

LAND GRANT COMMITTEE

2010 INTERIM
FINAL REPORT
to the
FIFTIETH LEGISLATURE
FIRST SESSION



New Mexico Legislative Council Service
Santa Fe, New Mexico
December, 2010

LAND GRANT COMMITTEE

2010
REPORT

Santa Fe, New Mexico
December 2010
File No. 205.207-10

LEGISLATIVE INTERIM LAND GRANT COMMITTEE SUMMARY OF COMMITTEE WORK

The legislative interim Land Grant Committee held four meetings, along with one joint session with the Indian Affairs Committee, during the 2010 interim. Meetings were held in Santa Fe, San Miguel del Vado and Gallup.

The Land Grant Council, the state agency that acts as the official liaison between community land grants-mercedes and other local, state and federal government agencies, began its work this year. The five members appointed to the council are: Macario Griego, Lee Maestas, Leonard T. Martinez, Rita Padilla-Gutierrez and Juan Sanchez. The council was created as part of the Land Grant Support Act, legislation the committee endorsed for the 2009 legislative session. Two pieces of legislation endorsed by the committee for the 2010 legislative session were also enacted into law: Senate Bill 41 (Laws 2010, Chapter 6; compiled as Section 61-23-33 NMSA 1978) requires notice of any boundary surveys conducted in or bordering on any of the four land grants governed by Chapter 49, Article 6, 7, 8 or 10 NMSA 1978; and Senate Bill 94 (Laws 2010, Chapter 22; compiled as Section 41-4-30 NMSA 1978) gives land grants that are political subdivisions of the state the right to purchase tort liability coverage through the Risk Management Division of the General Services Department.

Topics addressed this interim included the return of certain cemeteries and return of unused parcels of state land to the San Miguel del Vado Land Grant-Merced; negotiations on federal legislation affecting the San Antonio de las Huertas Land Grant-Merced; continued funding for the Land Grant Studies Program; promotion of use rights on former common lands that are now owned by state or federal agencies; status of the Cabresto Dam construction project; and investment of land grant funds with the state treasurer. The committee also held a joint meeting with the legislative interim Indian Affairs Committee to discuss a proposal from the Land Grant Council that would prohibit the common lands of a land grant-merced that is a political subdivision of the state from being designated or treated as state land. The committee endorsed an amended version of that proposal at its October meeting.

The committee also endorsed the following bills for the 2011 session: authorizing the Land Grant Council to expend private and federal funds to assist community land grants-mercedes that are not political subdivisions of the state; allowing the Town of Tecolote Land Grant-Merced to be governed under the provisions of Chapter 49, Article 1 NMSA 1978 as a political subdivision of the state; authorizing land grant boards of trustees to be elected for staggered terms; and moving the official land grant registry from the Office of the Secretary of State to the Land Grant Council office.

Total expenditures for voting members during the interim were \$13,364, and expenditures for advisory members totaled \$4,083.

**2010 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
LAND GRANT COMMITTEE**

Members

Sen. Richard C. Martinez, Chair
Rep. Miguel P. Garcia, Vice Chair
Sen. Rod Adair
Rep. Paul C. Bandy
Rep. Andrew J. Barreras
Rep. Eleanor Chavez

Rep. Thomas A. Garcia
Rep. Jimmie C. Hall
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue
Sen. Bernadette M. Sanchez

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Sen. Dianna J. Duran

Rep. Brian F. Egolf, Jr.
Rep. Ben Lujan
Rep. Richard D. Vigil

Work Plan

The Land Grant Committee (LGC) was created by the New Mexico Legislative Council on May 12, 2010. The committee proposes to focus on the following topics:

1. funding for staff for the Land Grant Council (fiscal year 2012) and extending the council's mission to cover all community land grants (not just Chapter 49, Article 1 NMSA 1978 grants);
2. the treatment of common lands as state lands (LGC members will meet with the Indian Affairs Committee (IAC) on September 14 in Gallup);
3. the land grant registry — change the location from the Office of the Secretary of State to the Land Grant Council;
4. the consideration of land grants requesting governance under Chapter 49, Article 1 NMSA 1978 (possible candidates: Tecolote, Manzano and Atrisco);
5. the appropriate manner of investing and the appropriate expenditure of income from common lands of land grants that are political subdivisions of the state;
6. an update on the University of New Mexico land grant studies program;
7. recognizing land grants that were not confirmed by Congress;
8. the approval process for long-term leases of common lands;
9. land grant eligibility for conservation easement tax credits (carried over from last year);
10. the amount of property tax collected on the common lands of community land grants statewide; and
11. an update on issues from previous interims, including the Questa dam construction, the Bureau of Land Management Taos management plan designation of "Fun Valley" and land grant access to the W.A. Humphries Wildlife Area.

**Land Grant Committee
2010 Approved Meeting Schedule**

<u>Date</u>	<u>Location</u>
June 14 (actual)	Santa Fe
July 15-16	San Miguel del Vado (Ribera)
August 13	Santa Fe
September 14 (meet w/IAC)	Gallup
October 21-22	Santa Fe

AGENDAS

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

**June 14, 2010
Room 309, State Capitol
Santa Fe**

Monday, June 14

- 10:00 a.m. **Call to Order**
—Senator Richard C. Martinez, Chair
- 10:05 a.m. **Government Restructuring Task Force and 2010 Interim Committee Briefing**
—Raúl E. Burciaga, Director, Legislative Council Service (LCS)
- 10:30 a.m. **Report on 2010 Legislative Session**
—Jon Boller, Staff Attorney, LCS
- 10:45 a.m. **Work Plan and Meeting Schedule for the 2010 Interim**
- 12:00 noon **Adjourn**

Revised: July 14, 2010

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

**July 15-16, 2010
San Miguel Senior Citizen Center
San Miguel del Vado Land Grant
Ribera**

Thursday, July 15

- 9:00 a.m. **Call to Order**
—Senator Richard C. Martinez, Chair
- 9:05 a.m. **San Miguel del Vado Land Grant History and Current Issues**
—Oliver Perea, President, San Miguel del Vado Land Grant
- 10:00 a.m. **Cristobal de la Serna Land Grant Status**
—Francisco "El Comanche" Gonzales
- 11:00 a.m. **Lunch**
- 1:00 p.m. **Town of Tecolote Land Grant Request for Political Subdivision Status
(Proposed Legislation)**
—Joe and Angela Herrera, Town of Tecolote Land Grant
- 2:00 p.m. **Transfer of Land Grant Registry to the Land Grant Council and
Election Procedure Clarification — (Proposed Legislation)**
—Committee Staff
- 3:00 p.m. **Land Grant Council Activities and Funding**
—Juan Sanchez, Chair, Land Grant Council
- 4:00 p.m. **Land Grant Eligibility for Conservation Easement Tax Credits
(Proposed Legislation)**
—Energy, Minerals and Natural Resources Department
- 4:30 p.m. **Public Comment**
- 5:00 p.m. **Recess**

Friday, July 16

- 9:00 a.m. **Tour of San Miguel del Vado Land Grant**
- 12:00 noon **Adjourn**

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

**August 13, 2010
Room 322, State Capitol
Santa Fe**

Friday, August 13

- 10:00 a.m. **Call to Order**
—Senator Richard C. Martinez, Chair
- 10:05 a.m. **Investment of Land Grant Funds — Local Government Investment Pool**
—Eamon Cargo, Portfolio Manager, Office of the State Treasurer
- 11:00 a.m. **Status of H.R. 5388 and Future Legislative Plans**
—Antonio Sandoval, Office of U.S. Representative Martin Heinrich
- 12:00 noon **Lunch**
- 1:30 p.m. **Nuestra Senora del Rosario, San Fernando y Santiago Land Grant Boundary Correction Process and Taos Resource Management Plan Options Regarding Fun Valley**
—John Chavez, Secretary, Nuestra Senora del Rosario, San Fernando y Santiago Land Grant
—Sam DesGeorges, Field Manager, Taos Field Office, Bureau of Land Management
—John Baily, Assistant Manager, Taos Field Office, Bureau of Land Management
- 2:30 p.m. **Cabresto Dam Reconstruction Update**
—John Romero, Dam Safety Bureau, Office of the State Engineer
- 3:15 p.m. **Land Grant Council Report**
—Juan Sanchez, Chair, Land Grant Council
- 4:00 p.m. **Public Comment**
- Adjourn**

**AGENDA
for the
JOINT MEETING
of the
LAND GRANT COMMITTEE
and the
INDIAN AFFAIRS COMMITTEE**

September 14, 2010

The Land Grant Committee met jointly with the Indian Affairs Committee for a presentation on the treatment of the common lands of certain community land grants as state lands under the provisions of certain statutes.

