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HOUSE BILL 28

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

Miguel P. Garcia

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; EXCLUDING THE COMMON LANDS OF CERTAIN  
LAND GRANTS-MERCEDES FROM BEING CONSIDERED TO BE OR DESIGNATED  
AS STATE LAND FOR CERTAIN PURPOSES; REQUIRING BOARD OF TRUSTEE  
APPROVAL BEFORE LISTING THE COMMON LANDS OF A LAND GRANT-MERCED  
IN THE STATE REGISTER OF CULTURAL PROPERTIES OR NATIONAL  
REGISTER OF HISTORIC PLACES; PRESERVING BOARD OF TRUSTEE  
CONTROL OF COMMON LANDS.

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

Section 1. A new section of the Cultural Properties Act  
is enacted to read:

"[NEW MATERIAL] CULTURAL PROPERTY--EXCLUSION OF COMMON  
LANDS OWNED OR CONTROLLED BY A COMMUNITY LAND GRANT-MERCED FROM  
THE DEFINITION OF STATE LANDS--LISTING OF COMMON LANDS.--

A. For the purposes of the Cultural Properties Act,

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1 the common lands of a community land grant-merced governed as a  
2 political subdivision of the state shall not be considered to  
3 be or designated as state lands.

4 B. A listing of, or recommendation to list, the  
5 common lands of a community land grant-merced that is governed  
6 as a political subdivision of the state in the state register  
7 of cultural properties or national register of historic places  
8 is void if the recommendation or listing was done after July 1,  
9 2004 without the permission of the board of trustees of the  
10 land grant-merced."

11 Section 2. A new section of the Cultural Properties  
12 Protection Act is enacted to read:

13 "[NEW MATERIAL] CULTURAL PROPERTY--EXCLUSION OF COMMON  
14 LANDS OWNED OR CONTROLLED BY A COMMUNITY LAND GRANT-MERCED FROM  
15 THE DEFINITION OF STATE LANDS--LISTING OF COMMON LANDS.--

16 A. For the purposes of the Cultural Properties  
17 Protection Act, the common lands of a community land grant-  
18 merced governed as a political subdivision of the state shall  
19 not be considered to be or designated as state lands.

20 B. A listing of, or recommendation to list, the  
21 common lands of a community land grant-merced that is governed  
22 as a political subdivision of the state in the state register  
23 of cultural properties or national register of historic places  
24 is void if the recommendation or listing was done after July 1,  
25 2004 without the permission of the board of trustees of the

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1 land grant-merced."

2 Section 3. Section 18-8-1 NMSA 1978 (being Laws 1989,  
3 Chapter 13, Section 1) is amended to read:

4 "18-8-1. SHORT TITLE.--~~[This act]~~ Chapter 18, Article 8  
5 NMSA 1978 may be cited as the "New Mexico Prehistoric and  
6 Historic Sites Preservation Act"."

7 Section 4. A new section of the New Mexico Prehistoric  
8 and Historic Sites Preservation Act is enacted to read:

9 "[NEW MATERIAL] CULTURAL PROPERTY--PERMISSION OF BOARD OF  
10 TRUSTEES FOR INCLUSION OF COMMON LANDS OWNED OR CONTROLLED BY A  
11 COMMUNITY LAND GRANT-MERCED.--

12 A. The provisions of the New Mexico Prehistoric and  
13 Historic Sites Preservation Act shall not apply to the common  
14 lands of a community land grant-merced governed as a political  
15 subdivision of the state unless the board of trustees of that  
16 land grant-merced first approves the designation and listing of  
17 those lands in the state register of cultural properties or  
18 national register of historic places.

19 B. A listing of, or recommendation to list, the  
20 common lands of a community land grant-merced that is governed  
21 as a political subdivision of the state in the state register  
22 of cultural properties or national register of historic places  
23 is void if the recommendation or listing was done after July 1,  
24 2004 without the permission of the board of trustees of the  
25 land grant-merced."

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1           Section 5. Section 49-1-11.1 NMSA 1978 (being Laws 2004,  
2 Chapter 124, Section 2, as amended) is amended to read:

3           "49-1-11.1. RIGHTS OF LESSEES AND PURCHASERS--RIGHTS TO  
4 USE OF COMMON LANDS.--

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

10           B. The provisions of Chapter 49, Article 1 NMSA  
11 1978 shall not diminish, extinguish or otherwise impair any  
12 private property interest located within the boundaries of a  
13 land grant-merced or be construed to grant the board of  
14 trustees of a land grant-merced regulatory authority over such  
15 property interests or lands other than the common lands. As  
16 used in this subsection, "property interest" includes valid  
17 easements and rights of access, but does not include use rights  
18 to the common lands of the land grant-merced.

19           C. The designation of land grants-mercedes as  
20 political subdivisions of the state shall not alter the  
21 property rights of the heirs in the common lands. After July  
22 1, 2004, the common lands owned or controlled by a land grant-  
23 merced are not subject to the provisions of the Cultural  
24 Properties Act, Cultural Properties Protection Act or New  
25 Mexico Prehistoric and Historic Sites Preservation Act unless

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1 application of those acts to the common lands is first approved  
2 by the board of trustees of the affected land grant-merced."

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