

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

**June 9, 2016
Room 309, State Capitol
Santa Fe**

The first meeting of the Land Grant Committee for the 2016 interim was called to order by Senator Jacob R. Candelaria, chair, on June 9, 2016 at 10:05 a.m. in Room 309 of the State Capitol.

Present

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

Absent

Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Bob Wooley

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Patricia A. Lundstrom
Rep. Matthew McQueen
Rep. Christine Trujillo

Rep. Paul C. Bandy
Rep. Randal S. Crowder
Rep. D. Wonda Johnson

Staff

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

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Thursday, June 9

Introductions and Announcements

Senator Candelaria welcomed committee and audience members and asked all those present to introduce themselves.

Committee-Endorsed Legislation, 2016 Session Summary

Mr. Edwards provided a brief summary of committee-endorsed legislation for the 2016 legislative session, stating that none of the committee-endorsed bills had been adopted. He noted that additional funding was included in the General Appropriation Act of 2016 for two additional positions in the Office of the Attorney General (OAG) to staff the Guadalupe Hidalgo Treaty Division. Mr. Edwards reported that advocacy on the part of committee members was instrumental in securing the increase in staffing for the division. Members also discussed:

- plans for the OAG to provide an update to the committee;
- the failed but extensive efforts to secure a message from the governor during the 2016 session for House Bill 57 (land grant partitions as autonomous);
- the ongoing need to educate the executive branch regarding land grant issues; and
- a request that a summary of 2015 and 2016 capital outlay projects related to land grants-mercedes and acequias, particularly vetoed projects, be circulated to committee members as a starting point for conversations with the executive branch.

Discussion: Moving Small Governmental Bodies (Land Grants and Acequias) on to and off of the Audit Compliance "At Risk" List

Chief of Staff Sunalei Stewart, Office of the State Auditor (OSA), presented an overview of the tiered system of financial reporting for local public bodies and for special audits under the Audit Act. Mr. Stewart reviewed the criteria used to develop the OSA's "at risk" list, noting that a new section listing audits with "adverse" or "disclaimed" opinions has been added to help distinguish those entities that are simply late in reporting from those with genuine audit exceptions. He reported that land grants-mercedes are now subject to listing and provided a fiscal year (FY) 2015 land grants "at risk" list. Mr. Stewart observed that smaller entities with limited revenues may only be required to submit a one-page "self-certifying" report to comply with audit requirements under the tiered system. The OSA can provide a wide range of assistance to local public bodies in this regard. Mr. Stewart introduced Senior Auditor Christopher Garcia and stated that Mr. Garcia travels throughout the state at the request of local public bodies to assist with compliance issues. In response to committee member questions, Mr. Stewart clarified that entities may be on the "at risk" list for either non-reporting or because an independent auditor intervenes.

Committee members and OSA staff discussed the following issues regarding the OSA "at risk" list:

- the statutory requirements for status as a political subdivision for land grants-mercedes and acequias;
- the insufficient funding available for smaller political subdivision audit assistance grants and how that prevents entities from moving off the "at risk" list;
- how to establish an ongoing funding stream for smaller political subdivision audit assistance grants;
- possible errors in reporting on the FY 2015 land grants "at risk" list;
- the difficulties that the Cebolleta Land Grant-Merced (Cebolleta) has experienced in trying to catch up with audit requirements dating back to 2007 and its designation for special audit;
- whether or not acequias are subject to Executive Order (EO) 2013-006 Audit Act requirements (OSA staff asserted that they are);
- a request that information regarding EO 2013-006, as well as the attorney general opinion regarding that order, be provided to committee members;
- information that the Land Grant Council has provided to the OSA to assist land grants-mercedes in moving off the "at risk" list; and
- workshops and trainings that have been or will be conducted by the Land Grant Council, the OSA and the New Mexico Acequia Association to clarify audit requirements for local entities.

One member asked if land grants-mercedes or acequia projects that receive capital outlay are given additional time to comply with audit requirements. Mr. Stewart stated that they must come into compliance and expend the appropriation during the standard time allotted for expenditure of the funds. Another member noted that local public bodies can enter into a memorandum of understanding with another public body to serve as their fiscal agent. One member stated that the executive has appointed members to the Acequia Commission who are opposed to that process of fiscal agency, preventing the expenditure of some existing appropriations.