Please see the agenda and minutes for the 10:00 a.m. presentation of the September meeting of the Indian Affairs Committee for details.

Revised: September 10, 2010

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**September 14-15, 2010
McKinley County Courthouse, Gallup
Thoreau Chapter House, Thoreau**

Tuesday, September 14 — McKinley County Courthouse Rotunda, Gallup

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Welcome**
—Ernest Becenti, Jr., McKinley County Commissioner
- 10:15 a.m. **House Memorial 74 — Status Update**
—Juan Sanchez, Land Grant Council
—Arturo Archuleta, Mexicano Land Education and Conservation Trust
—Lawrence T. Morgan, Speaker, Navajo Nation Council
—Chandler Sanchez, Governor, Pueblo of Acoma
—Marvin Trujillo, Lieutenant Governor, Pueblo of Laguna
—Frank Cerno, Pueblo of Laguna
—Norman Coeeyate, Governor, Pueblo of Zuni
—Dancy Simplicio, Lieutenant Governor, Pueblo of Zuni
—Selly Chimoni, Head Councilwoman, Pueblo of Zuni
- 12:00 noon **Lunch**
- 1:00 p.m. **Counties as Alternative Fiscal Agents for Chapter Capital Outlay**
—Gloria Skeet de Cruz, Breadsprings Chapter
—Annie Descheny, Breadsprings Chapter
—Ernest Becenti, Jr., Commissioner, McKinley County
—Doug Decker, County Attorney, McKinley County
- 2:00 p.m. **Aamodt Litigation and Settlement Act — Request for Support**
—Charlie J. Dorame, Chair, Northern Pueblos Tributary Water Rights
Association
- 2:15 p.m. **Strong Starts for Pueblo Children — Status Update**
—Jonathan N. Pino, Executive Coordinator, All Indian Pueblo Council
- 2:30 p.m. **Government Restructuring and the Indian Affairs Department**
—Alvin Warren, Secretary of Indian Affairs

4:00 p.m. **Native American Issues and the Federal Patient Protection and Affordable Care Act**
—Alvin Warren, Secretary of Indian Affairs

5:00 p.m. **Recess**

Wednesday, September 15 — Thoreau Chapter House, Thoreau

9:00 a.m. **Call to Order**

9:05 a.m. **Thoreau Chapter — Status Update**
—Valerie Yazzie, President, Thoreau Chapter

10:00 a.m. **Unified Command Response to Crisis**
—Herbert Long, Co-Commander, Navajo Department of Behavioral Health Services

11:00 a.m. **Mental Health and Native American Youth**
—Jack Callaghan, Director, Public Health Division, Department of Health

12:00 noon **Lunch**

1:00 p.m. **Tour — Solid Waste Infrastructure**

3:00 p.m. **Adjourn**

Revised: October 20, 2010

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

**October 21, 2010
Room 322, State Capitol
Santa Fe**

Thursday, October 21

- 10:00 a.m. **Call to Order**
—Senator Richard C. Martinez, Chair
- 10:05 a.m. **Land Grant Council Update**
—Juan Sanchez, Chair, Land Grant Council
- 10:45 a.m. **Land Grant Studies Program Update**
—Arturo Archuleta, Mexicano Land Education and
Conservation Trust
- 11:00 a.m. **San Miguel del Vado Land Grant and Villanueva State Park Parcels**
—Dave Simon, Director, State Parks Division, Energy, Minerals and
Natural Resources Department
—Oliver Perea, President, San Miguel del Vado Land Grant
- 12:00 noon **Lunch**
- 1:30 p.m. **Proposed Legislation**
—Land Grant Council Authority
—Tecolote Legislation
—Conservation Easements
—Land Grant Elections
—Land Grant Registry
—Control of Common Lands
- 3:00 p.m. **Access to W.A. Humphries State Wildlife Area**
—Department of Game and Fish
- 3:30 p.m. **Public Comment**
- Adjourn**

MINUTES

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

**June 14, 2010
Room 309, State Capitol
Santa Fe**

The first meeting of the interim Land Grant Committee was called to order at 10:20 a.m. on Monday, June 14, 2010, by Senator Richard C. Martinez, chair, in Room 309 of the State Capitol in Santa Fe.

Present

Sen. Richard C. Martinez, Chair
Rep. Miguel P. Garcia, Vice Chair
Sen. Rod Adair
Rep. Thomas A. Garcia
Rep. Jimmie C. Hall
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue
Sen. Bernadette M. Sanchez

Absent

Rep. Paul C. Bandy
Rep. Andrew J. Barreras
Rep. Eleanor Chavez

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Brian F. Egolf, Jr.
Rep. Richard D. Vigil

Sen. Dianna J. Duran
Rep. Ben Lujan

Guest Legislator

Sen. Nancy Rodriguez

Staff

Jon Boller
Peter Kovnat

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Monday, June 14

Senator Martinez welcomed the committee and asked members of the committee, staff and the audience to introduce themselves.

Crest of Montezuma Land Transfer

Senator Martinez recognized Tony Lucero, president of the San Antonio de las Huertas Land Grant, who outlined the provisions of a bill, H.R. 5388, sponsored by United States Representatives Martin T. Heinrich and Ben Ray Lujan. The bill, Mr. Lucero explained, would provide for the purchase and transfer of some private lands, along with a tract of Bureau of Land Management (BLM) land known as the Crest of Montezuma, to the Cibola National Forest. Unfortunately, in its present form the bill does not adequately address the concerns of the land grant, and it may also negatively affect existing rights of access for maintenance of local acequias, he explained. He also noted that the names of the local acequias in the bill were incorrect. Mr. Lucero said he would not object to the transfer of the Crest of Montezuma to the U.S. Forest Service under certain conditions, but that given the history of the land in question, which was once part of the common lands of the land grant, transferring that land without addressing the land grant's concerns would be a missed opportunity. Mr. Lucero noted the availability of approximately 560 acres of other BLM lands in Placitas, and he suggested that adding provisions to the bill to allow the eventual transfer of those other BLM lands (also former common lands) to the San Antonio de las Huertas Land Grant would help compensate the land grant for the thousands of acres of land it lost due to an erroneous federal survey and erroneous confirmation of the Tejon grant.

Senator Sanchez and Representative Miguel P. Garcia moved to request staff to draft a letter to Representatives Heinrich and Lujan stating that the committee has concerns with and opposes the bill in its present form and that discussions with the Land Grant Council and others are taking place on how to address those concerns and asking that no action be taken on the bill until these concerns are addressed. After a discussion of whether all committee members should first approve the letter in its final form, the committee voted 8-1 to let the chair approve the details of the letter, with Representative Thomas A. Garcia voting against the motion.

Government Restructuring Task Force and 2010 Interim Committee Briefing

Raúl E. Burciaga, director of the Legislative Council Service, briefly outlined the work of the Government Restructuring Task Force and noted that because the Land Grant Committee does not oversee operation of any of the large executive departments, it would not be asked to focus on the restructuring issue this interim. Mr. Burciaga went on to explain that due to the current budget crisis, the New Mexico Legislative Council reduced the number of meeting days for interim committees this year and has requested that all meetings be held in Santa Fe, if possible. If a committee feels that a meeting outside Santa Fe is necessary, the legislative council will consider such requests at its June 29 meeting.

Report on the 2010 Legislative Session

Mr. Boller reported that the committee had endorsed four pieces of legislation for the

2010 session, two of which passed unanimously. Senate Bill 41 (Laws 2010, Chapter 6) requires notice of any boundary surveys conducted in or bordering on any of the four land grants governed by Chapter 49, Article 6, 7, 8 or 10 NMSA 1978. Senate Bill 94 (Laws 2010, Chapter 22) gives land grants that are political subdivisions of the state the right to purchase tort liability coverage through the Risk Management Division of the General Services Department. Two other pieces of endorsed legislation, House Bill 28 and Senate Joint Memorial 16, did not receive hearings. Both proposals dealt with the classification of land grant common lands as state lands for the purposes of the Cultural Properties Act, the Cultural Properties Protection Act and the New Mexico Prehistoric and Historic Sites Preservation Act. Mr. Boller noted, however, that a related memorial, House Memorial 74, did pass. That memorial requests that the interim committees that deal with land grant issues and Indian affairs meet during the interim to hear issues of concern to the land grant and Native American communities. Mr. Boller said that this request arose from negotiations between proponents and opponents to the passage of Senate Joint Memorial 16 regarding the legislature's intent in making land grants political subdivisions of the state.

