

# LAND GRANT COMMITTEE

REPORT TO THE  
FORTY-SIXTH LEGISLATURE  
SECOND SESSION

New Mexico Legislative Council Service  
Santa Fe, New Mexico

## TABLE OF CONTENTS

Background and Committee Membership .....	3
Approved Work Plan, Meeting Schedule and Budget .....	4
Agendas for all Committee Meetings	
June 12, 2003 .....	6
July 15-16, 2003 .....	7
August 25-26, 2003 .....	8
September 22-23, 2003 .....	10
November 12, 2003 .....	12
December 10, 2003 .....	13
Minutes for all Committee Meetings, as above	
June 12, 2003 .....	14
July 15-16, 2003 .....	15
August 14-15, 2003 .....	19
September 22-23, 2003 .....	22
November 12, 2003 .....	26
December 10, 2003 .....	28
Committee-Sponsored Legislation .....	30

## Background

The Land Grant Committee was created by the signing of Laws 2003, Chapter 431. This is the first year of the committee. The committee is tasked with studying existing law regarding land grants; developing legislation to improve existing law; gathering testimony from land grant heirs, state agencies and other community groups from across New Mexico to understand the relationships, issues and concerns faced by the different groups; and working in conjunction with the Treaty of Guadalupe Hidalgo Task Force.

### **Committee Membership**

Members of the committee during the 2003 interim were as follows:

Rep. Miguel P. Garcia, Chair  
Sen. Bernadette M. Sanchez, Vice Chair  
Sen. Rod Adair  
Sen. Richard C. Martinez  
Rep. Debbie A. Rodella  
Rep. Don Tripp

Advisory members were:

Sen. Manny M. Aragon  
Sen. Joseph J. Carraro  
Rep. Ben Lujan  
Rep. Bengie Regensberg  
Sen. Richard M. Romero  
Rep. James G. Taylor  
Rep. Eric A. Youngberg

The committee was staffed by Alfred Creecy, Jon Boller and Sheila Manzagol.

**APPROVED**  
**WORK PLAN, MEETING SCHEDULE AND BUDGET**  
**for the**  
**2003 INTERIM LAND GRANT COMMITTEE**

The Land Grant Committee was created with the signing of Laws 2003, Chapter 431. The committee is tasked with studying existing law regarding land grants; developing legislation to improve existing law; gathering testimony from land grant heirs, state agencies and other community groups from across New Mexico to understand the relationships among the different groups and the issues and concerns faced by the different groups; and working in conjunction with the Guadalupe Hidalgo task force.

To carry out these tasks and statutory duties during the 2003 legislative interim, the Land Grant Committee will:

- (1) review the existing law and determine the effect these laws have on land grant heirs and other groups throughout the state;
- (2) hear testimony regarding the:
  - a. history of land grants;
  - b. relationship between land grants, the Treaty of Guadalupe Hidalgo and the Protocol of Queretaro;
  - c. current statutes and governance of community land grants;
  - d. economic development of land grants;
  - e. issues concerning land grants and Native Americans; and
  - f. current legal status of land grants in New Mexico;
- (3) conduct visits to various land grants to determine the conditions and specific problems facing the residents;
- (4) work with the Guadalupe Hidalgo Treaty Division of the Office of the Attorney General to resolve state constitutional and statutory legal issues regarding land grants; and
- (5) recommend necessary changes in current law or policy to the legislature.

**MEETING SCHEDULE AND BUDGET**

<u>DATE</u>	<u>LOCATION</u>	<u>BUDGET</u>
June 12	Santa Fe	\$1,981.00
July 15-16	Albuquerque	2,059.68
August 14-15	Espanola	2,133.12
September 22-23	Las Vegas	2,327.52
November 12	Santa Fe	<u>1,274.64</u>
	<b>SUBTOTAL</b>	<b>\$9,775.96*</b>
Fees for expert witnesses		\$6,000.00
	<b>TOTAL</b>	<b>\$15,775.96</b>

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\* This does not include \$6,049.88 for advisory member travel and per diem.

Actual expenditures \$15,187.00

**TENTATIVE AGENDA  
for the  
LAND GRANT COMMITTEE**

**June 12, 2003  
Room 311, State Capitol**

**Thursday, June 12**

- 10:00 a.m.           CALL TO ORDER  
                          —Representative Miguel P. Garcia, Chair
- 10:15 a.m.           DISCUSSION OF WORK PLAN AND ITINERARY FOR 2003  
                          INTERIM  
                          —Members of the public  
                          —Committee members
- 12:30 p.m.           ADJOURN

**TENTATIVE AGENDA**  
**for the**  
**LAND GRANT COMMITTEE**  
**July 15-16, 2003**  
**Wells Fargo Auditorium, National Hispanic Cultural Center**  
**Albuquerque**

**Tuesday, July 15**

- 10:00 a.m.      **CALL TO ORDER — OPENING REMARKS**  
                    —Representative Miguel P. Garcia, Chairman  
                    —Tom Chavez, Director, National Hispanic Cultural Center  
                    —Robert Vigil, Barelas Neighborhood Association  
                    —Miguel Gomez, Albuquerque City Council  
                    —Irma Ruiz (South Valley) Rio Grande Community Development Corp.
- 10:15 a.m.      **ESTABLISHMENT OF LAND GRANTS IN NEW MEXICO**  
                    —David Benavides, New Mexico Legal Aid  
                    —Dr. Estevan Rael-Galvez, New Mexico State Historian
- 12:30 p.m.      **LUNCH**
- 2:00 p.m.      **TREATY OF GUADALUPE HIDALGO AND PROTOCOL OF QUERETARO**  
                    —Robert Torrez, Former New Mexico State Historian
- 3:00 p.m.      **HISTORICAL ROOTS AND CONTEMPORARY CONSEQUENCES OF THE**  
**CONFISCATION AND REDISTRIBUTION OF LAND**  
                    —Dr. Roxanne Dunbar-Ortiz, California State University-Hayward
- 4:00 p.m.      **PUBLIC COMMENT**

