT COMMITTEE BACKGROUND AND SUMMARY OF COMMITTEE WORK

In its first year, 2003, the committee was tasked with studying the laws governing community land grants, developing legislation to improve those laws and gathering testimony from land grant heirs, state and local agencies and other community groups in New Mexico to better understand and address current problems facing the land grant community.

This 2006 interim, the committee continued to address the myriad of issues facing community land grants, and at its last meeting, endorsed several pieces of legislation for introduction during the 2007 legislative session. Endorsed legislation involved the following:

- revising the statute creating the Guadalupe Hidalgo treaty division of the attorney general's office to better define the division's duties and to fund the division fully;
- clarifying that laws providing for adverse possession of property do not apply to the common lands of community land grants that are political subdivisions of the state;
- requiring the economic development department to conduct a study on the economic benefits to local economies of department of game and fish wildlife management areas;
- funding for state records and archives to begin having legal abstracts completed on state properties that were formerly part of community land grants;
- funding cleanup of illegal dumps on community land grants;
- creating a land grant studies program at the university of New Mexico;
- converting the Tecolote, Chilili and Tome land grants into political subdivisions of the state; and
- granting land grants the right of first refusal to purchase properties that were formerly part of the land grant and that are slated for auction for nonpayment of property taxes.

The committee held its fourth meeting of the interim in Mountainair instead of Torreon,

but otherwise followed its approved meeting schedule. Total expenditures for voting members during the interim were \$12,642 and expenditures for advisory members totaled \$2,372.

**2006 APPROVED WORK PLAN, MEETING SCHEDULE AND BUDGET
for the
LAND GRANT COMMITTEE**

Committee Members

Sen. Bernadette M. Sanchez, Chair
Rep. Miguel P. Garcia, Vice Chair
Sen. Rod Adair
Sen. Joseph J. Carraro
Rep. Justine Fox-Young

Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella

Advisory Members

Rep. Hector H. Balderas
Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Rep. Ben Lujan

Sen. William E. Sharer
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

History

The land grant committee was originally created by statute for the 2003 interim and has been renewed each year as a legislative council-created committee since 2004.

Approved Work Plan

The land grant committee proposes to consider the following issues and topics during the 2006 interim and develop appropriate legislation for the 2007 legislative session:

- the role of council of government regions in administering community and economic development planning for community land grants;
- consideration of amending the statutes of land grants governed by specific statutes to reflect the provisions of Chapter 49, Article 1 NMSA 1978 and allowing land grants governed by Chapter 49, Article 2 NMSA 1978 to vote to be governed by Chapter 49, Article 1 NMSA 1978 provisions;
- community development block grants for community land grants that are governed as political subdivisions of the state;
- review of the Guadalupe Hidalgo treaty division, the funding of the division as part of the base budget of the office of the attorney general and the attorney general's response to the 2004 GAO report on community land grants;
- the property tax division's administration of delinquent tax sales of land located within boundaries of community land grants;
- the purchase of insurance from the risk management division by boards of trustees;
- continuing the funding of the title search of state-owned land that was formerly community land grant land by the state commission of public records; and

- the establishment of a land grant legal studies program at the university of New Mexico (UNM) school of law.

Approved Meeting Dates and Budget

Date	Location	Budget	
		Voting Members	Advisory Members
May 31	Santa Fe	\$2,512.98	\$2,063.89
July 31, August 1	San Antonio de las Huertas	3,849.74	3,295.10
August 23	UNM, Albuquerque	2,505.04	2,298.67
September 12, 13	Torreon	4,010.83	3,305.96
October 5, 6	Gallina/Coyote/Canones	5,415.06	3,452.63
November 29	Santa Fe	<u>2,512.98</u>	<u>2,063.89</u>
	TOTAL	\$20,806.63	\$16,480.14*

*The Legislative Council approved \$12,000 for advisory members.

AGENDAS

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

**May 31, 2006
Room 309, State Capitol**

Wednesday, May 31

- 10:00 a.m. **Call to Order**
—Senator Bernadette M. Sanchez, Chair
- 10:15 a.m. **Discussion of Work Plan and Itinerary for the 2006 Interim**
—Committee Members and Members of the Public
- 12:30 p.m. **Adjourn**

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

**August 23, 2006
Fiesta Room, UNM Student Union
University of New Mexico, Albuquerque**

Wednesday, August 23

- 10:00 a.m. **Call to Order and Introductory Remarks**
—Senator Bernadette M. Sanchez, Chair
- 10:15 a.m. **Welcoming Remarks**
—University of New Mexico (UNM) Representative
- 10:30 a.m. **State Land Office Property in the Bureau of Land Management's
Recreation Area Known As Fun Valley**
—Jim Jackson, State Land Office
- 10:45 a.m. **Taos Resource Management Plan Comments**
—John Chavez and Jerry Fuentes, Santa Cruz de la Canada and Nuestra
Senora del Rosario San Fernando y Santiago Land Grants
- 11:30 a.m. **Land Grant Studies Discussion**
—Dr. Manuel Garcia y Griego, Director, Southwest Hispanic Research
Institute
—Dr. Laura Gomez, Professor of Law and American Studies, UNM
- 12:15 p.m. **Lunch**
- 1:30 p.m. **Adverse Possession Statutes Affecting Land Grants**
—Narciso Garcia, Jr. (invited)
- 2:30 p.m. **Purchase of Liability Insurance and Immunity from Liability for
Boards of Trustees**
—Liz Stefanics, Director, Risk Management Division
—Manuel Tijerina, General Counsel, Risk Management Division
- Public Comment**
- 4:00 p.m. **Center for Southwest Research Tour (Tentative)**
- Adjourn**

Revised: September 11, 2006

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

**September 12-13, 2006
Dr. Saul Community Center
Mountainair**

Tuesday, September 12

- 10:00 a.m. **Call to Order and Introductory Remarks**
—Senator Bernadette M. Sanchez, Chair
- 10:15 a.m. **Process for County Assessment and Collection of Property Taxes — the
Problem of "Double Assessments"**
—Tim Eichenberg, Director, Property Tax Division, Taxation and
Revenue Department
- 11:15 a.m. **Amendment of Tecolote and Chilili Land Grant Governing Statutes**
—Juan Sanchez, Chilili Land Grant
- 12:00 noon **Lunch**
- 1:30 p.m. **Taos Resource Management Plan Revision**
—Sam DesGeorges, Field Office Manager, Taos Field Office, Bureau of
Land Management
—Sher Churchill, Planning and Environmental Coordinator, Taos Field
Office, Bureau of Land Management
—Lora Yonemoto, Lead Lands Specialist, Taos Field Office, Bureau of
Land Management
- 2:30 p.m. **History of Salinas Pueblo Missions**
—Murt Sullivan, National Park Service
- 3:15 p.m. **Public Comment**
- Recess**

Wednesday, September 13

- 9:00 a.m. **Tour of Local Land Grants and Missions**
- 12:00 noon **Adjourn**

TENTATIVE AGENDA

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

**October 5, 2006
Our Lady of Guadalupe Parish Hall
Gallina, New Mexico**

**October 6, 2006
Onate Monument Resource and Visitors Center
State Road 68, Building 854**

Thursday, October 5

- 10:00 a.m. **Call to Order and Introductory Remarks**
—Senator Bernadette M. Sanchez, Chair
—Felipe Martinez, Rio Arriba County Commissioner
- 10:15 a.m. **San Joaquin del Rio de Chama Land Grant Association**
—Leonard Martinez, President
—Nazario Barela, Secretary of Land and Water
—Benito Salazar, Treasurer
- 11:15 a.m. **Juan Batista Valdez Land Grant**
—Sereafin Valdez, President
—Hinigia Gallegos, Secretary
- 12:15 p.m. **Lunch**
- 1:30 p.m. **Tour of San Joaquin del Rio de Chama Land Grant**
- Recess**

Friday, October 6

- 9:00 a.m. **Tour of El Palacio Fun Valley**
—John Bailey, Sam DesGeorges and Jay Connerley, Taos Field Office,
Bureau of Land Management
- 12:00 noon **Adjourn**

Revised: November 28, 2006

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

**November 29, 2006
Room 309, State Capitol**

Wednesday, November 29

- 10:00 a.m. **Call to Order and Introductory Remarks**
—Senator Bernadette M. Sanchez, Chair
- 10:15 a.m. **State Records and Archives Report on Land Title Research**
—Sandra Jaramillo, Director, State Records Center and Archives
—Robert Torres, Former State Historian
- 10:45 a.m. **Water Rights Declarations Status**
—Juan Sanchez, Town of Chilili Land Grant
—Macario Griego, Canon de Carnue Land Grant
- 11:30 a.m. **Consideration of Legislation**
—Convert Tecolote, Chilili and Tome land grants to Chapter 49, Article 1
NMSA 1978 governance
- 12:00 noon **Lunch**
- 1:30 p.m. **Consideration of Legislation, continued**
—Revision of Guadalupe Hidalgo Treaty division statute
—Exempt land grants governed as political subdivisions of the state from
adverse possession statute
—Appropriation for clean-up of illegal dumps
—Appropriation to continue title search of state lands
—Appropriation for land grant studies program
—Department of Game and Fish report on state wildlife areas
- 3:30 p.m. **Elk Population Parity Proposal**
—Felipe Martinez, County Commissioner, Rio Arriba County
—Alberto Baros, Assistant Planner, Rio Arriba County
—John Peterson, Jemez District Ranger, United States Forest Service
—R.J. Kirkpatrick, Department of Game and Fish
- 4:30 p.m. **Adjourn**

MINUTES

**MINUTES
of the
FIRST MEETING
of the
LAND GRANT COMMITTEE
May 31, 2006
Santa Fe**

The first meeting of the land grant committee was called to order by Senator Bernadette M. Sanchez, chair, at 10:25 a.m. on May 31, 2006 in room 309 of the State Capitol.

Present

Sen. Bernadette M. Sanchez, Chair
Rep. Miguel P. Garcia, Vice Chair
Sen. Rod Adair
Rep. Justine Fox-Young
Rep. Manuel G. Herrera
Sen. Richard C. Martinez

Absent

Sen. Joseph J. Carraro
Rep. Jimmie C. Hall
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella

Advisory Members

Rep. Hector H. Balderas
Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Rep. Ben Lujan

Sen. William E. Sharer
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Staff

Jon Boller
Sheila Manzagol

Guests

The guest list is in the meeting file.

Wednesday, May 31

The staff gave a brief review of the committee-endorsed bills that passed and failed during the 2006 legislative session. Representative Garcia said that Robert Torres is continuing the title search of former community land grants now held by the state for the state commission of public records, and that the committee should continue to support funding for the project. It was suggested that a representative from the governor's office should be invited to the November meeting to express any concerns the governor may have on committee bills.

The committee then considered a work plan for the interim. Arturo Archuletta, northern New Mexico economic development district (NMEDD) representative, reported that the district is currently working on nine economic planning and other projects with various community land grants. Juan Sanchez, Chilili, asked that the NMEDD be allowed to work with the community land grants located in the mid-region council of governments district, since the NMEDD has already established a land grant program. He also asked the committee to review legislation allowing land grants governed under Chapter 49, Article 2 NMSA 1978 to reorganize under Chapter 49, Article 1 NMSA 1978, noting that this could affect the Bartolome Sanchez, Jacona, Costilla and Tome land grants. Representatives from the Chilili and Tecolote land grants notified the committee that their respective land grants would like to amend their governing statutes so that Chilili and Tecolote will be governed by the provisions of Chapter 49, Article 1 NMSA 1978 also. The committee requested staff to work with Joe and Angela Herrera, Tecolote, and Juan Sanchez, Chilili, to this end.

Asked whether community land grants now qualify for community development block grants (CDBG), Mr. Archuletta explained that the CDBG council will be considering an amendment to its rules at its July 27 meeting to allow land grants that are political subdivisions of the state to compete for CDBG funds in the same way as municipalities and counties. The committee moved to send a letter to the council to express its support of the rule change, and to consider setting aside up to five percent of available funds yearly for community land grant projects.

Marcario Griego, Carnue de Carnuel land grant, asked the committee to consider legislation allowing community land grants that are political subdivisions to purchase insurance from the risk management division of the general services department, as acequias are allowed to do. He also asked that the boards of trustees of these land grants be granted the same exclusion to the waiver of immunity under the Tort Claims Act that now applies to acequias.

Jerry Fuentes and John Chavez, Nuestra Senora del Rosario San Fernando y Santiago land grant, expressed their concerns about governance of their land grant and asked the committee to send a request for an opinion to the attorney general on the status of the land grant as a community land grant and on what statutes apply to the land grant when specific statutes are silent on a particular issue. The committee asked staff to work with Mr. Fuentes in drafting the letter.