Work Plan and Meeting Schedule for the 2010 Interim

The committee adopted, without objection, to include the following topics in the committee's work plan:

1. funding for staff for the Land Grant Council (fiscal year 2012) and extending the council's mission to cover all community land grants (not just Chapter 49, Article 1 NMSA 1978 grants);
2. the treatment of common lands as state lands;
3. changing the location of the land grant registry from the Office of the Secretary of State to the Land Grant Council;
4. the consideration of land grants requesting governance under Chapter 49, Article 1 NMSA 1978 (possible candidates: Tecolote, Manzano and Atrisco);
5. the appropriate manner of investing in and the appropriate expenditure of income from common lands of land grants that are political subdivisions of the state;
6. an update on the University of New Mexico land grant studies program;
7. recognizing land grants that were not confirmed by Congress;
8. the approval process for long-term leases of common lands;
9. land grant eligibility for conservation easement tax credits (carried over from last year);

10. the amount of property tax collected on the common lands of community land grants statewide; and

11. an update on issues from previous interims, including the Questa dam construction, the BLM Taos management plan designation of "Fun Valley" and land grant access to the W.A. Humphries Wildlife Area.

The committee also accepted an invitation from the San Miguel del Vado Land Grant (approximately 45 miles east of Santa Fe) to hold its July meeting at the land grant. Members noted that this is one of the few community land grants that the committee has not had an opportunity to visit and that a core function of the committee is to meet with members of the various community land grants throughout the state and provide them with at least one opportunity to meet with legislators without having to travel to Santa Fe to do so. In response to House Memorial 74 (2010), the committee requested that its members be eligible for per diem and mileage to attend one day of the Indian Affairs Committee meeting in Gallup to address the issues raised by House Bill 28 and Senate Joint Memorial 16 from the 2010 legislative session.

The committee adjourned at 12:20 p.m.

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

**July 15-16
San Miguel Senior Citizens Center
San Miguel**

The second meeting of the interim Land Grant Committee was called to order at 9:20 a.m. on Thursday, July 15, 2010, by Senator Richard C. Martinez, chair, at the San Miguel Senior Citizens Center in San Miguel.

Present

Sen. Richard C. Martinez, Chair
Rep. Miguel P. Garcia, Vice Chair
Rep. Paul C. Bandy
Rep. Andrew J. Barreras (7/15)
Rep. Eleanor Chavez
Rep. Thomas A. Garcia (7/15)
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue (7/16)
Sen. Bernadette M. Sanchez

Absent

Sen. Rod Adair
Rep. Jimmie C. Hall

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Ben Lujan (7/15)
Rep. Richard D. Vigil

Sen. Dianna J. Duran
Rep. Brian F. Egolf, Jr.

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

Staff

Jon Boller
Peter Kovnat
Marisela Chavez

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Thursday, July 15

Welcoming Remarks and Introductions

Senator Martinez extended a welcome to all of the members, staff and audience present at the meeting. In addition, Senator Martinez introduced the legislators and staff to the audience. Representatives from the offices of Senators Jeff Bingaman and Tom Udall and Congressman Ben Ray Lujan attended the meeting.

San Miguel del Vado Land Grant

Oliver Perea, president of the San Miguel del Vado Land Grant, reviewed the history and current issues of the land grant. Mr. Perea explained that the grant was made to 51 families in 1794, and though the list of those original 51 families is lost, a list of the 58 families that were formally allotted individual tracts within the grant in 1803 still exists. The original grant contained approximately 315,000 acres, he noted, but the United States Supreme Court, in *U.S. v. Sandoval*, 167 US 278 (1897), ruled that only title to the 5,147 acres of allocated lands would be confirmed, and title to the unallocated common lands would pass to the United States. The U.S. Bureau of Land Management (BLM) now controls several thousand acres of the common lands, he said, and though the land grant has been negotiating with the BLM for return of some of that land, the necessary environmental and archaeological studies are cost-prohibitive.

Mr. Perea said that he supports a bill in Congress authorizing the return of some public lands to community land grants in New Mexico, and he mentioned that the Land Grant Consejo is proposing restitution on the order of \$2.7 billion for lands lost in the confirmation process.

Mr. Perea went on to list several projects that the land grant is working on, including:

- exploring ways to lease lands to heirs instead of deeding out lands in fee simple;
- the creation of a finance committee;
- the application for an \$8,000 grant by the genealogy committee to help determine current heirs of the grant;
- acquisition of the senior citizens center in San Miguel;
- archiving of records with the University of New Mexico and New Mexico Highlands University; and
- negotiations with the BLM over ownership of the San Isidro Norte cemetery.

Annabelle Quintana, an attorney who is working with the land grant, said that the board of trustees has revamped all of the bylaws and has drafted policies for land regulation. Ms. Quintana also said that the land grant is in the process of acquiring the senior citizens center, owned by Recursos de Santa Fe, a nonprofit that is selling the center to the land grant for \$2,500, which she said is "basically a donation". Ms. Quintana explained that the board of trustees also hopes to obtain approximately seven to nine acres of former land grant land currently held by the State Parks Division of the Energy, Minerals and Natural Resources Department (EMNRD) and are not usable as park lands due to their location. Asked if the board has a commitment from the State Parks Division on return of those lands, Mr. Perea replied that he is not planning to start the process until next April because of other projects that need the board's attention before then. The committee approved without objection a motion to request the State Parks Division to attend the committee's October meeting and report on the land in question. The committee also

approved without objection a motion to send a letter to the BLM supporting the land grant's efforts to have the BLM return control of the cemetery to the San Miguel del Vado Land Grant.

Cristobal de la Serna Land Grant Status

Francisco "El Comanche" Gonzales, Cristobal de la Serna Land Grant (La Serna), gave a presentation concerning the history and current status of La Serna. First, Mr. Gonzales informed the committee that the land grant recently elected a new board, which is now complying with the Open Meetings Act. He then related how lands in the land grant have been lost over time, noting that in the 1940s, the State of New Mexico was in need of extra funds and taxed the lands of La Serna, which forced many heirs to sell their land in order to pay the taxes. Also, he explained, in the early 1980s, a district judge ruled that La Serna was a private land grant, and in the process, the judge awarded the Weimer family 5,000 acres. Though the Weimers tried to build a subdivision with 175 units in the area, he said, the county did not approve the development, in part because the increased traffic would have damaged the village of Llano Quemado. Mr. Gonzales noted that even if the county had allowed the subdivision, he did not think there was enough water for the development. According to Mr. Gonzales, the family is now negotiating with the U.S. Forest Service to take over the property.

Mr. Gonzales said that a major problem facing La Serna is how the land has been parceled out to individual heirs in the form of *lineas*, long strips of land just a few feet wide. The board would like the *parciantes* to turn over their *lineas* to La Serna in order to consolidate the land so it can better serve the community, but so far, it has been difficult to get people to turn over their *lineas*. In part, he said, *parciantes* cannot turn over their land because they do not know where it is; it is a complete mystery where one *linea* exists versus another, and the county is still assessing taxes from various families for the same *lineas*.

Elden Torres, La Serna board secretary, agreed with Mr. Gonzales and said that his family has 120 acres, but it does not know where they are. His family wants to preserve its property rights to the land, but it wants to have the land in a community-based format.

Paul Martinez added that it is difficult for every family to get its share of the land. Mr. Martinez said that the problem is when *parciantes* start claiming their *lineas* in squares; the individual with just a few *lineas* will become the easement for the other's property. In addition, he said, the challenge is to create a common space in La Serna. Mr. Martinez concluded the presentation by asking the committee for monetary and technical assistance.

Asked what it would take to survey the *lineas* in the La Serna area, Mr. Gonzales replied that he is not sure, but that \$100,000 could be used to study how much it would cost, and the rest could be used to conduct the survey. There are 497 *lineas* claimed by 398 owners, he said, which was a problem created by the tax commission back in the 1940s, when it surveyed the area. Asked how many acres of common lands the board holds, Mr. Gonzales replied that he considers all 17,000 acres of La Serna to be common lands because he does not recognize private titles to the land. He added that he thinks the parking lot around the Rancho de Taos church is not held by a private warranty deed and, therefore, is La Serna property. Committee members

expressed concern that it might be an antidonation problem to give money to survey 17,000 acres of privately held land, and they also pointed out that there will not be any extra money next year for new projects because of the budget crisis.

Town of Tecolote Land Grant Request for Political Subdivision Status

Joe and Angela Herrera of the Tecolote Land Grant presented a request to acquire political subdivision status for the land grant. Ms. Herrera began the presentation by providing some background information about the land grant and introduced Russell Pacheco, the new chair of the board of trustees of the grant.

Ms. Herrera explained that Tecolote was involved in an adverse possession lawsuit for the past 10 years, even though Congress had confirmed the grant in 1854, a patent had been issued to the grant in 1903 and the U.S. Supreme Court in its *Tameling* decision held that courts could not overturn congressional affirmations of land grants. Now that the challenge to the land grant's status has been resolved in favor of Tecolote, Mr. Herrera and Mr. Pacheco explained that the board voted to ask for legislation recognizing Tecolote as a political subdivision of the state. The committee adopted a motion without objection to draft legislation incorporating Tecolote into the provisions of Chapter 49, Article 1 NMSA 1978.