**Wednesday, July 16**

- 9:30 a.m.      **CALL TO ORDER**
- 9:45 a.m.      **STATUTORY LAW AND GOVERNANCE OF COMMUNITY LAND**  
**GRANTS**  
                    —Gerald Gonzales, Santa Fe County Manager
- 10:45 a.m.      **LAND GRANT GOVERNANCE ISSUES**  
                    —Moises Gonzales, Carnuel  
                    —Angela Herrera, Tecolote  
                    —Joe Herrera, Tecolote  
                    —Juan Sanchez, Chilili  
                    —Tina Lopez, Cundiyo
- 11:45 a.m.      **PUBLIC COMMENT**

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

**August 25-26, 2003  
Rio Arriba County Commission Chambers  
Española**

**Monday, August 25**

- 10:00 a.m. CALL TO ORDER — OPENING REMARKS  
—Representative Miguel P. Garcia, Chairman  
—Richard Lucero, Mayor of Espanola  
—Lorenzo Valdez, Rio Arriba County Manager  
—Andrew Chavez, Rio Arriba County Commissioner (invited)  
—Moises Morales, Rio Arriba County Commissioner
- 10:30 a.m. ELECTRONIC LAND GRANT DATABASE  
—Norman Martinez, Director, Onate Monument Visitors Center  
—Malcolm Ebright, Historian
- 11:15 a.m. NATIVE AMERICAN ISSUES AS RELATED TO LAND GRANTS  
—Governor Gerald Nailor, Pueblo of Picuris  
—Governor Jacob Viarrial, Pueblo of Pojoaque (invited)  
—Herman Agoyo, Pueblo of San Juan
- 12:30 p.m. LUNCH
- 2:00 p.m. CURRENT LEGAL ISSUES INVOLVING COMMUNITY LAND GRANTS  
—Ted Trujillo, County Attorney, Rio Arriba County
- 3:30 p.m. RIO ARRIBA COUNTY LANDFILL  
—Betty Haagenstad, Ojo Caliente Land Grant
- 4:00 p.m. PUBLIC COMMENT
- 5:00 p.m. RECESS

**Tuesday, August 26**

- 9:30 a.m. CALL TO ORDER
- 10:00 a.m. SITE VISIT TO TRUCHAS LAND GRANT
- 10:45 a.m. ISSUES REGARDING TRUCHAS LAND GRANT  
—Truchas Land Grant Board
- 1:00 p.m. WORKING LUNCH IN CHIMAYO

—Elias Coriz, Rio Arriba County Commissioner  
—Jerry Fuentes and Representatives from Santa Cruz, Pueblo Quemado and  
Las Trampas Land Grants

2:00 p.m. RETURN TO ESPANOLA

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

**September 22-23, 2003  
Learning Resource Center  
Luna Community College  
Las Vegas**

**Monday, September 22**

- 10:00 a.m.    **CALL TO ORDER — OPENING REMARKS**  
—Representative Miguel P. Garcia, Chairman  
—Leroy Sanchez, President, Luna Community College  
—Henry Sanchez, Mayor, Las Vegas  
—Leroy Garcia, Chairman, San Miguel County Commission  
—Representative Richard D. Vigil, District 70
- 10:30 a.m.    **WATER ISSUES**  
—Paula Garcia, New Mexico Acequia Association  
—Hilario Rubio, Office of the State Engineer, Acequia Liaison  
—David Benavides, New Mexico Legal Aid
- 12:30 p.m.    **LUNCH**
- 2:00 p.m.    **JUAN TAFOYA LAND GRANT WATER ISSUES**  
—Jim Carp, General Counsel, Department of Game and Fish  
—James Martinez, Juan Tafoya Land Grant
- 3:00 p.m.    **ECONOMIC DEVELOPMENT**  
—Robin Collier, Tierra Wools  
—Arturo Archuleta, North Central New Mexico Economic Development District  
—Joaquin Lujan, Public Private Partnership LLC, New Economic Strategies  
Group
- 4:00 p.m.    **PUEBLO LAND GRANTS**  
—Regis Pecos, Pueblo of Cochiti
- 5:00 p.m.    **PUBLIC COMMENT**
- 6:00 p.m.    **RECESS**

**Tuesday, September 23**

9:30 a.m. CALL TO ORDER

9:45 a.m. DEPART FOR SITE

10:00 a.m. LAS VEGAS LAND GRANT  
—Hilario Rubio, Las Vegas

10:30 a.m. TECOLOTE LAND GRANT  
—Angela Herrera, Tecolote  
—Joe Herrera, Tecolote

11:30 a.m. ANTON CHICO LAND GRANT  
—Severiano Sisneros

12:30 p.m. LUNCH

1:30 p.m. RETURN TO LUNA COMMUNITY COLLEGE

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

**November 12, 2003  
Room 311, State Capitol**

**Wednesday, November 12**

- 10:00 a.m.    CALL TO ORDER — OPENING REMARKS  
                  —Representative Miguel P. Garcia, Chairman
- 10:15 a.m.    UPDATE ON JUAN TAFOYA LAND GRANT ISSUES  
                  —James Martinez, Juan Tafoya Land Grant
- 10:45 a.m.    PROPOSED LEGISLATION CONCERNING LAND GRANT STATUTES  
                  —Georgia Roybal and Roberto Mondragon, Land Grant Forum
- 12:30 p.m.    LUNCH
- 2:00 p.m.    COMMITTEE BUSINESS AND PUBLIC COMMENT
- 3:00 p.m.    ADJOURN