The committee also discussed the establishment of a land grant legal studies program at the university of New Mexico school of law and when the attorney general's response to the 2004 government accountability office (GAO) report, entitled "Treaty of Guadalupe Hidalgo: Findings and Possible Options Regarding Longstanding Community Land Grant Claims in New Mexico" (GAO-04-59), would be presented to the committee.

The committee proposed the following work plan and itinerary for the interim:

Proposed Work Plan

The land grant committee proposes to consider the following issues and topics during the 2006 interim and develop appropriate legislation for the 2007 legislative session:

- role of council of government regions in administering community and economic development planning for community land grants;
- consideration of amending the statutes of land grants governed by specific statutes to reflect the provisions of Chapter 49, Article 1 NMSA 1978 and allowing land grants governed by Chapter 49, Article 2 NMSA 1978 to vote to be governed by Chapter 49, Article 1 NMSA 1978 provisions;
- community development block grants for community land grants that are governed as political subdivisions of the state;
- review of the Guadalupe Hidalgo treaty division, the funding of the division as part of the base budget of the office of the attorney general and the attorney general's response to the 2004 GAO report on community land grants;
- the property tax division's administration of delinquent tax sales of land located within boundaries of community land grants;
- purchase of insurance from the risk management division by boards of trustees;
- continuing the funding of the title search of state-owned land that was formerly community land grant land by the state commission of public records; and
- establishment of a land grant legal studies program at the UNM school of law.

Proposed Meeting Dates and Itinerary

Date	Meeting Place
May 31	Santa Fe
July 27, 28	San Antonio de las Huertas
August 23	UNM Law School
September 12, 13	Torreon
October 5, 6	Gallinas/Coyote/Canones
November 29	Santa Fe

There being no further business, the committee adjourned at 11:47 a.m.

**MINUTES
of the
SECOND MEETING
of the
LAND GRANT COMMITTEE
July 31 - August 1
San Antonio de las Huertas
Placitas**

The second meeting of the land grant committee was called to order by Senator Bernadette M. Sanchez, chair, at 10:25 a.m. on July 31, 2006 in the cafe de Placitas in Placitas.

Present

Sen. Bernadette M. Sanchez, Chair
Rep. Miguel P. Garcia, Vice Chair
Sen. Rod Adair
Sen. Joseph J. Carraro
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella

Absent

Rep. Justine Fox-Young

Advisory Members

Rep. Hector H. Balderas
Rep. Eric A. Youngberg

Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Rep. Ben Lujan
Sen. William E. Sharer
Sen. Leonard Tsosie

Staff

Jon Boller
Sheila Manzagol

Guests

The guest list is in the meeting file.

Monday, July 31

San Antonio de las Huertas Land Grant

Tony Lucero, chair of the board of trustees of the San Antonio de las Huertas land grant, welcomed the committee and introduced the attending members of the land grant. Mr. Lucero said that unlike many community land grants, San Antonio de las Huertas still has approximately 500 acres of common lands left of the 4,763 acres that were confirmed by the court of private land claims in 1897. He explained that in the confirmation process the land grant lost one-third of its land to its lawyers and all of the lands of the Tejon grant, which the members of the San Antonio de las Huertas grant claimed was part of its original 130,000 acre grant, and that even though the

Treaty of Guadalupe Hidalgo was supposed to protect Spanish and Mexican land grants, people had to go to Washington, D.C., to prove ownership. He said that while a number of books and articles have been written that touch upon the history of the San Antonio de las Huertas land grant, including books by Suzanne Forest and Charles Minton, the truth still eludes, and the story of the people still needs to be told. According to Mr. Lucero, though the original grant was made in 1767, the area was already settled in the 1660s, as evidenced by the Estancia de las Huertas, and the area was used by nearby Pueblo communities before that. He noted that despite articles that say the land grant was abandoned due to attacks by the Apache, Navajo and Comanche tribes after the Spanish left in the 1820s, the land was never abandoned during this period.

As for current and future plans, Mr. Lucero reported that the water system, which is fed by seven springs, is being rejuvenated, and that the land grant hopes to exchange some land with the bureau of land management (BLM) that are more suitable for use by the community. Possible projects include establishment of an ecolodge next to national forest lands, a small business incubator and a wellness center.

When asked whether the BLM lands were formerly part of the original land grant, Mr. Lucero replied that they were, and that he thought there is still a viable claim to some lands due to mistakes in the survey that established the boundaries of the land grant—much like what happened with the Pueblo of Sandia lands on the east side of the Sandias. However, he said, the land grant does not have the millions of dollars for lawyers that it cost the Pueblo of Sandia to regain its claim on the land it lost. When asked about development going on along the road leading to Placitas, he explained that that area is technically Bernalillo heights, and that there has been a bit of identify theft going on when some parties placed signs indicating that the town of Placitas begins out near the interstate, rather than at the red bluffs several miles from the interstate.

In closing, Mr. Lucero said that the land grant forum has been a good forum for discussion, and that the next step would be to create an association to work with other organizations and promote common goals. He asked that the committee support the trading for or acquisition of BLM land by the land grants.

Guadalupe Hidalgo Treaty Division Role and Budget

Don Trigg, director of the civil division of the office of the attorney general, began by reviewing the history of the Guadalupe Hidalgo treaty division, noting that the legislature created the division in 2003 to "review, oversee and address concerns relating to the provisions of the Treaty that have not been implemented or observed in the spirit of New Mexico law . . .". A total of \$50,000 was appropriated at that time to do that work with the further understanding that the attorney general would also research and prepare a written response to the governmental accountability office (GAO) report on compliance with the treaty. He explained that because the funding amount was inadequate to build an internal capacity in the office of the attorney general, the attorney general did the following: 1) assigned Assistant Attorney General Alvin Garcia to work with the land grant community as his other assignments permitted; 2) assigned to the civil division the responsibility to issue advisory opinions and invited the land grant community to regular monthly seminar programs on the Open Meetings Act and the Inspection of Public Records Act; 3) assigned to others and himself responsibility to review the GAO report and work with David Benavidez of New Mexico legal aid, who was contracted to prepare a response to the GAO

report; and 4) requested \$500,000 for the last budget cycle to fully implement the division (the request was denied).

Mr. Trigg said that in his opinion, there are issues with the GAO report that should be taken on, and that there needs to be a strategy, beginning with completion of the state's response to the report, a decision on possible litigation and a decision on what kind of congressional response would be appropriate. He warned that it would be an uphill fight, but that it does not mean it is not worth doing, and that it would be best to speak with one voice.

Alvin Garcia, assistant attorney general, added that the attorney general has renewed the request for funding of the division next year. He also addressed the issue of the district attorneys' role in representing or advising land grants, noting that they may represent counties, and may contract with Indian nations, tribes or pueblos in certain cases, but that they are not authorized to represent land grants. He suggested that the land grants might explore entering a joint powers agreement with the district attorneys.

In answer to a question about the role of the division if it had funding, Mr. Trigg replied that the bulk of funding would be used to hire experts—historians and attorneys. He stated that he took issue with the conclusion in the GAO report that the federal government had met its obligations under the treaty, but that until funding is available he could not assign even one lawyer half-time to the division. He suggested that the legislature rewrite the law to better reflect exactly what the division should do, and that there needs to be a strategic plan on how to respond to the GAO report and where to go from here. He stressed that fear of losing is not a reason to not take on the task.

The committee adopted a motion to invite the attorney general-elect to its last meeting in November and requested that Mr. Trigg and Mr. Garcia work with the land grant forum and committee staff on refining the division's statute. Mr. Garcia said he would inform the committee when the legislative finance committee and the department of finance and administration are to consider the attorney general's budget.

Property Tax Division Update on Delinquent Property Tax Sales Affecting Land Grants

Tim Eichenberg, director of the property tax division of the taxation and revenue department, outlined the process by which the state conducts delinquent property tax sales. He explained that the division notifies owners of an impending public auction by phone and mail and by red-tagging the property. If the division cannot red-tag a property because of an inadequate legal description, he said, then the division does not sell the property. The minimum bid for a property must cover costs, penalties, taxes and a \$25.00 fee.

As for the right of community land grants to match the highest bid for property that was formerly part of the grant, he said that it is sometimes difficult to identify which properties fall into that category. The division is not auctioning former land grant properties at this time, he said, since it is not always clear who to notify. A list of the boards of trustees of the eligible land grants would be helpful for notification purposes, he explained. He noted that properties that just have a metes and bounds description are also not sold. When asked how the division knows that a property is within the boundaries of a land grant, Mr. Eichenberg answered that Torrance county

and Bernalillo county have descriptions of the land grants in their databases. He said it would be helpful if the other counties could have plats of the land grants within their borders, also. When asked if the committee could get a list of the land grant properties with delinquent taxes that the division has excluded from its list of properties to be sold at tax auction, Mr. Eichenberg replied that he could do so. When asked if the list could be posted on the division's web site, he said that he would look into doing that, also. The committee expressed concern that some properties might never be sold, to which Mr. Eichenberg replied that some properties in Chilili have been unsold for 12 to 15 years because of insufficient legal descriptions of the property. The committee suggested that Mr. Eichenberg get a list of the community land grants that have registered with the secretary of state.

Community Development Block Grant Administration

Robert Apodaca, director, local government division of the department of finance and administration (DFA), informed the committee that the Cubero land grant received a community development block grant (CDBG) of \$400,000 for wastewater improvements this year, but warned that CDBG funding is declining due to federal budget constraints. Out of 50 applications for CDBG funds last year, 33 were funded at an average of \$500,000 each. He outlined the CDBG program and explained that land grants that are governed as political subdivisions of the state are eligible to receive appropriations from the state and funding from the CDBG program for planning and infrastructure projects. There are concerns, however, regarding the administration of funds for land grant projects, including: 1) the lack of management capacity of land grants; 2) the lack of budgets and audits filed with the DFA; 3) the filing of required documents with the secretary of state; and 4) the lack of comprehensive planning and zoning for land grants. Consequently, a land grant may have to have a county act as its fiscal agent. Sam Ojinaga, deputy director, local government division of DFA, added that the division would work on a case-by-case basis in administering projects, and that it would waive the requirement that a land grant work through the county to apply for CDBG funding if the county is not cooperative. When asked how Cubero qualified for its funding, Mr. Ojinaga replied that Cubero applied through Cibola county. Committee members asked the division to put together a checklist of eligibility requirements so that they as legislators could judge whether or not to make appropriations to a particular land grant.

Public Comment

John Chavez, Santa Cruz de la Canada land grant, requested that the committee ask the Taos field office of the federal bureau of land management (BLM) to extend its comment period on the proposed revision of the Taos resource management plan for 90 days. He said the area residents have grave concerns about the BLM's administration of El Palacio Fun Valley, parts of which encompass former lands of three land grants along with three sections of state land. The committee unanimously endorsed the request.

Bert Lucero, Las Trampas land grant, asked the committee to support a proposal to ask the BLM to turn over unneeded BLM lands to the state. The committee adopted a motion to have a joint memorial drafted for the November meeting to that effect.

The committee also asked staff to find out who controls the state lands in Fun Valley and to invite them to the next meeting of the committee.

The committee recessed at 4:00 p.m.

Tuesday, August 1

The committee reconvened at 9:00 a.m. in Placitas. Tony Lucero, chair of the board of trustees of the San Antonio de las Huertas land grant, conducted a tour of the land grant, pointing out where the boundaries of the land grant are and what areas the land grant hopes to trade for BLM lands. The tour ended with lunch at the Placitas community center.

There being no further business, the committee adjourned at 1:00 p.m.

**MINUTES
of the
THIRD MEETING
of the
LAND GRANT COMMITTEE
August 23
Fiesta Room, Student Union Building
University of New Mexico, Albuquerque**

The third meeting of the land grant committee was called to order by Senator Bernadette M. Sanchez, chair, at 10:25 a.m. on August 23, 2006 in the Fiesta room of the university of New Mexico (UNM) student union building.

Present

Sen. Bernadette M. Sanchez, Chair
Rep. Miguel P. Garcia, Vice Chair
Sen. Rod Adair
Sen. Joseph J. Carraro
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella

Absent

Rep. Justine Fox-Young

Advisory Members

Rep. Hector H. Balderas
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Rep. Ben Lujan
Sen. William E. Sharer

Staff

Jon Boller
Sheila Manzagol

Guests

The guest list is in the meeting file.

Wednesday, August 23

Reed Dasenbach, provost and executive vice president for academic affairs for UNM, welcomed the committee to the campus and briefly outlined the university's programs and resources.