Transfer of Land Grant Registry to the Land Grant Council and Election Procedure Clarification (Proposed Legislation)

Juan Sanchez, chair, Land Grant Council, asked the committee to consider legislation transferring the land grant registry to the Land Grant Council. Mr. Boller explained that, currently, land grants that are political subdivisions of the state are required to register their bylaws and the names of their board members with the Office of the Secretary of State, and they may also submit copies of historical documents to that office to be stored in the state archives. One of the responsibilities of the Land Grant Council, according to Mr. Sanchez, is to act as liaison between land grants and other state and federal agencies, along with evaluating the status of land grants and acting as their fiscal agent, if necessary. Unfortunately, Mr. Sanchez noted, the Office of the Secretary of State does not have the authority, staff or expertise to do anything other than store the information and records it keeps on behalf of the land grants. Therefore, it is difficult for state and federal agencies to get information on a particular land grant from that office, and it is not possible to get an opinion from that office on the status of a particular land grant. Asked if the Land Grant Council has a place to store information, Mr. Sanchez answered yes; the Department of Finance and Administration, to which the council is administratively attached, would provide space to do so. As to whether he talked to the secretary of state about the transfer of duties, Mr. Sanchez said he has not yet done so, but will do so before the committee's final meeting.

In reference to proposed legislation on land grant election procedures, Mr. Sanchez explained that current statutes suggest that all five members of the boards of trustees are to be elected at each election rather than allowing for staggered terms. This is not current practice, at least among most, if not all, of the land grants, he noted, and he suggested that having staggered

terms is less disruptive than replacing an entire board all at once. The proposed legislation would make it clear that not all five positions have to be filled at every election. The committee indicated that it would consider endorsing legislation at its final meeting of the interim.

Land Grant Council Activities and Funding

Mr. Sanchez updated the committee on the activities of the Land Grant Council. Mr. Sanchez said that the council has been meeting every month, but it is running out of funds. In terms of funds, Mr. Sanchez said that the council began with an appropriation of \$150,000 in 2009, \$31,000 of which the council has placed a land grant support fund. Mr. Sanchez also said that the council may receive \$200,000 from stimulus funds, and if it does, the council is going to use those funds for reports, mapping and technical assistance to the land grants. He added that the council is considering holding workshops for the land grants with those funds. Other projects mentioned by Mr. Sanchez include a web site that is being managed through the land grant study program at the University of New Mexico, and a mapping project of the "Sandoval Seven" is being conducted with help from the McCune Foundation.

Mr. Sanchez described how the council is going to allocate funds from the land grant support fund. Mr. Sanchez said that in order to receive funding, a land grant must first fill out an application, and if it meets the application requirements, it will be eligible to receive up to 20% of the land grant support fund. Mr. Sanchez said that the purpose of the fund is to help land grants with economic development, to provide matching funds for federal funds and for organizational training. He added that although the application is not yet ready, it will be ready by the August council meeting. In addition to addressing funding issues, Mr. Sanchez said, the council has also been meeting with the U.S. Forest Service and the BLM. He said that the U.S. Forest Service now has a new liaison who has been willing to negotiate on giving land grant heirs access to U.S. Forest Service lands for traditional uses. Mr. Sanchez said that these traditional uses include hunting, cutting timber, grazing and herb gathering.

Land Grant Eligibility for Conservation Easement Tax Credits

Jim Noel, secretary-designate, EMNRD, and Bob Savinsky, conservation manager, State Forestry Division, EMNRD, explained how conservation easements work. Secretary-Designate Noel explained that a conservation easement is a restriction placed on the use of a parcel of property to protect the resources associated with the property. He added that while such an easement will prohibit certain types of development, a landowner may reserve a small area of the land for building purposes. For example, he explained, a landowner may still erect temporary buildings and continue using the property for agricultural use.

Secretary-Designate Noel emphasized that a conservation easement is not a government taking; rather, it is a voluntary contractual agreement. While a conservation easement will not reduce property taxes, the Land Conservation Incentives Act offers tax credits for conservation easements. Currently, certain entities are eligible to receive the tax credits, such as corporations, citizens, limited liability companies and estates/trusts, while others, such as land grants, are not eligible.

Mr. Savinsky then explained how a conservation easement owner would apply for the tax credit. He explained that the Natural Lands Protection Committee and the secretary of energy, minerals and natural resources will determine if a conservation easement is eligible for a tax credit. Both entities must determine that the land is "significant and important to the State of New Mexico" in order to get the tax credit. Mr. Savinsky added that the tax credit is good for 20 years, and the recipient of the credit may transfer the credit to anyone with a tax liability.

Public Comment

The committee took public comment from Tony Lucero, Shirley Otero Romero, Carmen Quintana, Jose Gonzales, Paul Martinez and Luisa Quintana.

The committee recessed at 4:52 p.m.

Friday, July 16

The committee reconvened at 9:00 a.m. for a tour of the San Miguel del Vado Land Grant. Representative Vigil provided a bus for the tour, which included a visit to Villanueva State Park. The committee adjourned at 11:30 a.m.

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

**August 13, 2010
Room 322, State Capitol
Santa Fe**

The third meeting of the interim Land Grant Committee was called to order at 10:25 a.m. on Friday, August 13, 2010, by Senator Richard C. Martinez, chair, in Room 322 of the State Capitol.

Present

Sen. Richard C. Martinez, Chair
Rep. Miguel P. Garcia, Vice Chair
Sen. Rod Adair
Rep. Andrew J. Barreras
Rep. Eleanor Chavez
Rep. Thomas A. Garcia
Rep. Jimmie C. Hall
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue
Sen. Bernadette M. Sanchez

Absent

Rep. Paul C. Bandy

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Dianna J. Duran
Rep. Ben Lujan
Rep. Richard D. Vigil

Sen. Carlos R. Cisneros
Rep. Brian F. Egolf, Jr.

Staff

Jon Boller
Peter Kovnat

Guests

The guest list is in the meeting file.

Handouts

Handouts and written testimony are in the meeting file.

Friday, August 13

Welcoming Remarks and Introductions

Senator Martinez extended a welcome to all of the committee members, staff and audience present at the meeting. In addition, the legislators and staff introduced themselves to the audience.

Investment of Land Grant Funds — Local Government Investment Pool (LGIP)

Eamon Cargo, portfolio manager, Office of the State Treasurer, gave a brief history of the LGIP, explaining that in the late 1970s and early 1980s, local governments were getting no interest on money deposited in banks at a time when inflation was very high. In response, the state created the LGIP, which gave local governments a safe, short-term investment alternative. Many local governments invest revenue in the LGIP that will be needed for recurring expenses, such as monthly payrolls, on a short-term basis (within a week or a month or two, he explained). The advantage of investing in the LGIP is that the pool can earn better interest than individual accounts, and the money is liquid. Mr. Cargo said that with historically low interest rates, returns on investment have dropped. The market value of the LGIP as of June 30, 2010 was \$778 million, he noted, compared to \$1.7 billion at the same period two years ago.

Asked if land grants could invest in the fund, Mr. Cargo replied that it would depend on their governing statutes and bylaws. The minimum amount for an account is \$5,000, according to the material distributed to the committee by Mr. Cargo. Committee members asked if he could supply the committee with a list of the local governments that have accounts with the LGIP. He said he thinks he could supply a list of what entities have accounts with the fund, but not the balance of each account.

Status of H.R. 5388 and Future Legislative Plans

Antonio Sandoval, from the office of U.S. Representative Martin Heinrich, provided the committee with a letter from Representative Heinrich regarding H.R. 5388 and a proposed land exchange involving the Crest of Montezuma near Placitas. Mr. Sandoval explained that in response to concerns expressed by the committee, a substitute bill had been introduced that removes all provisions of the original bill involving the Crest of Montezuma. This will allow more time to consult with the local community and the San Antonio de las Huertas Land Grant on the proposal, he said. Committee members applauded Representative Heinrich's efforts to work with the committee and with the land grant community on this issue.

Also discussed in Representative Heinrich's letter was the recent approval by the U.S. House Appropriations Subcommittee on Interior, Environment, and Related Agencies of an appropriation of \$138,000 for the purchase of forestry management equipment for use by land grants located in central New Mexico. The committee discussed how the equipment would be used and shared by the various land grants in central New Mexico.

Public Comment

Carmen Quintana asked if the committee would ever look into private grants, such as the

Labato Grant, which she said has been incorporated into part of the City of Santa Fe. She said she would like to find out how much the private land grantees are owed for land that has ended up incorporated into Santa Fe and Albuquerque.