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

**December 10, 2003  
Room 311, State Capitol**

**Wednesday, December 10**

- 10:00 a.m.    **CALL TO ORDER — OPENING REMARKS**  
                  —Representative Miguel P. Garcia, Chairman
- 10:15 a.m.    **PROPOSED LEGISLATION CONCERNING LAND GRANTS**  
                  —Memorial Continuing Land Grant Committee During Next Interim  
                  —Memorial Requesting Information on Land Owned by the State that was Once  
                  Land Grant Land  
                  —Memorial Requesting the Department of Transportation Meet with the Board of  
                  Trustees of the Truchas Land Grant  
                  —Appropriation for Cleanup of Illegal Dump Sites on Land Grants  
                  —Referendum to Return the Property that was Once a Part of the Juan Tafoya  
                  Land Grant and Now Belongs to the State  
                  —Amending the Open Meetings Act Requiring Notice be Given to the Board of  
                  Trustees of a Land Grant when Agenda Items Involve the Land Grant  
                  —Amending the General Provisions of Chapter 49 NMSA 1978
- 12:30 p.m.    **ADJOURNMENT**

**MINUTES  
of the  
FIRST MEETING  
of the  
LAND GRANT COMMITTEE  
June 12, 2003  
Room 311, State Capitol**

The first meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, on June 12, 2003 at 10:20 a.m. in room 311, state capitol.

**PRESENT**

Rep. Miguel P. Garcia, chair  
Sen. Bernadette M. Sanchez, vice chair  
Sen. Rod Adair  
Sen. Richard C. Martinez  
Rep. Don Tripp

**ABSENT**

Rep. Debbie A. Rodella

**Advisory Members**

Sen. Joseph J. Carraro  
Rep. Bengie Regensberg  
Rep. Eric A. Youngberg

Sen. Manny M. Aragon  
Rep. Ben Lujan  
Sen. Richard M. Romero  
Rep. James G. Taylor

**Staff**

Alfred Creecy  
Jon Boller

Representative Garcia thanked the leadership for giving him the opportunity to chair this committee and outlined the statutory tasks given to the committee. Representative Garcia then briefly outlined how the proposed meeting agenda was developed.

Representative Garcia presented the proposed meeting schedule and topics for the meetings with a listing of individuals who had been mentioned as possible presenters at the committee meetings (a copy of the proposed meeting schedule and topics is attached). Including a period of public input at the end of each meeting was discussed, as well as adding a discussion of water issues associated with land grants. Representative Regensberg asked about including material that might come up during the special session, including land transfers. The proposed schedule was adopted and the meeting was adjourned at 11:05 a.m.

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

**July 15-16  
Wells Fargo Auditorium  
National Hispanic Cultural Center  
Albuquerque**

The second meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:15 a.m. in the Wells Fargo auditorium at the national Hispanic cultural center in Albuquerque.

**PRESENT**

Rep. Miguel P. Garcia, chair  
Sen. Bernadette M. Sanchez, vice chair  
Sen. Rod Adair  
Sen. Richard C. Martinez

**ABSENT**

Rep. Debbie A. Rodella  
Rep. Don Tripp

**Advisory Members**

Sen. Manny M. Aragon  
Sen. Joseph J. Carraro  
Rep. Ben Lujan (July 15)  
Sen. Richard M. Romero  
Rep. James G. Taylor  
Rep. Eric A. Youngberg

Rep. Bengie Regensberg

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

**Staff**

Alfred Creecy  
Jon Boller  
Sheila Manzagol

**Guests:** A copy of the guest list is in the meeting file.

Copies of written testimony are in the meeting file.

**Tuesday, July 15**

***Opening Remarks***

Representative Garcia welcomed the committee and members of the public. He then introduced the members of the committee. Miguel Gomez of the Albuquerque city council, Irma Ruiz of the Rio Grande community development corporation, Alvin Garcia from the attorney general's office and members of the public who were in attendance were introduced.

***Establishment of Land Grants in New Mexico***

David Benavides from New Mexico legal aid gave a presentation on the establishment of land grants in New Mexico and the southwest. He focused on the patterns of development and legal status of the land grants, including the integration of existing settlements into the land grants as well as the transition from Spanish and Mexican rule to that of the United States. He also pointed out some of the flaws in the transition and the different ways in which the land grants and their people lost their lands.

Senator Carraro asked questions concerning the ownership and taxation of the lands under Spanish and Mexican law as well as what has happened to land grants in other areas.

Representative Lujan was also curious about a comparison of the way claims were handled by the surveyor general in California and the surveyor general in New Mexico.

Representative Garcia questioned Mr. Benavides about the problem of land speculators and their role in delaying statehood.

Dr. Estevan Rael-Galvez, New Mexico state historian, gave a presentation on the social order in colonial New Mexico. He discussed the uses the land was put to and the relationship between the land and the people. Dr. Rael-Galvez talked about the Laws of the Indies and the role these laws played. He explained the requirements established for the land grants and the way land grants were used by the government in Mexico City as a buffer from the nomadic peoples to the north. He emphasized the importance of understanding the use of the land in order to uphold and respect the traditions of the people.

Representative Garcia pointed out the importance of the Native American influence on the establishment and population of the area.

***Treaty of Guadalupe Hidalgo and the Protocol of Queretaro***

Robert Torrez, former New Mexico state historian, discussed the period after the American invasion and the Treaty of Guadalupe Hidalgo and the Protocol of Queretaro. He also discussed the procedure that the land grants had to go through to be recognized by several different surveyor generals and the progress they made or did not make in recognizing the land grants.