State Land Office Property in El Palacio Fun Valley

Jim Jackson, state land office (SLO), reported that there are three sections of land managed by the SLO that are located inside the federal bureau of land management's (BLM) "Fun Valley" special management area near Chimayo. The SLO has grazing leases on all three of the parcels and a right of way to the BLM on one of the parcels. When asked if the SLO had entered into any agreements with the BLM on the lands in question, Mr. Jackson replied that there are no official agreements, but that if BLM owns all the land around a state parcel of land, then how it manages its lands affects how the SLO can manage its lands. In reference to the Taos resource management plan revision that BLM is conducting, and which may affect land use in the Chimayo area, he said that the SLO usually would have comments for the plan's revision, but that it has not yet been contacted to offer its comments. When asked if the SLO could trade these lands for other land, Mr. Jackson said that there had been such discussions with Ohkay Owingeh in the past and that the SLO does have a working relationship with the BLM on exchanges in general. Mr. Jackson said he thought that the SLO should have some formal process in commenting on the Taos resource management plan revision, and that he would pass along the committee's concerns to the state land commissioner.

John Chavez, Santa Cruz, reported that the Fun Valley area consists of the former lands of three neighboring land grants: the Santa Cruz de la Canada grant, the Nuestra Senora del Rosario San Fernando y Santiago grant and the Sebastian Martin grant.

Representative Garcia questioned whether the SLO is making sure that any former land grant lands held by the SLO and that are being considered for sale would first be offered to the land grant in question. A discussion ensued on whether only surveyed lands are exempt from the statutory mandate to give land grants the right of first refusal on sales of SLO lands.

Taos Resource Management Plan Comments

John Chavez and Jerry Fuentes, Santa Cruz de la Canada and Nuestra Senora del Rosario San Fernando y Santiago land grants, reported that the BLM is in the process of revising the Taos resource management plan, and expressed concern that the BLM may dispose of 7,600 acres of land in one area and 6,600 acres in another area near the land grants and that as much as 88,000 acres of BLM land may be disposed of in the Taos resource management area. Mr. Chavez added that the 1,200 acres slated for disposal near Chimayo, if acquired by the state for the Santa Cruz de la Canada land grant, would address many of the problems facing the land grant. He noted that the Santa Cruz grant had lost most of its common lands due to the *Sandoval* decision, and thus is particularly hard pressed to provide land for public projects such as water and wastewater systems, public buildings or to preserve farmland by providing lands outside the irrigated valley for housing.

Mr. Chavez also stressed the need to preserve the area's riparian zone, stating that erosion from the BLM's special management area known as El Palacio Fun Valley threatens the Santa Cruz irrigation district's 4,800 acres. Mr. Fuentes also questioned the BLM's ability to manage El Palacio Fun Valley area, citing a recent newspaper article that documented all-terrain vehicle (ATV) tracks crisscrossing pre-Columbian archaeological sites in the area and evidence of the looting of artifacts from those sites. When asked if there are plans to expand use of the area, Mr.

Fuentes replied that only one part of the area, a racetrack near Alcalde, is currently approved for ATV use, but that the area may be opened up for expansion in the future.

Mr. Fuentes and Mr. Chavez asked the committee to send a letter to the Taos field office to be included in the official comments on the Taos resource management plan revision, since the comment period has been extended to August 31, 2006. He and Mr. Chavez submitted comments to the committee summarizing their concerns. The committee voted unanimously to adopt a motion to send comments to the BLM and send copies to the New Mexico congressional delegation. The committee also asked that a representative from the BLM be invited to the next meeting.

When asked if there is anything else the committee could do, Mr. Chavez suggested that the state could acquire lands that the BLM is planning to dispose of and that even if the state holds those lands in trust for the appropriate land grant, that option would be better than having these former grant lands fall into private hands. This option would at least help preserve cultural integrity, he explained. Representative Garcia said that a Spanish-Mexican land grant fund needs to be established to finance this option.

The committee also asked Mr. Jackson if the SLO owns any land that was formerly part of a community land grant. He said he did not know, but it would help if he could get a map of where the land grants are located.

Land Grant Studies Discussion

Dr. Manuel Garcia y Griego, director, southwest Hispanic research institute, explained that the southwest Hispanic research institute encompasses 44 affiliated faculty from a wide range of departments at the UNM. He said that the institute has promoted the study of Spanish and Mexican land grants and that the timing is right to establish a land grant studies program at UNM, noting that as a top 100 research institute, it is the only one with a majority Hispanic student population and the only one with greater than five percent Native American student population. Given the complexity of the subject, he offered that the best way to approach a land grant studies program is probably multidisciplinary, adding that it could draw on the experience of the southwest Hispanic research institute and the university's water resources program. As to how to build such a program, he suggested that an inventory of existing programs, resources, faculty and institutions be conducted, and opined that he would be much more interested in helping to establish a stable, long-term small program than a large, short-term type of program.

Dr. Laura Gomez, professor of law and of American studies at UNM, said there is a shortage of adequately trained lawyers in land grant law, along with a lack of knowledge of the history of land grants on the part of judges and lawmakers. She suggested that in the short term this might be addressed by: 1) funding the development of new law school courses and paying for adjunct professors to develop or teach those courses; 2) creating a certificate program like the natural resources certificate program; or 3) creating a summer intern program in the field to show that there is a market for such a program. Other options, she offered, might include the creation of a land grant institute to serve as a repository for information. Currently, she observed, the university does not even have money to translate and index existing documents on Spanish and Mexican land grants. Continuing legal education courses could also be developed for practicing

attorneys, though there also needs to be training beyond the law; perhaps, she said, some type of joint degree program could be established with funding for new faculty.

Adverse Possession Statutes Affecting Land Grants

Narciso Garcia, Jr., a member of the Carnuel land grant and an attorney, informed the committee that adverse possession litigation is probably one of the biggest drains on the resources of land grants and that it is probably time to revisit the statutes on adverse possession as they relate to land grants. He explained that since some land grants are now political subdivisions of the state, there is a problem with Section 37-1-21 NMSA 1978, which provides for adverse possession against a land grant, even though one cannot adversely possess government property. Accordingly, he said, the statute should be repealed or amended to reflect the status of those land grants that are political subdivisions of the state. Otherwise, he warned, the courts will be called on to decide the issue, which will again cost the land grants great expense. When asked how many such cases there are in New Mexico currently, Mr. Garcia replied that he was only familiar with Chilili, which was currently involved in three cases, and has been involved in 30 or so cases over time.

The committee adopted a motion without objection to draft legislation to repeal or amend Section 37-1-21 NMSA 1978 to clarify that one may not adversely possess the property of land grants that are political subdivisions of the state.

The committee adopted the minutes of the May 31, 2006 meeting without objection.

Public Comment

Mr. Chavez and Mr. Fuentes asked the committee to look into why counties accept money for property taxes from more than one person on the same piece of property, especially in the case of a county accepting 17 years of back taxes from a person when the taxes on that property were already paid by someone else for all of those years. The committee asked staff to invite someone to address the problem of double assessment of property at the next meeting.

Lawrence Sanchez, Tome land grant, reported that it has come to the attention of the board of trustees of the Tome land grant that approximately \$25,000 in undistributed money remains from the sale of the Tome land grant. He said that numerous attempts to confirm with the court the existence of this money, and its disposition, have not been successful. Mr. Sanchez said that he hopes that the money could be returned to the Tome land grant, and asked that the committee inquire as to the existence of the money and any plans for its disbursal. The committee asked staff to send a letter to the seventh judicial district court asking the court to confirm the existence of any undistributed funds.

Purchase of Liability Insurance from the Risk Management Division by Land Grants

Liz Stefanics, director, risk management division (RMD), general services department, explained that the RMD is authorized, but not required, to provide insurance coverage to local public bodies. She emphasized that the services offered by RMD are not free, and that premiums for insurance range from a minimum of \$2,000 annually up to several million dollars annually, depending on the coverage. Ms. Stefanics gave a brief history of the Tort Claims Act and how RMD operates, noting that 98 percent of its operations deal with negligence claims. Though all local public bodies used to be covered by RMD, she said, now most are not. When asked if and

how a land grant could obtain coverage through the RMD, Ms. Stefanics replied that Section 41-4-25 NMSA 1978 allows all local public bodies to apply, and that if a land grant is a political subdivision of the state, it could set up a meeting with RMD to purchase insurance. When asked how many civil rights claims the RMD handles each year, Ms. Stefanics answered that she did not know off-hand, but could supply the committee with that information.

Center for Southwest Research Tour

The committee toured the center for southwest research, located in Zimmerman library. The center has an extensive collection of primary and secondary sources on the land grants of central and northern New Mexico and southern Colorado. Committee members expressed interest in funding the indexing and translation of the collection and making the collection accessible on the internet.

There being no further business, the committee adjourned at 4:30 p.m.

**MINUTES
of the
FOURTH MEETING
of the
LAND GRANT COMMITTEE
September 12-13
Dr. Saul Community Center
Mountainair**

The fourth meeting of the Land Grant Committee was called to order by Senator Bernadette M. Sanchez, chair, at 10:20 a.m. on September 12, 2006 at the Dr. Saul Community Center in Mountainair.

Present

Sen. Bernadette M. Sanchez, Chair
Rep. Miguel P. Garcia, Vice Chair
Sen. Rod Adair
Sen. Joseph J. Carraro
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino (9/12)
Rep. Debbie A. Rodella (9/12)

Absent

Rep. Justine Fox-Young
Rep. Jimmie C. Hall

Advisory Members

Rep. Hector H. Balderas
Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Rep. Ben Lujan
Sen. William E. Sharer
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

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

Staff

Jon Boller
Sheila Manzagol

Guests

The guest list is in the meeting file.

Tuesday, September 12

Val Gilly, mayor of Mountainair, welcomed the committee to Mountainair and gave a brief history of the Dr. Saul Community Center. She said that the center was built in 1932 by the federal Works Progress Administration, which used local timber and stone quarried from the region to construct the building. She also noted that Smokey Bear signs are manufactured in Mountainair.

County Assessment and Collection of Property Taxes

Tim Eichenberg, Property Tax Division director of the Taxation and Revenue Department, said he had contacted approximately half of the state's county assessors and many of the county treasurers to find out how the various counties deal with properties on which more than one party pays property taxes. He explained that such "double assessments" tend to occur for one of two reasons: either multiple deeds to the same property exist or an error has occurred. With many land grants, he noted, there are often multiple deeds to the same property; and in some cases, property has been split several times without an accurate record being made of the splits. Outside of land grants, he noted, the system works pretty well, but inside land grants, old and flawed titles, insufficient legal descriptions of property and faulty recording of property transfers often result in double or even triple assessments. Human error, however, also is a big problem, such as when an owner's tax number is not changed when a new deed is issued or an old identification number is not deleted when a property is split. He explained that the assessor creates a new number when a deed is recorded with the county clerk. The treasurer just collects the taxes due and operates on the information supplied from the assessor. If more than one person pays the taxes, many treasurers just accept the double payments, which he said happens in Rio Arriba, Mora, Torrance and Eddy counties. On the other hand, he noted, Bernalillo County will send a check back. He stressed that paying property taxes on a piece of land does not give a person any property interest in that land under current law.

Asked what kind of mapping system the state uses, Mr. Eichenberg replied that the state does not have a statewide GIS system, though Bernalillo County uses such a system. Asked what qualifications the assessor's staff must have, he said that none are required.

Amendment of Chilili Land Grant Governing Statutes

Juan Sanchez, president of the Chilili Land Grant Board of Trustees, presented the committee with proposed changes to Chilili's governing statutes to reflect the general provisions governing land grants administered under Chapter 49, Article 1 NMSA 1978. The committee asked Mr. Sanchez to present the proposed legislation at its final meeting in November, at which time the committee will be considering what legislation it will endorse for the 2007 session.

Taos Resource Management Plan Revision

Sam DesGeorges, Taos Field Office manager of the Bureau of Land Management (BLM), informed the committee that the BLM manages 650,000 surface acres and 4 million subsurface acres in New Mexico and that it administers those lands in accordance with resource management plans for the various regions of the state. He explained that the Taos Field Office is now starting the process of revising the Taos Resource Management Plan, which was originally issued in 1988, and has identified six areas of interest regarding how these public lands should be managed, including land tenure adjustment; rights of way, utilities, roads and other land uses; special designation areas; scenic quality; transportation and access; and mineral materials. The process, he said, is designed to find out what the public thinks is important and to then revise the 1988 plan to address the changed conditions and public concerns that have emerged in the past 20 years.

Sher Churchill, planning and environmental coordinator of the Taos Field Office, described her roles in the process, one of which is to involve the public in the three-year process of revising the plan, which she hopes will be completed by the summer of 2009. She explained that off-

highway-vehicle (OHV) use is one issue that warrants attention due to the huge increase in the number of people accessing both public and private lands with OHVs. She cautioned, however, that the BLM is required to manage lands in accordance with federal law and that conflicting uses have to be balanced within that legal framework.