Committee members discussed the need to maintain an accurate and up-to-date registry of land grants-mercedes qualified as political subdivisions. Mr. Edwards suggested that LCS staff work annually with the Land Grant Council's staff and the OSA to develop an updated list. One member pointed out that most land grants-mercedes have limited funds available for any purpose and that they prioritize defense of their lands over reporting requirements. In response to committee member questions, Mr. Stewart stated that the OSA may view those land grants-mercedes that have ties to private foundations differently, depending upon the land grant's structural ties to a foundation.

Members expressed a need for the committee to reach out to the executive branch to gather additional information as to why almost every acequia capital project was vetoed this year and to have a dialogue on the importance of acequias and land grants-mercedes as political subdivisions. One member stated that the committee should further investigate the applicability

of the audit requirement to acequias, looking toward amending the statute related to political subdivision status, if necessary.

2016 Proposed Land Grant Committee Work Plan and Meeting Schedule

Mr. Edwards presented a proposed 2016 interim work plan focused on economic development capacities within land grant communities and addressing the following additional issues:

- state and federal land access;
- strengthening land grant-merced governance capacity; and
- reports from individual land grants-mercedes and associated entities.

Motion

Representative Hall moved to direct LCS staff to work with the OSA and the Land Grant Council to update a land grants-mercedes contact list annually. Representative Garcia seconded the motion, and the motion was adopted without objection.

Committee members also asked that the following items be included in the reports to the committee this interim:

- an update from the New Mexico Acequia Association and a discussion of acequia and related water issues;
- a presentation regarding the Atrisco Land Grant-Merced's (Atrisco's) veterans services and economic development programs;
- an update on the issue of surveys; and
- an update on audit status and audit issues (to be scheduled toward the end of the interim).

Following committee discussion, Senator Candelaria outlined the following schedule priorities for the 2016 interim:

- Anton Chico (in a joint meeting with the Economic and Rural Development Committee);
- Santa Barbara/Trampas; and
- Atrisco.

Staff was requested to consider Tajique as a potential alternative location for one meeting, but with the expectation that it would be considered as a meeting location for next year.

Motion

Representative Garcia moved to adopt the work plan and have staff move forward to establish a meeting schedule based on the priorities outlined. Representative Gallegos seconded the motion, and the motion was adopted without objection.

Public Comment

Jerome Padilla of Atrisco provided the committee with an overview of issues of concern to Atrisco, noting that, in the absence of extensive land holdings, the activities in which a land grant-merced engages may be what identify it as a land grant. He described Atrisco's programs and projects and extended an invitation to the committee to meet at one of the Atrisco sites.

Richard Jaramillo of Cebolleta gave the committee a brief overview of the audit issues facing Cebolleta in the wake of a uranium mining royalties contract initiated in 2007 that will ultimately deliver over \$9 million to Cebolleta. Although no actual mining has taken place, Cebolleta has received significant royalty payments. He indicated that the audit challenge stems from the severely limited recordkeeping system that was in place prior to the uranium contract. That system was possibly functional for a very limited revenue stream, but not adequate to handle the large increase in revenues. Mr. Jaramillo reported that Cebolleta is nearing completion of its 2007 audit; however, the costs to complete the audit are approaching \$100,000, and the project has been all-consuming in terms of the amount of time spent on the issue by land grant members.

Atrisco member Jesse Anzures spoke to the issue of reporting requirements imposed by the Department of Finance and Administration (DFA). He stated that Atrisco is now writing a financial plan and developing standard operating procedures for the land grant-merced that will help with compliance issues. However, Mr. Anzures noted that the audit requirements are really tailored to a different type of entity and that land grants-mercedes need clear-cut rules and guidelines from the DFA. He reported that Atrisco has tried to meet the reporting requirements for capital outlay projects by reporting through the capital programs monitoring system, but that the DFA does not supply passwords to access the system until five minutes before the reports are due. At the request of the chair, Mr. Anzures agreed to provide the committee a more in-depth presentation regarding these and other issues facing Atrisco at a future meeting.

Adjournment

There being no further business before the committee, the committee adjourned at 12:32 p.m.