Senator Carraro asked for further clarification on the importance of the Protocol of

Queretaro and its legal effects. He also inquired about any maps that would show the boundaries of the different grants.

Senator Aragon asked about the documentation of the land grants and how well the boundaries of the different land grants were established. He also asked about the status of the mineral rights and if they were a part of the land grant.

Representative Lujan had a question on when the state started charging property taxes for the land grants.

Representative Garcia inquired if the territorial legislature addressed the issue of land grants and the Treaty of Guadalupe Hidalgo.

### ***Historical Roots and Contemporary Consequences of the Confiscation and Redistribution of Land***

Dr. Roxanne Dunbar-Ortiz from California state university at Hayward discussed the social implications of the way that the Treaty of Guadalupe Hidalgo has been enforced by the United States and the state of New Mexico. She discussed the idea that the heirs to the original settlers met the requirements to be classified as indigenous people and may have protections and rights under the United Nations and international law.

Senator Carraro was interested in the pueblo people and asked if they were recognized as Mexican citizens. He was also interested in what the state legislature could do as this was mainly a federal question.

### ***Public Comment***

After the presentations of the invited speakers, the floor was opened to comment by the public in attendance. The committee then recessed.

### **Wednesday, July 16**

The meeting was reconvened by Representative Miguel P. Garcia, chair, at 9:50 a.m. on July 16. Representative Garcia made a few opening remarks concerning the need to continue to strive for justice and to right the wrongs that have been done. He also stressed the role that women play in the traditions of people.

### ***Statutory Law and Governance of Community Land Grants***

Gerald Gonzales, Santa Fe county manager, provided information on the legal status of land grants and how the law has been developed. He explained some of the Spanish and Mexican laws that concerned land grants. Mr. Gonzales discussed the Homestead Act and its implications to the land grants. He pointed out some of the restrictions placed on the land grants by the statutes and the land grants being recognized by the courts as quasi municipalities.

Senator Aragon asked about the effect of case law on the status of land grants.

### ***Land Grant Governance Issues***

Moises Gonzales of the Carnuel Land Grant gave a description of the grant and commented about the statutes and the confusion that arises because of some inconsistencies. He also stressed the importance of giving the land grants the ability to oversee and manage their lands.

Representative Youngberg was interested in the demographics of the grant.

Senator Romero asked about the cooperation between the land grant and the counties.

Angela Herrera and Joe Herrera of the Tecolote Land Grant talked about the issues concerning their land grant, primarily regarding voting for the board of trustees and remediation of bad elections. They also were concerned with meetings and the conflicts between the general and the specific statutes.

Juan Sanchez of the Chilili Land Grant grouped the problems for his land grant into three areas: the development of the statutes without an understanding of the land grants themselves, the failure of the legislature to understand the interests of the heirs to the land grant and the ownership of the grant and the failure of the legislature to define the status of the land grants.

Tina Lopez of the Santo Domingo de Cundiyo Land Grant presented information on the issues of concern to the board of trustees of the land grant. Included were concerns that the board of trustees had too much power in the selling of the lands of the land grant and the ability of all members of the grant to vote in grant elections.

### ***Public Comment***

After the presentations of the invited speakers, the floor was opened to comment by the public in attendance.

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

**August 25-26, 2003  
Rio Arriba County Commission Chambers  
Española**

The third meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:18 a.m. in the Rio Arriba county commission chambers in Espanola.

**PRESENT**

Rep. Miguel P. Garcia, chair  
Sen. Bernadette M. Sanchez, vice chair  
Sen. Rod Adair  
Sen. Richard C. Martinez  
Rep. Debbie A. Rodella  
Rep. Don Tripp

**ABSENT**

Sen. Manny M. Aragon  
Rep. Bengie Regensberg  
Rep. James G. Taylor

**Advisory Members**

Sen. Joseph J. Carraro  
Rep. Ben Lujan (August 25)  
Sen. Richard M. Romero  
Rep. Eric A. Youngberg (August 25)

**Staff**

Alfred Creecy  
Jon Boller  
Sheila Manzagol

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

**Guests:** A copy of the guest list is in the meeting file.

Copies of written testimony are in the meeting file.

**Monday, August 25**

***Opening Remarks***

Representative Garcia welcomed those in attendance and introduced the committee. Opening remarks were given by Richard Lucero, the mayor of Espanola, Moises Morales, Andrew Chavez and Lorenzo Valdez, Rio Arriba county commissioners. Members of the public in attendance were given the opportunity to introduce themselves.

***Electronic Land Grant Database***

Malcolm Ebright, Robin Olyer and Norman Martinez presented information on a project to develop a computer database that holds relevant information on the land grants in Rio Arriba county. The database is made up of scanned original documents with translations and provides different search methods to help research the history of land grants in New Mexico. The database is incomplete but continues to grow. Rio Arriba county passed a resolution to start and fund the project. Three historians are currently working on the project but more funding is required. The database is a historical reference that gives context to background documents and can be used in research to try to develop solutions to the problems facing the land grants and the state.

***Native American Issues as Related to Land Grants***

Herman Agoyo, former governor of the Pueblo of San Juan, presented information to the committee concerning the treatment of Native Americans and land grants. He discussed how the Native Americans were here before the Spanish and have had a long history and strong cultural ties to the land. Mr. Agoyo stated that he believed that the Native Americans had a prior right to the land in the same way they had a prior right to the water and their claims should be resolved before any of the claims of the land grants. He also felt that retribution for past injustices should be made. He stated that the GAO study on land grants did not deal with the pueblo land grants other than to list them.

Regis Pecos presented information on the preservation of sacred sites throughout New Mexico. He wants to create a win-win situation that will benefit Hispanics as well as Native Americans; however, this will require creative solutions.