Asked about the disposal of BLM lands, Mr. DesGeorges replied that the existing 1988 plan called for the disposal of 80,000 acres, most of which was in 40-, 80- or 160-acre parcels that were landlocked and had no access, with a preference given to the owner of the surrounding land. He said that many of the parcels disposed of since 1976 were located near communities for public use facilities, but there had also been some land exchanges with the State Land Office, such as in the Sabinosa area. Queried on the support of people in El Palacio Fun Valley area for OHV use, Mr. DesGeorges said that the people who call do not support their use, but that, of course, those that do are the ones out riding the OHVs. Regarding archaeological sites in that area, Mr. DesGeorges noted that very little of the 650,000 acres in the Taos region have been surveyed, but that, on the actual approved OHV routes, there are no sites. On the other hand, on nonapproved trails an inventory has not been conducted, he explained, and inappropriate use of OHVs is a big problem and educating people about the proper place and time of use is a challenge. Asked if the BLM would change the designated uses of the Fun Valley area due to public comments the office has received, Mr. DesGeorges said that no decisions have been made yet; rather, the next step in the revision process is to formulate alternatives before choosing any particular course of action. Mr. DesGeorges invited the committee to visit El Palacio Fun Valley area.

Committee members expressed their concerns that BLM lands not be disposed of without consideration and notification of adjoining land grants, since there are often historical claims to such lands, and encouraged BLM representatives to sit down with land grant representatives to determine what lands used to be part of the land grants.

The committee approved the minutes of the July and August meetings without objection.

Salinas Pueblo Missions

Murt Sullivan, National Park Service, gave a brief history of the Salinas pueblo missions. He said that the three missions in the Salinas Valley, located at Abo, Gran Quivira and Quarai, were all established in the early 1600s and abandoned in the 1670s. Mr. Sullivan also shared with the committee a draft of a brochure that the park service is preparing, which will give visitors a brief description of the types of land grants found in New Mexico. Many visitors to the Salinas Pueblo Missions Monument have asked about the land grants after driving through Chilili, Tajique, Torreon and Manzano on the way to the monument.

Public Comment

John Chavez expressed concern that, even though the racetrack near Alcalde is the only part of El Palacio Fun Valley approved for OHV use, OHVs have been using the ruins of El Pueblo del Zorro as jumping ramps and that only 17 individuals made comments in developing the 1988 Taos Resource Management Plan. He also explained that the Land Grant Forum had met with the Sierra Club and the Wilderness Alliance, which supported the Land Grant Forum's efforts to find a way to have land grants administer and preserve adjoining BLM lands, though there was still disagreement on who should own the lands.

Juan Sanchez requested the committee to allow the public to question presenters immediately following their presentations, since presenters often leave long before the public comment period. He also commented that both the Carnuel and Chilili land grants had filed declarations of water rights with the state engineer, but that the Office of the State Engineer now claims it cannot find those declarations.

Representative Garcia suggested that it may be a good idea to have a panel presentation if the committee is considering an issue that has been brought up by a member of the public, thus allowing the member of the public to directly engage the government official on the issue in question. He also encouraged the BLM to meet with the land grant representatives, possibly in the presence of a mediator to facilitate each party's concerns.

The committee recessed at 5:00 p.m.

Wednesday, September 13

The committee reconvened at 9:00 a.m. at Quarai, and after a breakfast provided by members of the Manzano Land Grant, took a tour of the land grants in the area. Upon returning to Quarai, the committee toured the mission ruins.

There being no further business, the committee adjourned at 12:30 p.m.

MINUTES
of the
FIFTH MEETING
of the
LAND GRANT COMMITTEE
October 5
Our Lady of Guadalupe Parish Hall
Gallina
October 6
Onate Monument Resource and Visitor Center
State Road 68

The fifth meeting of the Land Grant Committee was called to order by Senator Bernadette M. Sanchez, chair, at 10:45 a.m. on October 5, 2006 at the Our Lady of Guadalupe Parish Hall in Gallina.

Present

Sen. Bernadette M. Sanchez, Chair
Rep. Miguel P. Garcia, Vice Chair
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Rep. Debbie A. Rodella

Absent

Sen. Rod Adair
Sen. Joseph J. Carraro
Rep. Justine Fox-Young
Sen. Gerald Ortiz y Pino

Advisory Members

Rep. Hector H. Balderas
Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Rep. Ben Lujan
Sen. William E. Sharer
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Staff

Jon Boller
Kate Ferlic
Sheila Manzagol

Guests

The guest list is the meeting file.

Thursday, October 5

Introductory Remarks

Rio Arriba County Commissioner Felipe Martinez welcomed the legislators to Gallina and expressed his appreciation for New Mexico being the only state to have a legislative Land Grant Committee. He reports that the United States Forest Service (USFS) has cut and severely restricted grazing rights in the last 50 years. Near Alamosa, the USFS has cut grazing rights at a rate of two percent per year since 1947. Under the Bureau of Land Management (BLM), areas in Ojo Caliente and Tres Piedras have been cut 20 percent. He reports that police officers are issuing citations to heirs traveling off-road on grant lands. If citations continue to happen, Mr. Martinez would like to see designated roads for travel through the grant lands. He believes organizational money like that from Forest Guardians is responsible for closing roads within land grants.

Mr. Martinez requested legislative funding for an answer to the General Accounting Office (GAO) report published in June 2004. He sees this as a timely opportunity for a response and asked that the attorney general solicit experts to respond on behalf of that office. Mr. Martinez is also concerned about the USFS's efforts to fence off riparian areas. He feels that the USFS is misapplying its authority by relying on the riparian doctrine rather than the proper prior appropriation doctrine. [LCS note: These doctrines pertain to water allocation and do not impact fencing on USFS land.] He asked the committee for a memorial expressing the intent of the legislature that the federal government apply the prior appropriation doctrine for decisions about access to water supplies in New Mexico. Further, Mr. Martinez notified the committee regarding concerns about the 10,000 to 20,000 elk on USFS land interfering with cattle grazing. Senator Sanchez asked Mr. Martinez and Alberto Baros to work with staff on the elk problem on these lands and potentially make a presentation with the USFS at the next Land Grant Committee meeting.

San Joaquin del Rio de Chama Land Grant Association

Benito Salazar, treasurer of the San Joaquin del Rio de Chama Land Grant, reported that the community elected the grant's first board in August 2005. He thanked the legislature for establishing political subdivision status for some land grants so they can apply for legislative funding. He requested a \$40,000 appropriation to identify the original boundaries of the grant and for highway signs and boundary markers, as well as \$82,000 to fix the community center in Gallina, which serves as the grant's headquarters. Lastly, he requested that the legislature appropriate \$1 million for a research grant to solidify legal rights of ownership. Mr. Salazar expressed a general concern about the timber, water, gas and other resources extracted from the land with no due process for heirs. Senator Martinez requested that a USFS representative be invited to the November meeting. Senator Martinez also suggested that the first two money requests be capital outlay and that the research grant be grouped into University of New Mexico (UNM) funding. On a motion by Senator Martinez and seconded by Representative Rodella, the committee unanimously voted to endorse a \$300,000 appropriation for the UNM land grant studies program.

Leonard Martinez, president of the San Joaquin del Rio de Chama Land Grant, expressed concern over the lack of access to a cemetery within the grant. While the USFS gave interested heirs a key to an access gate, there is no access other than a walking trail. Mr. Martinez has

contacted Representative Tom Udall and asked the committee for support on efforts to access the cemetery. The committee discussed this year's goal to eliminate adverse possession lawsuits against land grants.

Juan Batista Valdez Land Grant

Sereafin Valdez, president of the Juan Batista Valdez Land Grant, reported that the grant administers 1,468 acres of patented common lands in the Canones area, although it claims 86,000 acres. The grant was issued in 1807 and Ms. Valdez is unsure whether the grant is organized under Article 1 or 2 of Chapter 49 NMSA 1978. Many heirs are fighting and beginning to fence off individual plots of land. The community's water supply is contaminated. In 2000, the community established a well association. While that corporation has expired, the board of trustees acts on behalf of the community to obtain clean water. It received a \$30,000 planning grant for a sewer system but cannot complete the project without funding. Ms. Valdez also expressed concern about a field where community children played baseball that was taken by the government. She is concerned that without organized recreational spaces, the community children will turn to drugs.

Legislators suggested that those administering the Juan Batista Valdez Land Grant attend land grant meetings to learn about similar problems and solutions from other grants. Legislators also suggested that the grant put in proposals for a baseball field, a dump cleanup and the sewage system through the county government.

Tour of San Joaquin del Rio de Chama Land Grant

Legislators toured the San Joaquin del Rio de Chama Land Grant, including the cemetery discussed in the presentation to the committee.

After the tour, the meeting recessed at 5:10 p.m.

Friday, October 6

The meeting was reconvened by Senator Sanchez at 9:28 a.m. at the Onate Center in Alcalde, New Mexico.

Tour of El Palacio Fun Valley

John Bailey, Sam DesGeorges and Jay Connerly from the Taos Field Office of the BLM gave a brief presentation on the prescribed uses and illegal activity within Fun Valley. Prescribed uses include ATV courses, target shooting, events and some grazing. The BLM is concerned that 19,200 acres is too large for ATV designation and that a large area becomes unmanageable. Illegal activity includes unauthorized dumping, cutting fences and off-trail use by ATVs. Legislators emphasized the need for the BLM to listen and work with local residents when planning and prescribing uses.

Tour of Truchas Grant

The Nuestra Señora del Rosario, San Fernando y Santiago del Rio de las Truchas Land Grant or, as it is now more commonly known, the Truchas Grant, was established in 1754 by

Governor Tomás Vélez Cachupín. Legislators visited the overlook on the road from Chimayo to Truchas to view part of the grant.

Adjournment

There being no further business before the committee, the committee adjourned at 12:06 p.m.

MINUTES
of the
SIXTH MEETING
of the
LAND GRANT COMMITTEE
November 29, 2006
Room 309, State Capitol
Santa Fe

The sixth meeting of the land grant committee was called to order by Senator Bernadette M. Sanchez, chair, at 10:32 a.m. on November 29, 2006 in room 309 of the state capitol in Santa Fe.

Present

Sen. Bernadette M. Sanchez, Chair
Rep. Miguel P. Garcia, Vice Chair
Sen. Rod Adair
Sen. Joseph J. Carraro
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Rep. Debbie A. Rodella

Absent

Rep. Justine Fox-Young
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino

Advisory Members

Rep. Hector H. Balderas
Sen. Phil A. Griego
Rep. Ben Lujan

Sen. Carlos R. Cisneros
Sen. William E. Sharer
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Staff

Jon Boller
Sheila Manzagol
Kate Ferlic

Guests

The guest list is in the meeting file.

Wednesday, November 29

State Records and Archives Report

Sandra Jaramillo, state records and archives director, and Robert Torres, former state historian, presented the results of Mr. Torres's continuing survey of state-owned land within New Mexico's community land grants. Mr. Torres reported that he had followed up on the 2004 report, in which he had identified approximately 64,000 acres of state-owned land that was once part of the common lands of community land grants, by researching the chains of title of this land where possible. An additional 20,000 acres of state land was identified as being within the external boundaries of community land grants that were not included in the 2004 report. He cautioned, however, that the report could not be considered to constitute an abstract of title to any particular

parcel of land and that the amount of resources appropriated so far could easily have been expended on any one of two land grants because of the complexity of doing an actual abstract of title on the property in question. He noted that the department of game and fish had excellent records and abstracts and was very helpful in tracing the ownership of lands under its purview, especially when compared to other state agencies. Consequently, he suggested, money might be better spent in the future on establishing standards for records of all state-owned property, since property documentation standards seem to vary greatly among agencies. The committee commended Ms. Jaramillo and Mr. Torres on doing so much with so little, especially considering the governor's veto of the research appropriation last year.

Discussion of Water Rights Issues

Juan Sanchez, Chilili Land Grant, explained that the land grant had filed two declarations of pre-1907 water rights with the state engineer, the most recent in 2002. He noted that the land grant is the watershed for the region east of the Manzano mountains, and that the grant wanted to declare an amount of water rights sufficient to supply the entire grant, rather than specify each point of diversion as acequias in the region have done. He asked that the state engineer explain how this can be done, since the declaration he filed was not accepted. He said that he was looking for the courtesy of a response. Macario Griego, Carnuel Land Grant, added that he had also filed a declaration in October of 1996 for the 90,000 acres of the original Carnuel grant, but that there seemed to be no record of the declaration in the office of the state engineer. He also mentioned that the land grant was making improvements to the water system in cooperation with the mutual domestic water consumer's association and that the land grant had agreed to lease the association nine acre-feet of water per year. He said that the grant has five wells that were drilled before the basin was declared in 1954.

Jim Sizemore, office of the state engineer, explained that, under state law, beneficial use is the basis, measure and limit of a water right, rather than ownership of land. Thus, to declare a water right, the claimant must specify the point of diversion, type of use, place of use and amount of water used. He apologized to Mr. Sanchez and Mr. Griego and said that he thought he had returned the declarations to them due to deficiencies in the declarations and promised to follow-up in the future.