Tony Lucero, San Antonio de las Huertas Land Grant, thanked Representative Heinrich for getting the land grants the equipment and also thanked the committee for its support.

Oliver Perea, San Miguel del Vado Land Grant, informed the committee that he had started the process of negotiating with the Bureau of Land Management (BLM) on the return of a cemetery and thanked the committee for its letter of support.

Alberto Baros, Rio Arriba County Planning Department, announced that the American Bar Association will be holding a roundtable discussion on Hispanic and Latino issues in all 50 states, which will include discussion of the Treaty of Guadalupe Hidalgo.

Nuestra Senora del Rosario, San Fernando y Santiago Land Grant Boundary Correction Process and Taos Resource Management Plan Options Regarding Fun Valley

John Chavez, secretary, Nuestra Senora del Rosario, San Fernando y Santiago Land Grant (Truchas), said that he and Pablo Sedillo, from U.S. Senator Jeff Bingaman's office, met with U.S. Forest Service (USFS) representatives concerning the boundary dispute between the USFS and the land grant. The USFS places the burden of proof on the land grant to show where the *mojanares* that mark the boundaries are located, he explained, so the land grant is having the markers located by GPS and is photographing each *mojanare*. The terrain is difficult, and the work must be done on foot or on horseback, he noted, but he hopes to have the project done by the end of summer.

Asked if the Abiquiu Land Grant had similar success in its negotiations with the USFS, Mr. Chavez explained that he had attended the meeting and understood that the Abiquiu claim was for land outside its patented boundaries, unlike the Truchas claim. According to Mr. Chavez, the USFS representatives said they did not have the statutory power to alter boundaries outside the patented boundaries of a land grant.

Regarding the BLM Taos Resource Management Plan (RMP), Mr. Chavez said that none of the four alternatives are entirely satisfactory, noting that all options still allow mineral leasing activities and that off-highway vehicle (OHV) use is still the number one threat to the area. Silt from runoff from BLM land also continues to be a problem to area acequias, he noted. Mr. Chavez said he hopes there will be more collaboration between the BLM and the area land grants on management of these and other problems, and he said he wishes the RMP process had involved more consultation with area land grants.

Juan Sanchez, chair of the Land Grant Council, reported that the council had met with Mike Pool of the U.S. Department of the Interior in Washington, DC, and that the council hopes to meet with the state director of the BLM in the near future.

Sam DesGeorges, field manager, BLM Taos Field Office, outlined the RMP process, noting that the scoping process had been going on for 10 years and that the four alternative plans now being considered cover a broad range of options that may be mixed and matched in the final plan. Mr. DesGeorges pointed out several differences between the "preferred" alternative A and the existing RMP, noting that key decisions involved what to do about vehicle access to the El Palacio/Fun Valley area. He said that currently, 17,000 acres of the area are open to OHVs, while alternative A designates only 250 acres as open. OHV use would be restricted to designated roads over 64,740 acres in alternative A, he also noted, and grazing on 17,000 acres by the three existing permittees would continue. Mr. DesGeorges said that the BLM is asking for input from all parties on which aspects of the alternatives should be part of the final RMP.

Mr. Chavez said he would like a formal invitation to participate in the process of addressing the OHV problem in the area.

Cabresto Dam Reconstruction Report

John Romero, Dam Safety Bureau of the Office of the State Engineer, outlined the history of the Cabresto Dam project, and said that because the dam is located on USFS land, the federal National Environmental Policy Act of 1969 (NEPA) applies, which requires review of the project before construction can start. Nonetheless, he said he hopes that bids could be let in late November or early December so that construction could begin next spring once the snow melts and the area can be accessed. Mr. Romero noted that several hurdles had already been overcome, including the recognition of a 732-acre-foot storage right in the dam that had not been requested during the original adjudication of the region's water rights.

Land Grant Council Update

Mr. Sanchez reported that the council traveled to Washington, DC, on July 19-24 to meet with New Mexico's congressional delegation and staff; officials in the Department of the Interior; and officials in the Department of Agriculture. Mr. Sanchez said that Mr. Pool, for the BLM, thinks that the granting of certain use rights to area land grants could be handled at the state level, while others might need congressional approval. The use of memoranda of understanding between the BLM and recognized land grants would be no problem, Mr. Sanchez reported. He also said that the National Archives representatives are working to provide the council with copies of historical documents and maps, including the original maps of land grants from the surveyor general. Of his meeting with officials from the General Accountability Office (GAO), Mr. Sanchez reported that Jeffrey Malcolm and Alfredo Gomez scanned all the documents (other than two boxes that are still being reviewed) that had been submitted to the GAO during its research on New Mexico's land grants for the 2004 GAO report. He also noted that Representative Heinrich is looking into suitable language for the creation of an endowment to address longstanding community land grant claims in New Mexico. The council has also entered into a memorandum of understanding with the University of New Mexico land grant studies program to map the seven land grants that lost their common lands due to the *Sandoval* decision.

Additional Public Comment

Mr. Chavez thanked the committee for supporting **Senate Bill 41**, which required notice

of surveys that are conducted on or next to certain land grants. He said that it seems to be working, though it might help to have the committee send a letter notifying Rio Arriba County of the new recording requirements the bill imposes. The committee requested staff to prepare and send the letter and a copy of the new law.

**MINUTES
of the
FOURTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**September 14-15, 2010
McKinley County Courthouse, Gallup
Thoreau Chapter House, Thoreau**

The fourth meeting of the Indian Affairs Committee for the 2010 interim was called to order by Representative Patricia A. Lundstrom at 10:04 a.m. on Tuesday, September 14, 2010, in the McKinley County Courthouse Rotunda in Gallup, New Mexico. The Indian Affairs Committee and the Land Grant Committee met in joint session on Tuesday morning to hear testimony on the House Memorial 74 status update. Representative Lundstrom asked Norman Cooney, governor, Pueblo of Zuni, to give an opening prayer.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair (9/14)
Sen. Rod Adair (9/15)
Rep. Eliseo Lee Alcon
Rep. Ray Begaye
Rep. Sandra D. Jeff
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez

Absent

Sen. Eric G. Griego
Sen. George K. Munoz
Sen. John C. Ryan
Rep. Gloria C. Vaughn

Advisory Members

Rep. Ernest H. Chavez
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Nick L. Salazar (9/14)

Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Rep. Antonio "Moe" Maestas
Sen. William E. Sharer

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

Staff

Damian Lara
Alise Rudio
Adan Del Val

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Tuesday, September 14 — McKinley County Courthouse Rotunda, Gallup

Committee, staff and audience members introduced themselves.

Welcome

Ernest Becenti, Jr., county commissioner, McKinley County, welcomed the committee to the courthouse and stated that he was very proud of the new building.

House Memorial 74 Status Update

Juan Sanchez, chair, Land Grant Council, told the joint session of the Indian Affairs Committee and the Land Grant Committee that the council was established by the legislature in 2009 to be the state agency for New Mexico community land grants. In 2004, land grants-mercedes were granted political subdivision status. However, as a consequence of that legislation, Mr. Sanchez said it is unclear whether land grant common lands are state lands. Mr. Sanchez said that the council wants legislation that clarifies that land grant common lands are not state lands.

Arturo Archuleta, executive director, Mexicano Land Education and Conservation Trust, said that the land grants want clarification on the law. He believes that an unintended consequence of the 2004 law making land grants units of government or political subdivisions is that a state committee applying the Cultural Properties Act interpreted land grant common lands as public lands. He said that this interpretation affected 19,000 acres of the common lands of the Cebolleta Land Grant and potentially affects all land grant common lands in the state. He said this interpretation is contrary to the intention of the political subdivision statute itself, which was designed to protect common lands and provide support to land grant communities that have lost millions of acres of land to the state and federal governments since 1848. He said the land grants want to adopt legislation to clarify the law. Mr. Archuleta said that the land grants recognize that the traditional cultural property designation is very important to the five nominating tribes and, thus, have requested a series of meetings with the tribes about the land grants' efforts. Mr. Archuleta asked the joint committee to come up with legislation to meet the needs of land grant communities throughout the state. Mr. Archuleta discussed proposed legislation that requires the approval of the board of trustees of a land grant before the common lands of a land grant may be designated as state or public land. According to the bill draft, a person who is not an heir and who has purchased or leased property within the limits of the land grant would not have a right to common lands. Mr. Archuleta said that the discussion had just begun, but he hopes to bring something to both committees for endorsement.