***Current Legal Issues Involving Community Land Grants***

Ted Trujillo, county attorney for Rio Arriba county, and Moises Gonzales, assistant planning director for Rio Arriba county, presented information on the relationship between county government and land grants. They discussed the problem of having so much state, federal and trust land in the county and the loss of the property on the tax rolls. They stressed the importance of having all parties involved in the discussion when resolving disputes. Another topic was the need to ensure building was done on the dry land and not on irrigable land, which allows for land that can be used for agriculture not being consumed as housing.

## ***Rio Arriba County Landfill***

Betty Haagenstad from the Ojo Caliente Land Grant presented information on the proposed use of property currently under the management of the bureau of land management being used for a new landfill. One of the arguments she gave in objection of the proposal was that the original environmental impact study done on the need and feasibility of the landfill was done prior to Taos and Los Alamos being removed from the project. The community is concerned about the actual need for the landfill and the possibility of leakage and contamination as well as the further loss of grazing rights for the area. They are also concerned about the proximity to archaeological sites in the area.

### ***Public Comment***

After the presentations of the invited speakers, the floor was opened to comment by the public in attendance.

A motion was made, seconded and passed without objection that legislation be written to the effect that if the facts show that land was a part of the common lands of a land grant, was obtained by unjust means and now is owned by the state, the land should be returned to the heirs of the land grant.

### **Tuesday, August 26**

The meeting was reconvened by Representative Miguel P. Garcia, chair, at 9:50 a.m. on August 26. The committee boarded a bus and was driven for a tour and presentation at the Truchas Land Grant. Members of the Truchas Land Grant board of trustees provided a history and some common problems faced by the board and members of the land grant. The Truchas Land Grant is run differently than other land grants. It is a corporation and has shareholders, who are not heirs, that are members of the grant. This configuration has unique problems and shows the necessity of dealing with each land grant and its unique problems. Representatives from the Santa Cruz, Pueblo Quemado and Las Trampas land grants were also present and provided information on their governance and problems. The meeting was adjourned after returning to Espanola.

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

**September 22-23, 2003  
Learning Resource Center  
Luna Community College  
Las Vegas**

The fourth meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, on September 22 at 10:18 a.m. in the learning resource center at Luna community college in Las Vegas.

**PRESENT**

Rep. Miguel P. Garcia, chair  
Sen. Bernadette M. Sanchez, vice chair  
Sen. Rod Adair  
Sen. Richard C. Martinez  
Rep. Debbie A. Rodella  
Rep. Don Tripp

**ABSENT**

Sen. Manny M. Aragon  
Sen. Joseph J. Carraro  
Rep. Ben Lujan  
Rep. Bengie Regensberg  
Sen. Richard M. Romero  
Rep. James G. Taylor  
Rep. Eric A. Youngberg

**Advisory members**

**Staff**

Alfred Creecy  
Jon Boller  
Sheila Manzagol

**Guests**

A copy of the guest list is in the meeting file.

Copies of written testimony are in the meeting file.

**Monday, September 22**

## **Opening Remarks**

Representative Garcia welcomed and introduced the committee. Opening remarks were given by Leroy Garcia, chairman of the San Miguel county commission, and Henry Sanchez, mayor of Las Vegas. Members of the public in attendance were given the opportunity to introduce themselves.

## **Water Issues**

Paula Garcia of the New Mexico acequia association gave information regarding the links between the acequias and land grants. She emphasized the historical process and the divergent legal battles involved with each. In many cases, the water rights of the acequias are protected to the extent that the legislature has recognized the acequia associations as special entities. The water rights associated with the common lands of land grants are unclear and the GAO report concerning land grants does not address water rights or water issues but the adjudication process continues. One of the conflicts is between domestic water use and agricultural water use. Water tends to be underallocated for domestic uses. There has also been a difference in the way water rights have been handled for the pueblos and the land grants. The state has an obligation to protect the water rights of the acequias through the Treaty of Guadalupe Hidalgo.

Representative Tripp started a discussion on how the adjudication process affects the land grants. He also wanted to know if land grants had forfeited any water rights prior to 1965 due to nonuse and was told that the adjudication process continues and that some land grants had lost their water rights due to nonuse.

Senator Martinez and Senator Sanchez questioned the difference between the pueblos and the land grants and the way that the claims have been treated.

Hilario Rubio, a member of the board of trustees of the Las Vegas land grant and the acequia liaison for the office of the state engineer, testified that the basic problems with water rights and land grants is that the adjudication process takes too long. Mr. Rubio said that the issues should be resolved by congress and not by the courts. The question of whether the rights exist is not in question. Enforcement of the Treaty of Guadalupe Hidalgo would preempt the state's water laws and the land grants would thus be able to utilize their water rights.

Representative Tripp asked about the management and revenues of the Las Vegas land grant. He was informed that the land grant generated revenue through the leasing of the land and that the land grant board of trustees was appointed by the district court for the everyday running of the grant. The court itself actually runs the land grant.

Representative Rodella asked if the land grant board of trustees had ever considered changing the law to allow for elections of the board and was told that it had been considered but that there are advantages to having the court make the final decisions.

David Benavides from New Mexico Legal Aid presented information on water usage from the historical aspect of the land grants. He stated that the land grants had their own sense of water use with the emphasis on self-sufficiency. He concentrated his remarks on five areas. He first discussed the customs involved with water usage, particularly the idea that all share the burden of shortages. He next discussed the use of diversions and the rights of acequias. Next came the problems involved with establishing dates to establish the priority for the use of water. The fourth issue he discussed was the determination of what acreage to use when determining and adjudicating rights. Finally, he discussed the problems of using the forest service's lands and acquiring easements and maintenance of the ditches.