Mr. Griego and others said that they thought that community land grants should be able to declare water rights in the same manner as the pueblos, since the pueblos were confirmed land grants under the Treaty of Guadalupe Hidalgo, just as the non-pueblo community land grants were. They expressed concern that the Winter's doctrine was being applied in the case of the pueblos, but not other land grants in the state. D.L. Sanders, general counsel for the state engineer, replied that the pueblos do not have Winter's doctrine water rights; rather, he said the pueblos were granted historic beneficial use rights, such that the Pueblo of Pojoaque, for example, got only 264 acre-feet of water rights based on its historic use of water. Also, he noted, the New Mexico supreme court has ruled that the pueblo rights doctrine, on which Las Vegas had claimed its water rights, is inconsistent with New Mexico law and not protected by the Treaty of Guadalupe Hidalgo.

A representative of the Carnuel Land Grant described current problems that the land grant is experiencing in using funds to expand its water system, noting that, although it has \$300,000 to

purchase water rights, thus far it has not been successful in doing so. Consequently, he said, not all of the people are being served by the system.

Committee members suggested that it may be appropriate for the water and natural resources committee to address these issues next interim.

Consideration of Legislation

The committee endorsed without objection the following bills for the 2007 legislative session: 1) amend Chilili Land Grant governing statutes to conform with Chapter 49, Article 1 NMSA 1978; 2) amend Tecolote Land Grant governing statutes to conform with Chapter 49, Article 1 NMSA 1978; 3) add Tome Land Grant to Chapter 49, Article 1 NMSA 1978; 4) revise the statute creating the Guadalupe Hidalgo treaty division of the office of the attorney general and fully fund the division; 5) continue funding the title search of state-owned lands that were formerly common lands of community land grants; 6) fund the cleanup of illegal dumps on land grant property; 7) give land grants the right of first refusal at delinquent tax sales of property within land grant boundaries; 8) fund a study on economic impact of state wildlife areas administered by the department of game and fish; and 9) repeal statutes allowing adverse possession of common lands of community land grants that are political subdivisions of the state. The committee also endorsed an appropriation to establish a land grant studies program at the university of New Mexico, with two members (Senator Joseph J. Carraro and Representative Jimmie C. Hall) voting against the endorsement.

Elk Population Parity Proposal

Alberto Baros, assistant planner, Rio Arriba county, presented a proposal on elk management for state and federal lands that was developed by a group called "Seeking Common Ground". Mr. Baros said the group's parity proposal would help balance the needs of both cattle and elk. John Peterson, Jemez district ranger, United States forest service, said that he had helped develop that proposal but that the process had stalled due to the complexity of the issue. He said the department was striving to achieve the objectives of the proposal even though it was shelved. R.J. Kirkpatrick, department of game and fish, agreed that the state was trying to implement the concept so that the elk population is at a level that does not need to be reduced during drought. He said that better land management practices may help achieve this goal. Committee members stressed the importance of working with the communities near federal and state lands and the importance of cattle grazing to people in those areas.

The committee adopted without objection the minutes from the September and October meetings. The committee adjourned at 5:13 p.m.

ENDORSED LEGISLATION

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO THE ATTORNEY GENERAL; PRESCRIBING DUTIES OF THE
GUADALUPE HIDALGO TREATY DIVISION; MAKING AN APPROPRIATION;
DECLARING AN EMERGENCY.

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

Section 1. Section 8-5-18 NMSA 1978 (being Laws 2003,
Chapter 101, Section 1, as amended) is amended to read:

"8-5-18. GUADALUPE HIDALGO TREATY DIVISION.--

A. The "Guadalupe Hidalgo treaty division" is
created within the office of the attorney general. The
division shall:

(1) review, oversee, ~~and~~ address concerns
relating to and enforce the provisions of the Treaty of
Guadalupe Hidalgo that have not been implemented or observed in
the spirit of Article 2, Section 5 of the constitution of New

underscoring material = new
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1 Mexico and Section 47-1-25 NMSA 1978; and
2 (2) prepare and present to the legislature
3 recommendations for federal legislation or litigation necessary
4 to address the issues identified pursuant to Paragraph (1) of
5 this subsection that the attorney general finds have not been
6 adequately addressed or resolved by the federal government.

7 B. The division shall consist of such personnel and
8 have such duties as the attorney general shall designate.

9 C. The attorney general shall report the findings
10 and recommendations of the division to the appropriate
11 legislative interim committee and the legislature annually."

12 Section 2. APPROPRIATION.--Five hundred thousand dollars
13 (\$500,000) is appropriated from the general fund to the office
14 of the attorney general for expenditure in fiscal years 2007
15 and 2008 to fund the operation of the Guadalupe Hidalgo treaty
16 division. Any unexpended or unencumbered balance remaining at
17 the end of fiscal year 2008 shall revert to the general fund.

18 Section 3. EMERGENCY.--It is necessary for the public
19 peace, health and safety that this act take effect immediately.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; CREATING PROTECTIONS AGAINST ADVERSE
POSSESSION CLAIMS TO COMMON LANDS ADMINISTERED BY LAND GRANT-
MERCEDES THAT ARE POLITICAL SUBDIVISIONS; REPEALING SECTION
37-1-21 NMSA 1978 (BEING LAWS 1857-1858, P. 64, AS AMENDED).

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] ADVERSE POSSESSION.--A land grant-merced
managed, controlled and governed as a political subdivision
pursuant to Sections 49-1-1 through 49-1-18 NMSA 1978 shall not
be subject to adverse possession claims to or defenses against
the common lands administered by the political subdivision."

Section 2. REPEAL.--Section 37-1-21 NMSA 1978 (being
Laws 1857-1858, p. 64, as amended) is repealed.

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE ECONOMIC DEVELOPMENT DEPARTMENT
TO CONDUCT A STUDY IN COOPERATION WITH THE DEPARTMENT OF GAME
AND FISH ON THE ECONOMIC IMPACT OF STATE WILDLIFE MANAGEMENT
AREAS.

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

Section 1. APPROPRIATION.--Seventy-five thousand dollars
(\$75,000) is appropriated from the general fund to the economic
development department for expenditure in fiscal year 2008 to
conduct a study in cooperation with the department of game and
fish on the economic contribution of state wildlife management
areas owned, leased or otherwise subject to control by the
state game commission to local economies, including community
land grants located adjacent to those areas; the income and
expenses attributable to state wildlife management areas; and

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1 the distribution of elk hunting privileges to persons owning
2 land adjacent to state wildlife management areas. Any
3 unexpended or unencumbered balance remaining at the end of
4 fiscal year 2008 shall revert to the general fund.

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE STATE COMMISSION OF PUBLIC RECORDS TO PREPARE TITLE ABSTRACTS OF STATE-OWNED PROPERTY LOCATED WITHIN FORMER COMMON LANDS OF COMMUNITY LAND GRANTS.

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

Section 1. APPROPRIATION.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the state commission of public records for expenditure in fiscal year 2008 to perform or contract for the services necessary to prepare title abstracts of state-owned property located within former common lands of community land grants. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE DEPARTMENT OF ENVIRONMENT FOR
REMOVING SOLID WASTE, LIQUID WASTE AND HAZARDOUS WASTE FROM THE
COMMON LANDS OF COMMUNITY LAND GRANTS ORGANIZED UNDER STATE
LAW.

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

Section 1. APPROPRIATION.--Six hundred thousand dollars
(\$600,000) is appropriated from the general fund to the
department of environment for expenditure in fiscal year 2008
to contract for the removal of solid waste, liquid waste and
hazardous waste illegally deposited on the common lands of
community land grants organized under state law. Any
unexpended or unencumbered balance remaining at the end of
fiscal year 2008 shall revert to the general fund.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEW MEXICO TO ESTABLISH A LAND GRANT STUDIES
PROGRAM AT THE UNIVERSITY OF NEW MEXICO IN COORDINATION WITH
ITS SCHOOL OF LAW, CENTER FOR REGIONAL STUDIES AND SOUTHWEST
HISPANIC RESEARCH INSTITUTE.

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

Section 1. APPROPRIATION.--Three hundred thousand dollars
(\$300,000) is appropriated from the general fund to the board
of regents of the university of New Mexico for expenditure in
fiscal years 2008 and 2009 to develop a land grant studies
program at the university of New Mexico in coordination with
its school of law, center for regional studies and southwest
Hispanic research institute, with funding to be used to develop
and administer the land grant studies program and provide for

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1 internships and continuing legal education as necessary. Any
2 unexpended or unencumbered balance remaining at the end of
3 fiscal year 2009 shall revert to the general fund.

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; AMENDING CHAPTER 49, ARTICLE 1 NMSA
1978 TO INCLUDE THE TOWN OF TOME LAND GRANT-MERCED.

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

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

"49-1-2. APPLICATION.--

A. Sections 49-1-1 through 49-1-18 NMSA 1978 shall
apply to all land grants-mercedes confirmed by the congress of
the United States or by the court of private land claims or
designated as land grants-mercedes in any report or list of
land grants prepared by the surveyor general and confirmed by
congress, but shall not apply to any land grant that is now
managed or controlled in any manner, other than as provided in
Sections 49-1-1 through 49-1-18 NMSA 1978, by virtue of any

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1 general or special act.

2 B. If a majority of the members of the board of
3 trustees of a land grant-merced covered by specific legislation
4 determines that the specific legislation is no longer
5 beneficial to the land grant-merced, the board has the
6 authority to petition the legislature to repeal the legislation
7 and to be governed by its bylaws and as provided in Sections
8 49-1-1 through 49-1-18 NMSA 1978.

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

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; CONFORMING THE GOVERNING STATUTES OF THE CHILILI LAND GRANT WITH THE PROVISIONS OF CHAPTER 49, ARTICLE 1 NMSA 1978; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

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

"49-1-2. APPLICATION.--

A. Sections 49-1-1 through 49-1-18 NMSA 1978 shall apply to all land grants-mercedes confirmed by the congress of the United States or by the court of private land claims or designated as land grants-mercedes in any report or list of land grants prepared by the surveyor general and confirmed by congress, but shall not apply to any land [~~grant~~] grant-merced

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1 that is now managed or controlled in any manner, other than as
2 provided in Sections 49-1-1 through 49-1-18 NMSA 1978, by
3 virtue of any general or special act, unless the land grant-
4 merced complies with the provisions of Subsection B of this
5 section.

6 B. If a majority of the members of the board of
7 trustees of a land grant-merced ~~[covered]~~ governed by specific
8 ~~[legislation]~~ statutes determines that ~~[the specific~~
9 ~~legislation is]~~ those statutes are no longer beneficial to the
10 land grant-merced, the board has the authority to ~~[petition]~~
11 request the legislature to repeal ~~[the legislation]~~ or to amend
12 those statutes to conform with Sections 49-1-1 through 49-1-18
13 NMSA 1978 and to be governed by its bylaws and as provided in
14 Sections 49-1-1 through 49-1-18 NMSA 1978 or the conforming
15 statutes, as the case may be."

16 Section 2. Section 49-4-1 NMSA 1978 (being Laws 1876,
17 Chapter 51, Section 1) is amended to read:

18 "49-4-1. CHILILI LAND GRANT-MERCED--RATIFICATION OF
19 PARTITIONS--GOVERNANCE.--~~[Sec. 41. That]~~

20 A. All apportionments or partitions of land on the
21 grant of Chilili ~~[in precinct number ten of the county of~~
22 ~~Bernalillo and state of New Mexico]~~ made by Inez Armenta as
23 trustee or by his ~~[successor or]~~ successors as trustees of
24 ~~[said]~~ the grant to the bona fide residents ~~[thereon, be and~~
25 ~~the same]~~ on the grant are hereby confirmed.

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1 B. The government and control of the common lands
2 of the Chilili land grant-merced, also known as la merced del
3 pueblo de Chilili, is vested in five trustees, to be known
4 officially as "the board of trustees of the Chilili land grant-
5 merced", who shall manage and control the land grant-merced in
6 accordance with the provisions of Chapter 49, Article 4 NMSA
7 1978."

8 Section 3. A new section of Chapter 49, Article 4 NMSA
9 1978 is enacted to read:

10 "[NEW MATERIAL] DEFINITIONS.--As used in Chapter 49,
11 Article 4 NMSA 1978:

12 A. "board of trustees" means the board of trustees
13 of the Chilili land grant-merced;

14 B. "heir" means a person who is a descendant of the
15 original grantees and has an interest in the common land of the
16 land grant-merced through inheritance, gift or purchase;

17 C. "land grant-merced" means the grant of land made
18 by the government of Mexico to the town of Chilili in 1841,
19 which was confirmed by congress in 1858 and issued a patent by
20 the United States in 1909; and

21 D. "qualified voting member" means an heir who is
22 registered to vote in the land grant-merced as prescribed in
23 the land grant-merced bylaws."