Lawrence T. Morgan, speaker, Navajo Nation Council, discussed the tribes' efforts to protect cultural property through the Cultural Properties Act, the Cultural Properties Protection Act and the New Mexico Prehistoric and Historic Sites Preservation Act. He said that in 2010, House Bill 26 was introduced to exempt land grants from the requirements of those acts. The Navajo Nation and other tribal entities were concerned about the implications of those actions on

the designation of Mount Taylor as a traditional cultural property. House Memorial 74 resolved to address the concerns both of tribes and land grants by requesting the Land Grant Committee and the Indian Affairs Committee to have a joint meeting during the 2010 interim to hear about issues facing both land grant and Native American communities. Speaker Morgan said that the Navajo Nation appreciates that there are common issues facing both communities, including recognizing the importance of protecting traditional and cultural properties. However, Speaker Morgan said that the proposed legislation jeopardizes the state's procedures for protecting sacred sites such as Mount Taylor. He said that the designation of being a political subdivision of the state creates advantages such as recognition as a governmental entity, the ability to procure state money and infrastructure and the ability to be granted lands and other property from the state without violating the antidonation clause. The designation as a political subdivision also creates obligations, he said, such as reporting requirements for funds and budgets, spending requirements for capital improvement funds and compliance with other state laws governing political subdivisions. Speaker Morgan said that the Navajo Nation supports the status quo. The Navajo Nation does not oppose the designation of land grants as political subdivisions but believes the land grants must accept the obligations of that designation, which means that the land grants cannot be treated differently from other political subdivisions.

Chandler Sanchez, governor, Pueblo of Acoma, said that there has been considerable discussion about the issues among legislators, land grant representatives, tribal leaders, attorneys, lobbyists and other interested parties. He reminded the two committees that state law requires tribal consultation and collaboration. He said that other tribes that have lands next to land grants should be part of the discussion because the proposed legislation would affect them as well. He thanked the Land Grant Council for allowing him to comment on the proposed legislation, but he said he thinks that the proposed legislation could severely impact existing state policies and requirements under existing law. Governor Sanchez said that the bill as drafted would allow land grants to maintain their status as political subdivisions but also will allow them to opt in or out by deciding which state or public land laws apply to them. He believes that if the new bill becomes law, land grants would be excluded from existing state laws that affect lands of political subdivisions, including laws that protect cultural property and prehistoric and historic sites. He also believes that the bill draft would affect the existing State-Tribal Collaboration Act, which applies to political subdivisions, and would reduce opportunities for collaboration. He also noted that the Pueblo of Acoma is in the midst of battling a major lawsuit involving the decision to designate Mount Taylor as a traditional cultural property and that any change to existing law would give the other side an unfair advantage and would be unconstitutional. He urged the committees to look at all sides of the proposed legislation, research the potential impacts on state laws and fully understand the consequences before supporting any change.

Frank Cerno, Governor's Office, Pueblo of Laguna, discussed the pueblo's concerns about pueblo lands abutting the land grant common lands and the impact on pueblo lands if a land grant is able to choose not to be part of a designation. He said he is also concerned about the potential impacts the proposed legislation might have on the State-Tribal Collaboration Act and on the requirement that a subdivision of the state notify the tribes about any impact on cultural resources in the area. He said that the pueblos would be concerned if the land grants are seeking some sort

of independent or sovereign status. Mr. Cerno said that the tribes have existed since time immemorial and have government-to-government status while land grants have been treated differently by the state throughout the years. He said that case law indicates that land grant boards are creatures of the legislature and have been defined as "quasi-municipal". He said that the authority of land grants is derived from statute and governed by state law.

Governor Coeeyate introduced Dancy Simplicio, lieutenant governor, Pueblo of Zuni, and Shelly Chimoni, council member, Pueblo of Zuni, and other members of the tribal council of the Pueblo of Zuni in the audience. Governor Coeeyate said that the Pueblo of Zuni is located in a rural, isolated reservation in McKinley and Cibola counties in west central New Mexico and in Apache County, Arizona. The land base is more than 723 square miles. The Pueblo of Zuni is one of the most remote and traditional of New Mexico's pueblos, with a population of more than 11,000. He said that the pueblo's community members hold their cultural and traditional values very dearly and have a great interest in any use of the land that impacts their cultural and religious views. Governor Coeeyate said that the pueblo is very active in the state's legislative and policymaking process and actively supported the passage of the State-Tribal Collaboration Act, the Tribal Infrastructure Act and the amendment to the New Mexico Subdivision Act requiring tribal notification. He said the pueblo is committed to improving governmental relations at all levels. The Pueblo of Zuni was one of the nominating tribes in the effort to designate Mount Taylor as a traditional cultural property and, as a result, participated in the discussions concerning both the legislation to exempt land grants and House Memorial 74. Governor Coeeyate urged the state to be consistent with implementing its laws and policies, including the designation of Mount Taylor as a traditional cultural property. He said the pueblo's concerns about any draft legislation relate to its effect on: (1) other tribes; (2) pending litigation; (3) the designation of Mount Taylor as a traditional cultural property; and (4) the unique status of tribes as sovereign entities with a government-to-government relationship with state and federal entities. Governor Coeeyate told the committees that Mount Taylor remains of paramount importance to the pueblo and that the pueblo would spare no effort to preserve the legal protections of the area.

The committees discussed the history of land grants in New Mexico. Some members suggested that the attempt of land grants to gain recognition as political subdivisions may have weakened attempts to get lands back at the state level. Upon inquiry from the committees, tribal leaders discussed the importance of meeting with land grant leaders and of notifying everyone in designating traditional cultural properties. The tribal leaders said that they recognize that land grants have been here almost as long as the tribes and that they should collaborate and consider whether land grants should be treated in any other way. Mr. Archuleta said that the proposed legislation was based on a concern about private individuals having influence over how the common lands were used. He said that the land grants are not trying to undermine the traditional cultural property designation of Mount Taylor, but simply want to hold onto their land and not allow access to private property owners. He said that the status of the land grants is unclear because of private tax lands. Land grants want status as political entities; however, it was never their intent to have the common lands be public lands. Mr. Archuleta said that land grants want to address their status as governments but are open to discussion about other legislation.

The committees discussed the need for tribal participation in order to come up with good legislation for everyone. The committees also discussed the importance of studying the legislation and not creating divides. The Indian Affairs Committee suggested that staff analyze the issues and help the committee become better educated before deciding whether to endorse a particular piece of legislation. The committee said it wants a consensus bill.

The Land Grant Committee members left at 12:45 p.m.

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

**October 21-22, 2010
Room 322, State Capitol
Santa Fe**

The fourth meeting of the interim Land Grant Committee was called to order at 10:25 a.m. on October 21, 2010 by Senator Richard C. Martinez, chair, in Room 322 of the State Capitol.

Present

Sen. Richard C. Martinez, Chair
Rep. Miguel P. Garcia, Vice Chair
Rep. Paul C. Bandy (Oct. 21)
Rep. Andrew J. Barreras (Oct. 21)
Rep. Thomas A. Garcia (Oct. 21)
Rep. Jimmie C. Hall
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue
Sen. Bernadette M. Sanchez

Absent

Sen. Rod Adair
Rep. Eleanor Chavez

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Ben Lujan (Oct. 21)

Sen. Carlos R. Cisneros
Sen. Dianna J. Duran
Rep. Brian F. Egolf, Jr.
Rep. Richard D. Vigil

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

Staff

Jon Boller
Pam Stokes
Jennifer Rabinowitz

Minutes Approval

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

Guests

The guest list is in the meeting file.

Thursday, October 21

Welcoming Remarks and Introductions

Senator Martinez extended a welcome to the committee, staff and audience members present at the meeting.

Land Grant Council Update

Juan Sanchez, chair of the Land Grant Council, reported that representatives of the council traveled to Washington, D.C., in July for meetings with various federal agencies and members of New Mexico's congressional delegation. He explained that discussions focused on stewardship and rights of access to the common lands that are now administered by various federal agencies; possible return of land in appropriate cases; distribution to land grants of payments in lieu of taxes; establishment of a commission to adjudicate old land grant claims; legislative reversal of the *Sandoval* decision; and the establishment of an endowment to address compensation issues. Mr. Sanchez said he hopes federal legislation addressing these issues could be introduced early next spring.

On the local level, Mr. Sanchez explained, the council is supporting an ongoing mapping project of several land grants that is being conducted in conjunction with the Land Grant Studies Program (LGSP) at the University of New Mexico (UNM) and has completed its update of the "Community Land Grant/Merced Government Guidebook" (which is available in hard copy or flash drive formats) along with a book of statutes relevant to governance issues. The council has also been working on various memoranda of understanding (MOUs) with Sam DesGeorges and Linda Rundel of the U.S. Bureau of Land Management (BLM), he explained, and has met with the new state liaison from the United States Forest Service. The council is continuing to meet with tribal and pueblo leaders on the problems presented by the designation of common lands as state lands, he said. Mr. Sanchez also said that a committee of the American Bar Association (ABA) may be addressing land grant issues in upcoming meetings and that the council wants to invite the ABA to hold two hearings in New Mexico.