Representative Garcia was curious about Mr. Benavides' thoughts on the use of the historical documents, and if not the documents, then custom regarding the adjudication of water rights. Mr. Benavides thought that the issue was about who has the burden in court and that in upholding the Treaty of Guadalupe Hidalgo, the burden should be on the state. Representative Garcia then initiated a discussion on the Pueblo Rights doctrine and the effect it has on the land grants' water rights.

### **Water Issues of the Juan Tafoya Land Grant**

James Martinez and Ruth Armijo of the Juan Tafoya land grant provided information on water issues of particular concern to the Juan Tafoya land grant. They gave the background and history of the grant, explaining that their water rights, which come from a spring in an area that was once a part of the land grant, have been passed along to various people and now belong to the department of game and fish. The land grant does not own the land now but does maintain and own the water rights. They are concerned that the state will take their water rights and that if the state turns the land over to another person, they will have to fight for their water rights.

Jim Karp, general counsel for the department of game and fish, stated that the department has tried to negotiate with the land grant but has been unsuccessful. The basis of the negotiation is that access to the land in question is through lands belonging to the land grant. While the department of game and fish has tried to trade the rights of access for other property and water rights that the department owns in the land grant, the land grant claims to already possess the water rights to this area.

### **Economic Development**

Robin Collier of Tierra Wools, Arturo Archuleta of the north central New Mexico economic development district and Esperanza Lujan of the Public Private Partnership LLC gave testimony on the need for sustainable economic development in the land grants. They discussed the use of traditional agricultural-based economics and the various problems these economies have faced. They stressed the need for the state to come up with incentive programs to encourage the land grants to remain in farming and agriculture. They also discussed the need for the state to recognize the land grants as governmental entities and to provide education on economic sustainability.

### **Public Comment**

After the presentations of the invited speakers, the floor was opened to comment by the public in attendance.

**Tuesday, September 23**

The meeting was reconvened by Representative Garcia at 9:50 a.m. on August 26. The committee then boarded a bus and was driven for tours and presentations at the Las Vegas, Tecolote and Anton Chico land grants. Members of the land grant board of trustees provided a history and some common problems faced by the board and members of the land grants. At the Tecolote land grant, members of the committee met with residents of the land grant and heard about the different problems they face. The meeting was adjourned after the committee returned to Las Vegas.

**MINUTES  
of the  
FIFTH MEETING  
of the  
LAND GRANT COMMITTEE  
November 12, 2003  
Room 311, State Capitol**

The fifth meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:15 a.m. in room 311, state capitol.

**PRESENT**

Rep. Miguel P. Garcia, chair  
Sen. Bernadette M. Sanchez, vice chair  
Sen. Rod Adair  
Sen. Richard C. Martinez  
Rep. Debbie A. Rodella  
Rep. Don Tripp

**ABSENT**

Sen. Manny M. Aragon  
Rep. Ben Lujan  
Rep. Bengie Regensberg  
Sen. Richard M. Romero  
Rep. James G. Taylor  
Rep. Eric A. Youngberg

**Advisory Members**

Sen. Joseph J. Carraro

**Staff**

Alfred Creecy  
Jon Boller  
Sheila Manzagol

**Guests:** A copy of the guest list is in the meeting file.

***Opening Remarks***

Representative Garcia welcomed and introduced the committee. Members of the public in attendance were given the opportunity to introduce themselves. Representative Garcia then gave a brief history of the work already accomplished by the committee. He stressed the importance of continuing the work and the need to have the committee continue in the next interim. A motion was passed to take the necessary action to have the legislative council continue the land grant committee in the next legislative interim.

Representative Garcia then started a discussion on the need to determine what land, if any, the state now owns that at one time belonged to a land grant. A motion was passed to direct the staff to draft a memorial to determine what lands the state now owns that once were a part of a land grant and report the results by October of next year.

- 26 -

The next topic that Representative Garcia brought up was the problem of state agencies

holding hearings on topics of concern to land grants and not informing the land grants or inviting input from the land grants. A motion was passed to draft legislation that would require a state agency to inform the board of trustees of a land grant if any meetings are held to discuss topics of interest to that land grant. Another motion was passed to draft a memorial to have the department of transportation meet with the board of trustees of the Truchas land grant to resolve problems with the highway that passes through the land grant.

The committee passed a motion to ask the legislative council to approve a meeting in December to approve legislation drafted as a result of previous meetings.

Senator Martinez asked the committee to endorse an appropriation to help clean up illegal dump sites on land grant properties. The committee passed a motion to endorse the appropriation.

Senator Carraro asked that the minutes of the August meeting be amended to reflect his desire for a motion to return all land that now belongs to the state that once belonged to a land grant and was obtained through unjust or unscrupulous means. The committee passed a motion to amend the minutes and to draft a memorial to return the lands to the land grants.

### ***Juan Tafoya Land Grant Issue Update***

James Martinez and Ruth Armijo gave an update on the issue concerning the Juan Tafoya land grant and the department of game and fish. They had met but no progress had been made. Representative Garcia asked for clarification on the taxes being paid on the tracts within the village of Marquez. Bruce Thompson of the department of game and fish stated that the grazing of the land grants' animals had continued and the issues had not been resolved. The department does not want to make access contingent on grazing rights.

A motion was passed to develop legislation to return the land to the land grant.

### ***Proposed Legislation***

Roberto Mondragon and Georgia Roybal presented the changes to legislation proposed by the New Mexico land grant forum. After discussion and changes to the proposed legislation, the meeting adjourned.

**MINUTES  
of the  
SIXTH MEETING  
of the  
LAND GRANT COMMITTEE  
December 10, 2003  
Room 311, State Capitol**

The sixth meeting of the Land Grant Committee was called to order by Representative Miguel P. Garcia, chair, at 10:15 a.m. in Room 311, State Capitol.