24 Section 4. A new section of Chapter 49, Article 4 NMSA
25 1978 is enacted to read:

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1 "[NEW MATERIAL] MANAGEMENT OF GRANT.--The Chilili land
2 grant-merced shall be controlled and governed by its bylaws, by
3 the Treaty of Guadalupe Hidalgo and as provided in Chapter 49,
4 Article 4 NMSA 1978 as a political subdivision of the state."

5 Section 5. A new section of Chapter 49, Article 4 NMSA
6 1978 is enacted to read:

7 "[NEW MATERIAL] BOARD OF TRUSTEES--MANAGEMENT OF GRANT--
8 POWERS.--The board of trustees shall have the power to:

9 A. control, care for and manage the land
10 grant-merced and real estate; prescribe the terms and
11 conditions under which the common lands may be used and
12 enjoyed; and make all necessary and proper bylaws, rules and
13 regulations that shall be in substantial compliance with
14 applicable statutes for the government thereof;

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

17 C. convey, lease or mortgage the common lands of
18 the land grant-merced in accordance with the land grant-merced
19 bylaws;

20 D. determine the number of animals that may be
21 permitted to graze upon the common lands and determine other
22 uses of the common lands that may be authorized;

23 E. prescribe the price to be paid for the use of
24 the common lands and resources of the land grant-merced and
25 prohibit a person failing or refusing to pay that amount from

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1 using a portion of the common lands while the person continues
2 in default in those payments; provided that the amount fixed
3 shall be in proportion to the number and kinds of livestock
4 pasturing upon the common lands or to other authorized use of
5 the common lands;

6 F. adopt and use an official seal;

7 G. appoint judges and clerks of election at all
8 elections provided for in Chapter 49, Article 4 NMSA 1978 and
9 canvass the votes cast in those elections;

10 H. make bylaws, rules and regulations, not in
11 conflict with the constitution and laws of the United States or
12 the state of New Mexico, as may be necessary for the
13 protection, improvement and management of the common lands and
14 real estate and for the use and enjoyment of the common lands
15 and of the common waters of the land grant-merced;

16 I. determine land use, local infrastructure and
17 economic development of the common lands of the land
18 grant-merced; and

19 J. determine zoning of the common lands of the land
20 grant-merced pursuant to a comprehensive plan approved by the
21 local government division of the department of finance and
22 administration that considers the health, safety and general
23 welfare of the residents of the land grant-merced. The
24 department of finance and administration shall act as
25 arbitrator for zoning conflicts between the land grant-merced

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1 and neighboring municipalities and counties."

2 Section 6. A new section of Chapter 49, Article 4 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] BOARD OF TRUSTEES--QUALIFICATIONS.--The
5 board of trustees shall consist of five members. If there is
6 more than one precinct in the land grant-merced, no more than
7 three members shall be residents of the same precinct;
8 provided, however, that if the precinct boundaries do not
9 coincide with the boundaries of the land grant-merced, the
10 board of trustees may create districts that better reflect the
11 distribution of population within the land grant-merced and
12 that any one of which has no more than three members of the
13 board of trustees as residents. A person shall be qualified to
14 be a member of the board if the person is a qualified voting
15 member and is not in default of any dues, rent or other payment
16 for the use of any of the common lands of the land grant-
17 merced."

18 Section 7. A new section of Chapter 49, Article 4 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] ELECTION OF MEMBERS OF BOARD OF TRUSTEES--
21 VOTERS' QUALIFICATIONS--REGISTRATION.--

22 A. Elections for the board of trustees shall be
23 held on the first Monday in April or on a day designated in the
24 bylaws, either every two or every four years as specified in
25 the bylaws of the land grant-merced.

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1 B. All qualified voting members of the land
2 grant-merced are qualified to vote and may vote for trustees as
3 specified in the land grant-merced bylaws.

4 C. The registration of qualified voting members
5 shall be conducted in the manner prescribed in the Election
6 Code, substituting the words "board of trustees" and
7 "secretary" wherever the words "county commission" and "county
8 clerk" are used in that code.

9 D. The registration books compiled before each
10 election shall be used at that election. A person shall not
11 vote at the election unless duly registered in the books, and a
12 ballot of any unregistered person shall not be counted or
13 canvassed.

14 E. The board of trustees shall give public notice
15 in Spanish and English of the time of the election and fix and
16 give notice of the polling places in each precinct by handbills
17 posted in at least five public places in each precinct at least
18 fifteen days prior to the election. Notice shall also be given
19 by publication fifteen days prior to the election in a
20 newspaper in general circulation within the land grant-merced
21 if there is one.

22 F. Elections shall be conducted, as nearly as is
23 practicable, in the same manner as provided by law for the
24 holding of general elections in this state. The judges and
25 clerks of elections shall be appointed and the votes canvassed

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1 by the board of trustees."

2 Section 8. A new section of Chapter 49, Article 4 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] ELECTION--CANVASSING VOTES.--The election
5 judges and board of trustees shall meet not later than seven
6 days following the election and canvass the votes cast and
7 issue to each of the five persons having a majority of votes a
8 certificate showing that each one has been duly elected."

9 Section 9. A new section of Chapter 49, Article 4 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] ORGANIZATION OF BOARD--BONDS--VACANCIES.--

12 A. All members of the newly elected board of
13 trustees shall meet no later than seven days after the votes
14 are canvassed and organize themselves by the election of a
15 president, secretary and treasurer. The treasurer shall
16 perform such duties as may be required by the board and shall
17 furnish to the board a good and sufficient surety bond in a sum
18 as set forth in this section, to be conditioned as are the
19 bonds of other public officials handling public money. It is
20 the duty of the treasurer to deposit all the money of the land
21 grant-merced in a bank organized and doing business in New
22 Mexico.

23 B. In the event of the death or resignation of the
24 treasurer, the board shall fill the vacancy by appointing one
25 of the members of the board as treasurer, who shall, before

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1 entering into the performance of the duties as treasurer,
2 execute and furnish to the board a good and sufficient surety
3 bond, similar to the bond entered into by the predecessor.

4 C. The amount of the bond required of the treasurer
5 and the treasurer's successor shall at all times be for a sum
6 of at least double the amount received by and deposited in the
7 bank by the treasurer.

8 D. In the event the board of trustees delegates any
9 other of its members to collect money due the land grant-
10 merced, that person shall be bonded in the same manner as is
11 provided in this section for the bonding of the treasurer.

12 E. Those authorized to collect money shall give
13 receipts for the money collected, which receipts shall be in
14 the form prescribed by the board of trustees in the bylaws as
15 an official receipt."

16 Section 10. A new section of Chapter 49, Article 4 NMSA
17 1978 is enacted to read:

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

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1 Section 11. A new section of Chapter 49, Article 4 NMSA
2 1978 is enacted to read:

3 "[NEW MATERIAL] QUORUM.--A majority of the members of the
4 board of trustees shall constitute a quorum for the transaction
5 of business, and the land grant-merced and its inhabitants
6 shall be bound by the acts of the board pursuant to the
7 provisions of Chapter 49, Article 4 NMSA 1978 and the land
8 grant-merced bylaws."

9 Section 12. A new section of Chapter 49, Article 4 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] SALE OR MORTGAGE OF COMMON LANDS--
12 RESTRICTIONS.--

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

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

18 (2) the conveyance is made for the benefit of
19 the land grant-merced;

20 (3) the board of trustees has approved a
21 resolution to make the conveyance at a regular meeting held in
22 accordance with Sections 10 and 13 of this 2007 act;

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

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1 (5) the district court has issued an order
2 affirming the board of trustees' resolution pursuant to
3 Subsection D of this section.

4 B. An heir may file a written protest of a
5 conveyance with the board of trustees and the district court
6 within thirty days of the date that the resolution approving
7 the conveyance is passed by the board. The board of trustees
8 shall address and make a decision on the protest at a special
9 meeting held in accordance with Sections 10 and 13 of this 2007
10 act within thirty days of receiving the protest.

11 C. An heir dissatisfied with a decision of the
12 board of trustees may appeal to the district court of the
13 county in which the property is located in the following
14 manner:

15 (1) appeals to the district court shall be
16 taken by serving a notice of appeal upon the board within
17 thirty days of the decision. If an appeal is not timely taken,
18 the action of the board of trustees is conclusive;

19 (2) the notice of appeal may be served in the
20 same manner as a summons in civil actions brought before the
21 district court or by publication in a newspaper printed in the
22 county in which the property is located, once per week for four
23 consecutive weeks. The last publication shall be at least
24 twenty days prior to the date the appeal may be heard. Proof
25 of service of the notice of appeal shall be made in the same

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1 manner as in actions brought in the district court and shall be
2 filed in the district court within thirty days after service is
3 complete. At the time of filing the proof of service and upon
4 payment by the appellant of the civil docket fee, the clerk of
5 the district court shall docket the appeal;

6 (3) costs shall be taxed in the same manner as
7 in cases brought in the district court, and bond for costs may
8 be required upon proper application; and

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

17 D. If the district court finds that all
18 requirements of this section have been satisfied and that all
19 protests and appeals are concluded, the court shall issue its
20 order affirming the board of trustees' resolution conveying the
21 property.

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

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1 Section 13. A new section of Chapter 49, Article 4 NMSA
2 1978 is enacted to read:

3 "[NEW MATERIAL] MEETINGS TO BE PUBLIC--ANNUAL REPORT.--

4 A. All meetings of the board of trustees shall be
5 held in accordance with the Open Meetings Act. Executive
6 sessions shall not be held except in accordance with the Open
7 Meetings Act. All heirs of the land grant-merced shall have
8 the right to be present at all times when the board of trustees
9 is in session and to be heard on all matters in which they may
10 be interested.

11 B. The board of trustees shall annually make public
12 a report of all its transactions for that year. The report
13 shall include agendas, minutes, any actions taken and all
14 financial transactions. The report shall be maintained in a
15 public place and available for public review.

16 C. The secretary of the board of trustees shall
17 reduce to writing, in a book kept for that purpose, minutes of
18 the business transacted at each meeting of the board of
19 trustees."

20 Section 14. A new section of Chapter 49, Article 4 NMSA
21 1978 is enacted to read:

22 "[NEW MATERIAL] VACANCIES.--If a vacancy occurs on the
23 board of trustees, the remaining members shall fill the vacancy
24 by appointment made at a regular meeting. The person appointed
25 shall hold office until the next regular election."

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1 Section 15. A new section of Chapter 49, Article 4 NMSA
2 1978 is enacted to read:

3 "[NEW MATERIAL] SALARIES OF TRUSTEES--RECORDS--
4 EXPENDITURES.--

5 A. The board of trustees may fix in the land
6 grant-merced bylaws and pay to its members a salary not to
7 exceed two hundred dollars (\$200) to any member in one month.
8 The salary as fixed shall be in full as compensation for the
9 duties performed by the board of trustees or the individual
10 members within the exterior boundaries of the land grant-
11 merced and for attendance at regularly scheduled meetings.
12 The secretary of the board of trustees may be allowed a
13 salary not to exceed two hundred twenty-five dollars (\$225)
14 in one month.

15 B. Board of trustees members may be authorized
16 per diem and mileage pursuant to the Per Diem and Mileage
17 Act.

18 C. The board of trustees and the treasurer shall
19 keep permanent and legible records capable of audit, and no
20 money or funds shall be paid by the board of trustees or by
21 any person authorized to expend money except by written check
22 drawn upon vouchers."

23 Section 16. A new section of Chapter 49, Article 4
24 NMSA 1978 is enacted to read:

25 "[NEW MATERIAL] REMOVAL FROM LAND GRANT-MERCED--

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underscored material = new
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1 DELINQUENCY--FORFEITURE.--

2 A. If a person holds in possession or claims in
3 private ownership, within the exterior boundaries of the land
4 grant-merced, any tract, piece or parcel of land to which, in
5 the opinion of the board of trustees, the person has no right
6 or title, the board may institute an action of ejectment in
7 district court against the person. If upon the trial it
8 appears that such possession is without right, judgment shall
9 be rendered in favor of the board of trustees for possession
10 of the tract, piece or parcel of land and for such damages as
11 it may have proved for the wrongful detention.

12 B. A delinquent heir shall lose all right that
13 the heir may have had to use the common lands of the land
14 grant-merced unless the heir pays in full all legal
15 assessments or dues due by the heir."

16 Section 17. A new section of Chapter 49, Article 4
17 NMSA 1978 is enacted to read:

18 "[NEW MATERIAL] TRESPASS ON COMMON LANDS OR WATERS--
19 INJUNCTIONS.--The courts of this state shall entertain bills
20 of complaint filed by the board of trustees of the land
21 grant-merced to enjoin persons from trespassing upon the
22 common lands or using the common waters within the land
23 grant-merced if it appears that the complainant is without a
24 plain, speedy and adequate remedy at law or that the persons
25 committing trespass are insolvent or unable to respond in

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[bracketed material] = delete

1 damages."