The committee requested that a letter of support be sent to the ABA endorsing the council's proposal. The committee also asked that a letter be sent to New Mexico's congressional delegation in support of traditional use rights for land grant heirs on federal lands that were formerly part of the common lands of a land grant. In addition, the committee asked that the congressional delegation be asked about its response to the 2004 U.S. General Accountability Office report on longstanding community land grant claims in New Mexico.

San Miguel del Vado and Villanueva State Park Parcels

Oliver Perea, president of San Miguel del Vado Land Grant (SMDVLG), explained that when part of the land grant was transferred to the state for the establishment of Villanueva State Park, the transfer contained a reversion clause that said that if any of the land was not used for

park purposes, it should be returned to the land grant. Mr. Perea said he is working with the State Parks Division of the Energy, Minerals and Natural Resources Department to locate three parcels that are no longer used by the park. Dave Simon, director, State Parks Division, affirmed that the division is working with Mr. Perea to locate the parcels, and he praised the land grant for its support of the park. He said that the park, which has 60,000 visitors annually, is part of the community and would not prosper without the support of that community.

Mr. Perea also reported that the senior citizen's center in San Miguel is now owned by the SMDVLG and that the BLM is working with the SMDVLG on the return of three cemeteries that were once part of the grant. He also noted that the SMDVLG is being sued by a person who claims that the land grant owns State Highway 3, but he has not found any documentation of the state ever paying the SMDVLG for the right of way for the highway.

Land Grant Studies Program Update

Arturo Archuleta, Merced Land, Education and Conservation Trust, reported that despite deep cuts in funding for the LGSP (appropriations to the program have been cut from \$117,000 to \$62,000, he explained), the LGSP has still managed to continue most programs, including internships for nine students, six of whom have been placed with land grant boards of trustees. The other three interns have worked on various land grant support projects, including a mapping project carried out last year in collaboration with the Department of Community and Regional Planning at UNM and videotaping of Land Grant Council meetings. The LGSP also provided support for the Treaty Day celebration at the Capitol rotunda in February, he noted, and has organized workshops presenting the work of interns and the annual land grant studies research fellow.

Mr. Archuleta explained that with the first large reduction in state financial support, support for the annual land grant studies research fellowship was eliminated; however, UNM allowed the LGSP to continue the fellowship for a second year. Last year's recipient was Karen Montoya, a doctoral student in American studies, who has conducted research on the testimonies in the surveyor general's records and assessed the impact of women and of women's property rights under New Mexico law regarding land grants in the nineteenth century, he noted. Since the beginning of the new fiscal year, he said, the LGSP has begun a dialogue with the dean of the UNM law school to develop courses on New Mexico's legal history and to discuss tribal-land grant meetings regarding the designation of common lands as state land. This year's priorities include providing additional service to the Land Grant Council through a mapping project whose purpose is to identify the historic boundaries of community land grants whose boards are still active and to locate them on current digitized survey maps that also identify the boundaries of federal and state lands and patented boundaries and, where possible, the extant parcels of common lands for these land grants, he said.

Mr. Archuleta said the other basic priority of the LGSP is to survive as a program. In previous years, he said, the Legislative Finance Committee had often decided that a program reduced below \$50,000 should have its budget cut entirely. The logic behind this approach, he explained, seems to be that when an annual budget becomes this small, it is unable to support a

director or even minimal staff, and therefore, the state can save money, albeit a small amount, by reducing that to zero. This logic does not apply to the LGSP because it is not a free-standing program, but it is an activity affiliated with the Southwest Hispanic Research Institute, whose director is supported by university funds. Thus, he concluded, the LGSP can continue to provide a useful, if reduced, service to land grants even with a total budget below \$50,000.

Access to the W.A. Humphries State Wildlife Area

Tod Stevenson, Pat Block and R.J. Kirkpatrick, Department of Game and Fish, responded to several questions on whether granting heirs of land grants traditional use rights to the W.A. Humphries Wildlife Area would result in a loss of federal funds and whether the department has investigated if grazing in wildlife areas would actually benefit those areas. Mr. Stevenson said that wildlife areas purchased with federal dollars have to be managed for wildlife purposes, but he is open to looking at habitat use, such as woodcutting and grazing, that could actually enhance wildlife. He noted that the department has entered into a contract for a study of the W.A. Humphries Wildlife Area. Mr. Kirkpatrick explained that the company doing the study is highly regarded and that he expects to have a new grazing management plan to improve plant species that involves rotating livestock grazing, at which point the department could accommodate local livestock owners. He said the department is also working with Chama to develop a fire management plan for removal of brush, and this would likely involve thinning out juniper and piñon prior to any burns.

Committee members asked if land grant heirs might be given preferences for grazing and access to wildlife areas. Mr. Block said he thinks the department may not be able to deal with individuals on that basis, but perhaps an agreement with the land grant or the Land Grant Council would be possible because both are political subdivisions of the state. The committee moved to have the department and Legislative Council Service work on drafting legislation to give land grant heirs permits for hunting in the state's wildlife areas. Committee members also agreed that the State Game Commission should be invited to attend a meeting next interim.

Friday, October 22

Proposed Legislation

The committee considered the following bills for endorsement:

1) Expand Land Grant Council authority to allow it to administer non-state funds for the benefit of community land grants that are not political subdivisions of the state.

The committee endorsed the bill without objection. Senator Sanchez will introduce the bill in the senate, and Representative Hall will be the co-sponsor.

2) Authorize the Tecolote Land Grant-Merced to be governed as a political subdivision of the state pursuant to Chapter 49, Article 1 NMSA 1978.

The committee endorsed the bill without objection. Representative Miguel P. Garcia will

introduce the bill in the senate, and Representative Vigil will be the co-sponsor.

- 3) Make land grants-mercedes eligible for conservation easement tax credits.

The committee moved to withdraw consideration of the bill for this session.

- 4) Allow boards of trustee members to be elected for staggered terms.

The committee endorsed the bill without objection. Representative Rodella will carry the bill.

- 5) Move the land grant registry to the office of the Land Grant Council.

The committee endorsed the bill on a 6-2 vote, with Senator Sanchez and Representative Rodella voting no. Senator Martinez will carry the bill.

- 6) Prohibit designating the common lands of community land grants as state lands.

The committee amended the bill by removing "or public land unless first approved by the board of trustees of the affected land grant-merced" and added an emergency clause. The committee endorsed the amended bill without objection. Representative Miguel P. Garcia will carry the bill.

The committee adjourned at 10:50 a.m.

ENDORSED BILLS

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HOUSE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; AMENDING CHAPTER 49, ARTICLE 1 NMSA 1978 TO INCLUDE THE TECOLOTE LAND GRANT-MERCED; AMENDING AND REPEALING 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 that is now managed or controlled in any manner, other than as provided in

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1 Sections 49-1-1 through 49-1-18 NMSA 1978, by virtue of any
2 general or special act.

3 B. If a majority of the members of the board of
4 trustees of a land grant-merced covered by specific legislation
5 determines that the specific legislation is no longer
6 beneficial to the land grant-merced, the board has the
7 authority to petition the legislature to repeal the legislation
8 and to be governed by its bylaws and as provided in Sections
9 49-1-1 through 49-1-18 NMSA 1978.

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

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

19 SECTION 2. REPEAL.--Sections 49-10-1 through 49-10-6 NMSA
20 1978 (being Laws 1903, Chapter 77, Sections 1 through 6, as
21 amended) are repealed.

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SENATE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; TRANSFERRING THE NEW MEXICO COMMUNITY
LAND GRANT REGISTRY TO THE LAND GRANT COUNCIL; PROVIDING FOR
STORAGE OF HISTORICAL DOCUMENTS; DECLARING AN EMERGENCY.

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

SECTION 1. Section 49-1-23 NMSA 1978 (being Laws 2005,
Chapter 205, Section 1) is amended to read:

"49-1-23. COMMUNITY LAND GRANT REGISTRY ESTABLISHED--
REPORTING REQUIREMENTS.--

A. The [~~secretary of state~~] land grant council
shall establish the "New Mexico community land grant registry".

B. A community land grant organized and governed
pursuant to Chapter 49, Article 1 or 4 NMSA 1978 and operating
as a political subdivision of the state shall register its
bylaws and a list of current officers with the [~~secretary of~~

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1 ~~state]~~ land grant council. The board of trustees of that land
2 grant shall notify the [~~secretary of state]~~ land grant council
3 of the names and positions of the land grant's elected or
4 appointed officers upon their election or appointment.