**PRESENT**

Rep. Miguel P. Garcia, Chair  
Sen. Bernadette M. Sanchez, Vice Chair  
Sen. Rod Adair  
Sen. Richard C. Martinez  
Rep. Debbie A. Rodella  
Rep. Don Tripp

**ABSENT**

Sen. Manny M. Aragon  
Sen. Joseph J. Carraro  
Rep. Bengie Regensberg  
Sen. Richard M. Romero  
Rep. James G. Taylor  
Rep. Eric A. Youngberg

**Advisory Members**

Rep. Ben Lujan

**Staff**

Alfred Creecy  
Jon Boller  
Sheila Manzagol

**Guests:** A copy of the guest list is in the meeting file.

Representative Garcia welcomed and introduced the committee. Members of the public in attendance were given the opportunity to introduce themselves. The floor was then opened to comment by the public in attendance.

The committee then approved the following legislation:

- memorial continuing the Land Grant Committee during the next interim;
- memorial requesting a study to determine what land the state now owns that once belonged to land grants;
- memorial requesting that the Department of Transportation meet with the board of trustees of the Truchas Land Grant;
- appropriation for cleanup of illegal dumpsites on land grants;
- return of State Game Commission property that was once a part of the Juan Tafoya Land Grant;

- amending the Open Meetings Act to require that notice be given to the board of trustees of a land grant when appropriate; and
- amending the general provisions of Chapter 49 NMSA 1978.

The meeting was then adjourned.

**PROPOSED LEGISLATION**

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\_\_\_\_ JOINT MEMORIAL

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

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

A JOINT MEMORIAL

REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO CONTINUE THE  
LAND GRANT COMMITTEE.

WHEREAS, until the 2003 interim there had never been a  
legislative land grant committee; and

WHEREAS, the issues concerning land grants have been  
largely ignored or handled in a piecemeal fashion since  
statehood; and

WHEREAS, there are many complex issues still to be  
resolved concerning land grants and the issues encompass a  
large portion of the people and land in the state; and

WHEREAS, the people of New Mexico depend on the  
legislature to resolve the issues concerning land grants in a  
fair and just manner after all parties concerned have an  
opportunity to be heard;

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\_\_\_\_ JOINT MEMORIAL

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

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

A JOINT MEMORIAL

REQUESTING THAT THE OFFICE OF CULTURAL AFFAIRS DETERMINE THE  
EXTENT TO WHICH THE STATE OWNS LANDS THAT PREVIOUSLY WERE  
COMMON LANDS OF A SPANISH OR MEXICAN LAND GRANT-MERCED.

WHEREAS, community land grants-mercedes have existed in  
New Mexico since the beginning of Spanish settlement in the  
early sixteenth century; and

WHEREAS, many land grants-mercedes lost control of the  
community lands of the original grants through dishonest,  
unjust or illegal means; and

WHEREAS, the rights, privileges and immunities guaranteed  
to the people of New Mexico by the Treaty of Guadalupe Hidalgo  
are preserved inviolate by the constitution of New Mexico; and

WHEREAS, the Protocol of Queretaro preserves the legal  
values of the land grants-mercedes possessed by the heirs,

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1 notwithstanding the striking of Article X of the Treaty of  
2 Guadalupe Hidalgo in ratification;

3 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
4 STATE OF NEW MEXICO that the office of cultural affairs and the  
5 office of the attorney general, in connection with other  
6 federal or state agencies, conduct a study to determine the  
7 extent to which lands that were formally part of the common  
8 lands of a land grant-merced now belong to the state and how  
9 the land was obtained or acquired by the state and report the  
10 results of the study to the legislature not later than November  
11 1, 2004; and

12 BE IT FURTHER RESOLVED that, if the facts show that land  
13 that was once a part of the common lands of a land grant-merced  
14 was obtained through dishonest, unjust or illegal means and is  
15 now owned by the state, the office of cultural affairs and the  
16 office of the attorney general determine what actions are  
17 required for the land to be returned to the heirs of the land  
18 grant-merced; and

19 BE IT FURTHER RESOLVED that copies of this memorial be  
20 transmitted to the office of cultural affairs and the office of  
21 the attorney general.

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

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

A JOINT MEMORIAL

REQUESTING THE STATE DEPARTMENT OF TRANSPORTATION TO MEET WITH  
THE BOARD OF TRUSTEES OF THE LA NUESTRA SENORA DEL ROSARIO DE  
SAN FERNANDO Y SANTIAGO LAND GRANT.

WHEREAS, the La Nuestra Senora del Rosario de San Fernando  
y Santiago land grant was granted in 1754 by the Spanish  
monarch and withstood the Mexican secession from Spain in 1821;  
and

WHEREAS, the La Nuestra Senora del Rosario de San Fernando  
y Santiago land grant was protected under the Treaty of  
Guadalupe Hidalgo as confirmed by the Court of Private Land  
Claims in 1892; and

WHEREAS, the La Nuestra Senora del Rosario de San Fernando  
y Santiago land grant was granted a patent by the congress of  
the United States and signed into law by President Roosevelt in

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1 1903; and

2 WHEREAS, the state department of transportation built  
3 state highway 76 through the La Nuestra Senora del Rosario de  
4 San Fernando y Santiago land grant in 1950 without obtaining  
5 properly negotiated fair lease agreements; and

6 WHEREAS, state highway 76 has been the site of many  
7 traffic accidents and an area of many illegal dumpsites that  
8 litter the land grant;

9 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
10 STATE OF NEW MEXICO that the state department of transportation  
11 be requested to meet with the board of trustees of the La  
12 Nuestra Senora del Rosario de San Fernando y Santiago land  
13 grant to resolve the fair lease agreements and the issues of  
14 safety concerning state highway 76 and report to the  
15 legislature not later than November 1, 2004; and

16 BE IT FURTHER RESOLVED that copies of this memorial be  
17 transmitted to the state department of transportation and the  
18 board of trustees of the La Nuestra Senora del Rosario de San  
19 Fernando y Santiago land grant.