2 Section 18. A new section of Chapter 49, Article 4
3 NMSA 1978 is enacted to read:

4 "[NEW MATERIAL] PROCESS--HOW SERVED ON BOARD.--Process
5 in all actions or suits against the board of trustees of the
6 land grant-merced shall be served upon the president or, in
7 the president's absence, upon the secretary."

8 Section 19. A new section of Chapter 49, Article 4
9 NMSA 1978 is enacted to read:

10 "[NEW MATERIAL] REGISTRATION.--The board of trustees
11 shall register its bylaws and a list of current officers with
12 the secretary of state in accordance with the provisions of
13 Section 49-1-23 NMSA 1978. The board of trustees shall
14 notify the secretary of state of the names and positions of
15 the land grant-merced's elected or appointed officers upon
16 their election or appointment."

17 Section 20. A new section of Chapter 49, Article 4
18 NMSA 1978 is enacted to read:

19 "[NEW MATERIAL] FAILURE OF TRUSTEE TO PERFORM DUTIES--
20 PENALTY.--Any member of the board of trustees who fails or
21 refuses to perform any of the duties required to be performed
22 by the board of trustees of the land grant-merced by Chapter
23 49, Article 4 NMSA 1978 or by any other law of New Mexico is
24 guilty of a misdemeanor and upon conviction shall be punished
25 by a fine of not less than twenty-five dollars (\$25.00) nor

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1 more than one hundred dollars (\$100) or by imprisonment in
2 the county jail for a period of not less than thirty days nor
3 more than ninety days, or both."

4 Section 21. A new section of Chapter 49, Article 4
5 NMSA 1978 is enacted to read:

6 "[NEW MATERIAL] RIGHTS OF LESSEES AND PURCHASERS.--

7 A. A person who is not an heir and who purchases
8 or leases property within the limits of the land grant-merced
9 shall only have a right to the lands acquired through the
10 purchase or lease but not to any common lands within the land
11 grant-merced.

12 B. The provisions of Chapter 49, Article 4 NMSA
13 1978 shall not diminish, extinguish or otherwise impair any
14 private property interest located within the boundaries of
15 the land grant-merced or be construed to grant the board of
16 trustees regulatory authority over such property interests or
17 lands other than the common lands. As used in this
18 subsection, "property interest" includes valid easements and
19 rights of access, but does not include use rights to the
20 common lands of the land grant-merced."

21 Section 22. REPEAL.--Sections 49-4-2 and 49-4-3 NMSA
22 1978 (being Laws 1876, Chapter 51, Sections 2 and 3, as
23 amended) are repealed.

24 Section 23. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2007.

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; CONFORMING THE GOVERNING STATUTES OF THE TECOLOTE LAND GRANT WITH THE PROVISIONS OF CHAPTER 49, ARTICLE 1 NMSA 1978; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

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

"49-1-2. APPLICATION.--

A. Sections 49-1-1 through 49-1-18 NMSA 1978 shall apply to all land grants-mercedes confirmed by the congress of the United States or by the court of private land claims or designated as land grants-mercedes in any report or list of land grants prepared by the surveyor general and confirmed by congress, but shall not apply to any land [~~grant~~] grant-merced

underscored material = new
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1 that is now managed or controlled in any manner, other than as
2 provided in Sections 49-1-1 through 49-1-18 NMSA 1978, by
3 virtue of any general or special act, unless the land grant-
4 merced complies with the provisions of Subsection B of this
5 section.

6 B. If a majority of the members of the board of
7 trustees of a land grant-merced ~~[covered]~~ governed by specific
8 ~~[legislation]~~ statutes determines that ~~[the specific~~
9 ~~legislation is]~~ those statutes are no longer beneficial to the
10 land grant-merced, the board has the authority to ~~[petition]~~
11 request the legislature to repeal ~~[the legislation]~~ or to amend
12 those statutes to conform with Sections 49-1-1 through 49-1-18
13 NMSA 1978 and to be governed by its bylaws and as provided in
14 Sections 49-1-1 through 49-1-18 NMSA 1978 or the conforming
15 statutes, as the case may be."

16 Section 2. Section 49-10-1 NMSA 1978 (being Laws 1903,
17 Chapter 77, Section 1, as amended) is amended to read:

18 "49-10-1. TECOLOTE LAND GRANT-MERCED--GOVERNANCE.--~~[Sec.~~
19 ~~80.—That]~~ The ~~[management]~~ government and control of ~~[that~~
20 ~~certain tract of land]~~ the common lands of the land grant-
21 merced known as the "Tecolote land ~~[grant]~~ grant-merced",
22 situated in the county of San Miguel in the state of New Mexico
23 and patented by the United States to the town of ~~[Tecolete]~~
24 Tecolote, is ~~[hereby]~~ vested in a board of trustees ~~[to be~~
25 ~~elected as hereinafter provided, which said board of trustees~~

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1 ~~shall be a body corporate under the name of the board of~~
2 ~~trustees of the Tecolote land grant, and with full power under~~
3 ~~such name to sue and be sued and with the further powers~~
4 ~~hereinafter enumerated]~~ of five members, to be known officially
5 as "the board of trustees of the Tecolote land grant-merced",
6 who shall manage and control the land grant-merced in
7 accordance with the provisions of Chapter 49, Article 10 NMSA
8 1978."

9 Section 3. A new section of Chapter 49, Article 10 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] DEFINITIONS.--As used in Chapter 49,
12 Article 10 NMSA 1978:

13 A. "board of trustees" means the board of trustees
14 of the Tecolote land grant-merced;

15 B. "heir" means a person who is a descendant of the
16 original grantees and has an interest in the common land of the
17 land grant-merced through inheritance, gift or purchase;

18 C. "land grant-merced" means the grant of land made
19 by the government of Mexico to the town of Tecolote in 1824,
20 which was confirmed by congress in 1858 and issued a patent by
21 the United States in 1902; and

22 D. "qualified voting member" means an heir who is
23 registered to vote in the land grant-merced as prescribed in
24 the land grant-merced bylaws."

25 Section 4. A new section of Chapter 49, Article 10 NMSA

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1 1978 is enacted to read:

2 "[NEW MATERIAL] MANAGEMENT OF GRANT.--The Tecolote land
3 grant-merced shall be controlled and governed by its bylaws, by
4 the Treaty of Guadalupe Hidalgo and as provided in Chapter 49,
5 Article 10 NMSA 1978 as a political subdivision of the state."

6 Section 5. A new section of Chapter 49, Article 10 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] BOARD OF TRUSTEES--MANAGEMENT OF GRANT--
9 POWERS.--The board of trustees shall have the power to:

10 A. control, care for and manage the land
11 grant-merced and real estate; prescribe the terms and
12 conditions under which the common lands may be used and
13 enjoyed; and make all necessary and proper bylaws, rules and
14 regulations that shall be in substantial compliance with
15 applicable statutes for the government thereof;

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

18 C. convey, lease or mortgage the common lands of
19 the land grant-merced in accordance with the land grant-merced
20 bylaws;

21 D. determine the number of animals that may be
22 permitted to graze upon the common lands and determine other
23 uses of the common lands that may be authorized;

24 E. prescribe the price to be paid for the use of
25 the common lands and resources of the land grant-merced and

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1 prohibit a person failing or refusing to pay that amount from
2 using a portion of the common lands while the person continues
3 in default in those payments; provided that the amount fixed
4 shall be in proportion to the number and kinds of livestock
5 pasturing upon the common lands or to other authorized use of
6 the common lands;

7 F. adopt and use an official seal;

8 G. appoint judges and clerks of election at all
9 elections provided for in Chapter 49, Article 10 NMSA 1978 and
10 canvass the votes cast in those elections;

11 H. make bylaws, rules and regulations, not in
12 conflict with the constitution and laws of the United States or
13 the state of New Mexico, as may be necessary for the
14 protection, improvement and management of the common lands and
15 real estate and for the use and enjoyment of the common lands
16 and of the common waters of the land grant-merced;

17 I. determine land use, local infrastructure and
18 economic development of the common lands of the land
19 grant-merced; and

20 J. determine zoning of the common lands of the land
21 grant-merced pursuant to a comprehensive plan approved by the
22 local government division of the department of finance and
23 administration that considers the health, safety and general
24 welfare of the residents of the land grant-merced. The
25 department of finance and administration shall act as

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1 arbitrator for zoning conflicts between the land grant-merced
2 and neighboring municipalities and counties."

3 Section 6. A new section of Chapter 49, Article 10 NMSA
4 1978 is enacted to read:

5 "[NEW MATERIAL] BOARD OF TRUSTEES--QUALIFICATIONS.--The
6 board of trustees shall consist of five members. If there is
7 more than one precinct in the land grant-merced, no more than
8 three members shall be residents of the same precinct;
9 provided, however, that if the precinct boundaries do not
10 coincide with the boundaries of the land grant-merced, the
11 board of trustees may create districts that better reflect the
12 distribution of population within the land grant-merced and
13 that any one of which has no more than three members of the
14 board of trustees as residents. A person shall be qualified to
15 be a member of the board if the person is a qualified voting
16 member and is not in default of any dues, rent or other payment
17 for the use of any of the common lands of the land grant-
18 merced."

19 Section 7. A new section of Chapter 49, Article 10 NMSA
20 1978 is enacted to read:

21 "[NEW MATERIAL] ELECTION OF MEMBERS OF BOARD OF TRUSTEES--
22 VOTERS' QUALIFICATIONS--REGISTRATION.--

23 A. Elections for the board of trustees shall be
24 held on the first Monday in April or on a day designated in the
25 bylaws, either every two or every four years as specified in

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1 the bylaws of the land grant-merced.

2 B. All qualified voting members of the land
3 grant-merced are qualified to vote and may vote for trustees as
4 specified in the land grant-merced bylaws.

5 C. The registration of qualified voting members
6 shall be conducted in the manner prescribed in the Election
7 Code, substituting the words "board of trustees" and
8 "secretary" wherever the words "county commission" and "county
9 clerk" are used in that code.

10 D. The registration books compiled before each
11 election shall be used at that election. A person shall not
12 vote at the election unless duly registered in the books, and a
13 ballot of any unregistered person shall not be counted or
14 canvassed.

15 E. The board of trustees shall give public notice
16 in Spanish and English of the time of the election and fix and
17 give notice of the polling places in each precinct by handbills
18 posted in at least five public places in each precinct at least
19 fifteen days prior to the election. Notice shall also be given
20 by publication fifteen days prior to the election in a
21 newspaper in general circulation within the land grant-merced
22 if there is one.

23 F. Elections shall be conducted, as nearly as is
24 practicable, in the same manner as provided by law for the
25 holding of general elections in this state. The judges and

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1 clerks of elections shall be appointed and the votes canvassed
2 by the board of trustees."

3 Section 8. A new section of Chapter 49, Article 10 NMSA
4 1978 is enacted to read:

5 "[NEW MATERIAL] ELECTION--CANVASSING VOTES.--The election
6 judges and board of trustees shall meet not later than seven
7 days following the election and canvass the votes cast and
8 issue to each of the five persons having a majority of votes a
9 certificate showing that each one has been duly elected."

10 Section 9. A new section of Chapter 49, Article 10 NMSA
11 1978 is enacted to read:

12 "[NEW MATERIAL] ORGANIZATION OF BOARD--BONDS--VACANCIES.--

13 A. All members of the newly elected board of
14 trustees shall meet no later than seven days after the votes
15 are canvassed and organize themselves by the election of a
16 president, secretary and treasurer. The treasurer shall
17 perform such duties as may be required by the board and shall
18 furnish to the board a good and sufficient surety bond in a sum
19 as set forth in this section, to be conditioned as are the
20 bonds of other public officials handling public money. It is
21 the duty of the treasurer to deposit all the money of the land
22 grant-merced in a bank organized and doing business in New
23 Mexico.

24 B. In the event of the death or resignation of the
25 treasurer, the board shall fill the vacancy by appointing one

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1 of the members of the board as treasurer, who shall, before
2 entering into the performance of the duties as treasurer,
3 execute and furnish to the board a good and sufficient surety
4 bond, similar to the bond entered into by the predecessor.

5 C. The amount of the bond required of the treasurer
6 and the treasurer's successor shall at all times be for a sum
7 of at least double the amount received by and deposited in the
8 bank by the treasurer.

9 D. In the event the board of trustees delegates any
10 other of its members to collect money due the land grant-
11 merced, that person shall be bonded in the same manner as is
12 provided in this section for the bonding of the treasurer.