5 C. Community land grants organized and operating
6 pursuant to special statutes or other general statutes may also
7 register their bylaws and lists of officers with the [~~secretary~~
8 ~~of state]~~ land grant council.

9 D. A community land grant that registers in
10 accordance with [~~Subsections]~~ Subsection B or C of this section
11 may request the [~~secretary of state]~~ land grant council to keep
12 on file the originals or copies of current or historical
13 documents or maps submitted by the board of trustees to the
14 [~~secretary of state]~~ land grant council; provided that the
15 [~~secretary of state may]~~ land grant council shall store [~~such~~
16 the originals of historical documents and maps in the state
17 archives and records center."

18 SECTION 2. Section 49-4-19 NMSA 1978 (being Laws 2007,
19 Chapter 145, Section 18) is amended to read:

20 "49-4-19. REGISTRATION.--The board of trustees shall
21 register its bylaws and a list of current officers with the
22 [~~secretary of state]~~ land grant council in accordance with the
23 provisions of Section 49-1-23 NMSA 1978. The board of trustees
24 shall notify the [~~secretary of state]~~ land grant council of the
25 names and positions of the land grant-merced's elected or

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1 appointed officers upon their election or appointment."

2 SECTION 3. TEMPORARY PROVISION.--The secretary of state
3 shall transfer to the land grant council the New Mexico
4 community land grant registry, all associated records and all
5 other records and documents submitted to the secretary of state
6 pursuant to Sections 49-1-23 and 49-4-19 NMSA 1978.

7 SECTION 4. EMERGENCY.--It is necessary for the public
8 peace, health and safety that this act take effect immediately.

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HOUSE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANT ELECTIONS; ALLOWING STAGGERED TERMS FOR MEMBERS OF BOARDS OF TRUSTEES; REQUIRING A PLURALITY OF THE VOTE FOR ELECTION TO A BOARD OF TRUSTEES; DECLARING AN EMERGENCY.

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

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

"49-1-7. ELECTION--VOTES REQUIRED--CANVASSING VOTES.--

A. The candidates receiving the most votes cast for the open seats on the board of trustees shall be elected to the board.

B. The election judges and board of trustees shall meet not later than seven days following the election and canvass the votes cast and issue to ~~[the five persons having a~~

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1 ~~majority of votes]~~ each candidate duly elected to a seat on the
2 board a certificate [~~showing they have been duly elected~~] of
3 election."

4 SECTION 2. Section 49-4-8 NMSA 1978 (being Laws 2007,
5 Chapter 145, Section 7) is amended to read:

6 "49-4-8. ELECTION--VOTES REQUIRED--CANVASSING VOTES.--

7 A. The candidates receiving the most votes cast for
8 the open seats on the board of trustees shall be elected to the
9 board.

10 B. The election judges and board of trustees shall
11 meet not later than seven days following the election and
12 canvass the votes cast and issue to each [~~of the five persons~~
13 ~~having a majority of votes]~~ candidate duly elected to a seat on
14 the board a certificate [~~showing that each one has been duly~~
15 ~~elected]~~ of election."

16 SECTION 3. EMERGENCY.--It is necessary for the public
17 peace, health and safety that this act take effect immediately.

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SENATE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

ENDORSED BY THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; ALLOWING THE LAND GRANT COUNCIL TO USE PRIVATE AND FEDERAL FUNDS TO ASSIST COMMUNITY LAND GRANTS THAT ARE NOT POLITICAL SUBDIVISIONS OF THE STATE; CLARIFYING COUNCIL AUTHORITY TO DETERMINE THE STATUS OF A COMMUNITY LAND GRANT.

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

SECTION 1. Section 49-11-1 NMSA 1978 (being Laws 2009, Chapter 94, Section 1) is amended to read:

"49-11-1. SHORT TITLE.--~~[This act]~~ Chapter 49, Article 11 NMSA 1978 may be cited as the "Land Grant Support Act"."

SECTION 2. Section 49-11-2 NMSA 1978 (being Laws 2009, Chapter 94, Section 2) is amended to read:

"49-11-2. DEFINITIONS.--As used in the Land Grant Support Act:

A. "council" means the land grant council; and

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1 B. "land grant" means a patented community land
2 grant-merced [~~organized and operating as a political~~
3 ~~subdivision of the state~~]."

4 **SECTION 3.** Section 49-11-4 NMSA 1978 (being Laws 2009,
5 Chapter 94, Section 4) is amended to read:

6 "49-11-4. LAND GRANT SUPPORT PROGRAM--COUNCIL DIRECTOR
7 POWERS AND DUTIES.--

8 A. The council, through its staff or contract
9 agents, may apply for and accept any public or private grants,
10 gifts or donations for the benefit of the land grant support
11 program, the council or land grants in general or particular.

12 B. The council, through its staff or contract
13 agents, may:

14 (1) assist land grants in all areas of land
15 grant fiscal and programmatic management, including planning,
16 economic development and infrastructure development;

17 (2) establish cooperative purchasing
18 capabilities for land grants;

19 (3) perform special studies and undertake
20 surveys of interest to land grants and report the findings;

21 (4) serve as fiscal agent and administrator
22 for federal and state grants-in-aid and other funding for a
23 land grant when necessary;

24 (5) facilitate or enter into agreements with
25 state and federal agencies on behalf of land grants;

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1 (6) enter into contracts to carry out the
2 purposes of the Land Grant Support Act; and

3 (7) provide other assistance to land grants.

4 C. The council, through its staff or contract
5 agents, shall:

6 (1) facilitate the exchange of experience and
7 advice among land grants;

8 (2) serve as a liaison between land grants and
9 federal, state and local agencies;

10 (3) promote cooperation between land grants
11 and, by consultation and advice, assist in the coordination of
12 land grant programs;

13 (4) provide board development opportunities
14 and technical assistance to the governing boards of land
15 grants;

16 (5) provide short- and long-range planning
17 assistance to land grants;

18 (6) conduct training sessions for land grants
19 on topics of interest, such as:

20 (a) local, state and national zoning
21 trends and concerns and other land-use issues;

22 (b) state requirements for political
23 subdivisions on such topics as open meetings, public records,
24 procurement, risk management, tort claims and financial
25 accountability;

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1 (c) techniques of historical research;
2 (d) grant writing;
3 (e) economic development strategies; and
4 (f) rangeland management and water
5 conservation;

6 (7) disseminate information to relevant
7 federal, state and local agencies on land grant issues and
8 activities and, when requested, on the status of individual
9 land grants;

10 (8) determine whether a land grant is a
11 political subdivision of the state, based on proof that the
12 land grant is in compliance with requisite statutes and rules;

13 [~~8~~] (9) develop and promote federal
14 legislation for an appropriate congressional response to
15 longstanding community land grant claims in New Mexico; and

16 [~~9~~] (10) review state and federal policies,
17 plans and legislation affecting land grants in New Mexico.

18 D. The council may expend state funds for the
19 general benefit of all land grants or to provide assistance to
20 grants that are governed as political subdivisions of the
21 state. Federally and privately derived funds may be expended
22 for the general benefit of all land grants or the benefit of
23 specific land grants, which may or may not be political
24 subdivisions of the state."

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HOUSE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

ENDORSED BY THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; PROHIBITING THE COMMON LANDS OF A LAND GRANT-MERCED THAT IS A POLITICAL SUBDIVISION OF THE STATE FROM BEING CONSIDERED TO BE, DESIGNATED OR TREATED AS STATE LAND; PRESERVING THE PROPERTY RIGHTS OF CERTAIN HEIRS; DECLARING AN EMERGENCY.

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

SECTION 1. Section 49-1-11.1 NMSA 1978 (being Laws 2004, Chapter 124, Section 2, as amended) is amended to read:

"49-1-11.1. RIGHTS OF LESSEES AND PURCHASERS--RIGHTS TO USE OF COMMON LANDS.--

A. A person who is not an heir and who has purchased or leased property within the limits of a land grant-merced shall only have a right to the lands acquired through the purchase or lease but not to any common lands within the

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1 land grant-merced.

2 B. The provisions of Chapter 49, Article 1 NMSA
3 1978 shall not diminish, extinguish or otherwise impair any
4 private property interest located within the boundaries of a
5 land grant-merced or be construed to grant the board of
6 trustees of a land grant-merced regulatory authority over such
7 property interests or lands other than the common lands. As
8 used in this subsection, "property interest" includes valid
9 easements and rights of access, but does not include use rights
10 to the common lands of the land grant-merced.

11 C. The designation of land grants-mercedes as
12 political subdivisions of the state shall not alter the
13 property rights of the heirs in the common lands. The common
14 lands owned or controlled by a land grant-merced shall not be
15 considered to be, designated or treated as state land."

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