13 E. Those authorized to collect money shall give
14 receipts for the money collected, which receipts shall be in
15 the form prescribed by the board of trustees in the bylaws as
16 an official receipt."

17 Section 10. A new section of Chapter 49, Article 10 NMSA
18 1978 is enacted to read:

19 "[NEW MATERIAL] MEETINGS.--Regular meetings of the board
20 of trustees shall be held no less than quarterly and in a
21 public place as the board may determine in accordance with the
22 bylaws. The time and place of regular meetings shall be posted
23 in Spanish and English in a public place within the land grant-
24 merced at least ten days prior to the meeting. Special
25 meetings may be held at any time on call of the president, with

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1 five days' notice being given to each member."

2 Section 11. A new section of Chapter 49, Article 10 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] QUORUM.--A majority of the members of the
5 board of trustees shall constitute a quorum for the transaction
6 of business, and the land grant-merced and its inhabitants
7 shall be bound by the acts of the board pursuant to the
8 provisions of Chapter 49, Article 10 NMSA 1978 and the land
9 grant-merced bylaws."

10 Section 12. A new section of Chapter 49, Article 10 NMSA
11 1978 is enacted to read:

12 "[NEW MATERIAL] SALE OR MORTGAGE OF COMMON LANDS--
13 RESTRICTIONS.--

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

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

19 (2) the conveyance is made for the benefit of
20 the land grant-merced;

21 (3) the board of trustees has approved a
22 resolution to make the conveyance at a regular meeting held in
23 accordance with Sections 10 and 13 of this 2007 act;

24 (4) the board of trustees has petitioned for
25 an order affirming the board's resolution from the district

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1 court of the district in which the property is located; and

2 (5) the district court has issued an order
3 affirming the board of trustees' resolution pursuant to
4 Subsection D of this section.

5 B. An heir may file a written protest of a
6 conveyance with the board of trustees and the district court
7 within thirty days of the date that the resolution approving
8 the conveyance is passed by the board. The board of trustees
9 shall address and make a decision on the protest at a special
10 meeting held in accordance with Sections 10 and 13 of this 2007
11 act within thirty days of receiving the protest.

12 C. An heir dissatisfied with a decision of the
13 board of trustees may appeal to the district court of the
14 county in which the property is located in the following
15 manner:

16 (1) appeals to the district court shall be
17 taken by serving a notice of appeal upon the board within
18 thirty days of the decision. If an appeal is not timely taken,
19 the action of the board of trustees is conclusive;

20 (2) the notice of appeal may be served in the
21 same manner as a summons in civil actions brought before the
22 district court or by publication in a newspaper printed in the
23 county in which the property is located, once per week for four
24 consecutive weeks. The last publication shall be at least
25 twenty days prior to the date the appeal may be heard. Proof

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1 of service of the notice of appeal shall be made in the same
2 manner as in actions brought in the district court and shall be
3 filed in the district court within thirty days after service is
4 complete. At the time of filing the proof of service and upon
5 payment by the appellant of the civil docket fee, the clerk of
6 the district court shall docket the appeal;

7 (3) costs shall be taxed in the same manner as
8 in cases brought in the district court, and bond for costs may
9 be required upon proper application; and

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

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

23 E. After the district court issues its order, the
24 board of trustees shall execute the necessary documents in the
25 name and under the seal of the land grant-merced, and all heirs

underscored material = new
[bracketed material] = delete

1 shall be bound by the board's conveyance."

2 Section 13. A new section of Chapter 49, Article 10 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] MEETINGS TO BE PUBLIC--ANNUAL REPORT.--

5 A. All meetings of the board of trustees shall be
6 held in accordance with the Open Meetings Act. Executive
7 sessions shall not be held except in accordance with the Open
8 Meetings Act. All heirs of the land grant-merced shall have
9 the right to be present at all times when the board of trustees
10 is in session and to be heard on all matters in which they may
11 be interested.

12 B. The board of trustees shall annually make public
13 a report of all its transactions for that year. The report
14 shall include agendas, minutes, any actions taken and all
15 financial transactions. The report shall be maintained in a
16 public place and available for public review.

17 C. The secretary of the board of trustees shall
18 reduce to writing, in a book kept for that purpose, minutes of
19 the business transacted at each meeting of the board of
20 trustees."

21 Section 14. A new section of Chapter 49, Article 10 NMSA
22 1978 is enacted to read:

23 "[NEW MATERIAL] VACANCIES.--If a vacancy occurs on the
24 board of trustees, the remaining members shall fill the vacancy
25 by appointment made at a regular meeting. The person appointed

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1 shall hold office until the next regular election."

2 Section 15. A new section of Chapter 49, Article 10 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] SALARIES OF TRUSTEES--RECORDS--
5 EXPENDITURES.--

6 A. The board of trustees may fix in the land
7 grant-merced bylaws and pay to its members a salary not to
8 exceed two hundred dollars (\$200) to any member in one month.
9 The salary as fixed shall be in full as compensation for the
10 duties performed by the board of trustees or the individual
11 members within the exterior boundaries of the land grant-
12 merced and for attendance at regularly scheduled meetings.
13 The secretary of the board of trustees may be allowed a
14 salary not to exceed two hundred twenty-five dollars (\$225)
15 in one month.

16 B. Board of trustees members may be authorized
17 per diem and mileage pursuant to the Per Diem and Mileage
18 Act.

19 C. The board of trustees and the treasurer shall
20 keep permanent and legible records capable of audit, and no
21 money or funds shall be paid by the board of trustees or by
22 any person authorized to expend money except by written check
23 drawn upon vouchers."

24 Section 16. A new section of Chapter 49, Article 10
25 NMSA 1978 is enacted to read:

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underscored material = new
[bracketed material] = delete

1 "[NEW MATERIAL] REMOVAL FROM LAND GRANT-MERCED--
2 DELINQUENCY--FORFEITURE.--

3 A. If a person holds in possession or claims in
4 private ownership, within the exterior boundaries of the land
5 grant-merced, any tract, piece or parcel of land to which, in
6 the opinion of the board of trustees, the person has no right
7 or title, the board may institute an action of ejectment in
8 district court against the person. If upon the trial it
9 appears that such possession is without right, judgment shall
10 be rendered in favor of the board of trustees for possession
11 of the tract, piece or parcel of land and for such damages as
12 it may have proved for the wrongful detention.

13 B. A delinquent heir shall lose all right that
14 the heir may have had to use the common lands of the land
15 grant-merced unless the heir pays in full all legal
16 assessments or dues due by the heir."

17 Section 17. A new section of Chapter 49, Article 10
18 NMSA 1978 is enacted to read:

19 "[NEW MATERIAL] TRESPASS ON COMMON LANDS OR WATERS--
20 INJUNCTIONS.--The courts of this state shall entertain bills
21 of complaint filed by the board of trustees of the land
22 grant-merced to enjoin persons from trespassing upon the
23 common lands or using the common waters within the land
24 grant-merced if it appears that the complainant is without a
25 plain, speedy and adequate remedy at law or that the persons

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1 committing trespass are insolvent or unable to respond in
2 damages."

3 Section 18. A new section of Chapter 49, Article 10
4 NMSA 1978 is enacted to read:

5 "[NEW MATERIAL] PROCESS--HOW SERVED ON BOARD.--Process
6 in all actions or suits against the board of trustees of the
7 land grant-merced shall be served upon the president or, in
8 the president's absence, upon the secretary."

9 Section 19. A new section of Chapter 49, Article 10
10 NMSA 1978 is enacted to read:

11 "[NEW MATERIAL] REGISTRATION.--The board of trustees
12 shall register its bylaws and a list of current officers with
13 the secretary of state in accordance with the provisions of
14 Section 49-1-23 NMSA 1978. The board of trustees shall
15 notify the secretary of state of the names and positions of
16 the land grant-merced's elected or appointed officers upon
17 their election or appointment."

18 Section 20. A new section of Chapter 49, Article 10
19 NMSA 1978 is enacted to read:

20 "[NEW MATERIAL] FAILURE OF TRUSTEE TO PERFORM DUTIES--
21 PENALTY.--Any member of the board of trustees who fails or
22 refuses to perform any of the duties required to be performed
23 by the board of trustees of the land grant-merced by Chapter
24 49, Article 10 NMSA 1978 or by any other law of New Mexico is
25 guilty of a misdemeanor and upon conviction shall be punished

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1 by a fine of not less than twenty-five dollars (\$25.00) nor
2 more than one hundred dollars (\$100) or by imprisonment in
3 the county jail for a period of not less than thirty days nor
4 more than ninety days, or both."

5 Section 21. A new section of Chapter 49, Article 10
6 NMSA 1978 is enacted to read:

7 "[NEW MATERIAL] RIGHTS OF LESSEES AND PURCHASERS.--

8 A. A person who is not an heir and who purchases
9 or leases property within the limits of the land grant-merced
10 shall only have a right to the lands acquired through the
11 purchase or lease but not to any common lands within the land
12 grant-merced.

13 B. The provisions of Chapter 49, Article 10 NMSA
14 1978 shall not diminish, extinguish or otherwise impair any
15 private property interest located within the boundaries of
16 the land grant-merced or be construed to grant the board of
17 trustees regulatory authority over such property interests or
18 lands other than the common lands. As used in this
19 subsection, "property interest" includes valid easements and
20 rights of access, but does not include use rights to the
21 common lands of the land grant-merced."

22 Section 22. REPEAL.--Sections 49-10-2 through 49-10-6
23 NMSA 1978 (being Laws 1903, Chapter 77, Sections 2 through 6,
24 as amended) are repealed.

25 Section 23. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2007.

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO PROPERTY TAX; ALLOWING COMMUNITY LAND GRANTS THAT ARE POLITICAL SUBDIVISIONS OF THE STATE A RIGHT OF FIRST REFUSAL AT PUBLIC AUCTIONS FOR PROPERTY LOCATED WITHIN LAND GRANT BOUNDARIES.

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

Section 1. Section 7-38-67 NMSA 1978 (being Laws 1973, Chapter 258, Section 107, as amended) is amended to read:

"7-38-67. REAL PROPERTY SALE REQUIREMENTS.--

A. Real property shall not be sold for delinquent taxes before the expiration of three years from the first date shown on the tax delinquency list on which the taxes on the real property became delinquent.

B. Notice of the sale shall be published in a local newspaper within the county where the real property is located

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1 or, if there is no local county or municipal newspaper, then a
2 newspaper published in a county contiguous to or near the
3 county in which the real property is located, at least once a
4 week for the three weeks immediately preceding the week of the
5 sale. For more generalized notice, the department may choose
6 to publish notice of the sale also in a newspaper not published
7 within the county and of more general circulation. The notice
8 shall state the time and place of the sale and shall include a
9 description of the real property sufficient to permit its
10 identification and location by potential purchasers.

11 C. Real property shall be sold at public auction
12 either by the department or an auctioneer hired by the
13 department. The auction shall be held in the county where the
14 real property is located at a time and place designated by the
15 department.

16 D. If the real property can be divided so as to
17 enable the department to sell only part of it and pay all
18 delinquent taxes, penalties, interest and costs, the department
19 may, with the consent of the owner, sell only a part of the
20 real property.

21 E. Before the sale, the department shall determine
22 a minimum sale price for the real property. In determining the
23 minimum price, the department shall consider the value of the
24 property owner's interest in the real property, the amount of
25 all delinquent taxes, penalties and interest for which it is

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1 being sold and the costs. The minimum price shall not be less
2 than the total of all delinquent taxes, penalties, interest and
3 costs. Real property shall not be sold for less than the
4 minimum price unless no offer met the minimum price when it was
5 offered at an earlier public auction or the property is sold in
6 accordance with the provisions of Subsection H of this section.
7 A sale properly made under the authority of and in accordance
8 with the requirements of this section constitutes full payment
9 of all delinquent taxes, penalties and interest that are a lien
10 against the property at the time of sale, and the sale
11 extinguishes the lien.

12 F. Payment shall be made in full by the close of
13 the public auction before an offer may be deemed accepted by
14 the department.

15 G. Real property not offered for sale may be
16 offered for sale at a later sale, but the requirements of this
17 section and Section 7-38-66 NMSA 1978 shall be met in
18 connection with each sale.

19 H. A bid by the board of trustees of a community
20 land grant-merced governed pursuant to the provisions of
21 Chapter 49, Article 1 NMSA 1978 [~~or by statutes specific to the~~
22 ~~named land grant-merced~~] as a political subdivision of the
23 state shall be [~~allowed to match~~] considered the highest bid at
24 a public auction, which shall entitle the board of trustees to
25 purchase the property for the amount bid if:

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(1) the property is situated within the boundaries of that land grant-merced as shown in the United States patent to the grant;

(2) the bid covers all past taxes, penalties, interest and costs due on the property; and

(3) the land becomes part of the common lands of the land grant-merced."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.