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

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

AN ACT

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

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

Section 1. APPROPRIATION. -- Six hundred thousand dollars  
(\$600,000) is appropriated from the general fund to the  
department of environment for expenditure in fiscal year 2005  
to contract for the removal of solid waste, liquid waste and  
hazardous waste illegally deposited on the common lands of  
community land grants organized under state law. Any  
unexpended or unencumbered balance remaining at the end of  
fiscal year 2005 shall revert to the general fund.

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

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO PUBLIC LANDS; TRANSFERRING CERTAIN LANDS UNDER  
CONTROL OF THE STATE GAME COMMISSION TO THE JUAN TAFOYA LAND  
GRANT.

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

Section 1. TRANSFER OF LAND. --The state game commission shall transfer title in fee simple to the board of trustees of the Juan Tafoya land grant all lands currently owned by the commission that were formerly part of the original grant of lands to the Juan Tafoya land grant.

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

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO OPEN MEETINGS; REQUIRING THAT NOTICE BE GIVEN TO  
THE BOARD OF TRUSTEES OF A LAND GRANT-MERCED WHEN THE MEETINGS  
OF A PUBLIC BODY INVOLVE ISSUES OF CONCERN TO THE LAND GRANT-  
MERCED.

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

Section 1. Section 10-15-1 NMSA 1978 (being Laws 1974,  
Chapter 91, Section 1, as amended) is amended to read:

"10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN  
MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS. --

A. In recognition of the fact that a representative  
government is dependent upon an informed electorate, it is  
declared to be public policy of this state that all persons are  
entitled to the greatest possible information regarding the  
affairs of government and the official acts of those officers

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1 and employees who represent them. The formation of public  
2 policy or the conduct of business by vote shall not be  
3 conducted in closed meeting. All meetings of [~~any~~] a public  
4 body, except the legislature and the courts, shall be public  
5 meetings, and all persons so desiring shall be permitted to  
6 attend and listen to the deliberations and proceedings.

7 Reasonable efforts shall be made to accommodate the use of  
8 audio and video recording devices.

9 B. All meetings of a quorum of members of [~~any~~] a  
10 board, commission, administrative adjudicatory body or other  
11 policymaking body of [~~any~~] a state agency, [~~any~~] an agency or  
12 authority of [~~any~~] a county, municipality, district or [~~any~~]  
13 political subdivision held for the purpose of formulating  
14 public policy, including the development of personnel policy,  
15 rules, regulations or ordinances, discussing public business or  
16 [~~for the purpose of~~] taking [~~any~~] action within the authority  
17 of or the delegated authority of [~~any~~] a board, commission or  
18 other policymaking body are declared to be public meetings open  
19 to the public at all times, except as otherwise provided in the  
20 constitution of New Mexico or the Open Meetings Act. [~~No~~] A  
21 public meeting once convened that is otherwise required to be  
22 open pursuant to the Open Meetings Act shall not be closed or  
23 dissolved into small groups or committees for the purpose of  
24 permitting the closing of the meeting.

25 C. If otherwise allowed by law or rule of the

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1 public body, a member of a public body may participate in a  
2 meeting of the public body by means of a conference telephone  
3 or other similar communications equipment when it is otherwise  
4 difficult or impossible for the member to attend the meeting in  
5 person, provided that each member participating by conference  
6 telephone can be identified when speaking, all participants are  
7 able to hear each other at the same time and members of the  
8 public attending the meeting are able to hear [~~any~~] a member of  
9 the public body who speaks during the meeting.

10 D. [~~Any~~] Meetings at which the discussion or  
11 adoption of [~~any~~] a proposed resolution, rule, regulation or  
12 formal action occurs and at which a majority or quorum of the  
13 body is in attendance, and [~~any~~] closed meetings, shall be held  
14 only after reasonable notice to the public. The affected body  
15 shall determine at least annually in a public meeting what  
16 notice for a public meeting is reasonable when applied to that  
17 body. That notice shall include broadcast stations licensed by  
18 the federal communications commission and newspapers of general  
19 circulation that have provided a written request for [~~such~~]  
20 notice. If an agenda item of the meeting concerns matters that  
21 involve a land grant-merced pursuant to Chapter 49 NMSA 1978,  
22 notice shall be given to the board of trustees or other  
23 governing body of the land grant-merced involved.

24 E. A public body may recess and reconvene a meeting  
25 to a day subsequent to that stated in the meeting notice if,

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1 prior to recessing, the public body specifies the date, time  
2 and place for continuation of the meeting and, immediately  
3 following the recessed meeting, posts notice of the date, time  
4 and place for the reconvened meeting on or near the door of the  
5 place where the original meeting was held and in at least one  
6 other location appropriate to provide public notice of the  
7 continuation of the meeting. Only matters appearing on the  
8 agenda of the original meeting may be discussed at the  
9 reconvened meeting.

10 F. Meeting notices shall include an agenda  
11 containing a list of specific items of business to be discussed  
12 or transacted at the meeting or information on how the public  
13 may obtain a copy of such an agenda. Except in the case of an  
14 emergency, the agenda shall be available to the public at least  
15 twenty-four hours prior to the meeting. Except for emergency  
16 matters, a public body shall take action only on items  
17 appearing on the agenda. For purposes of this subsection, [~~an~~]  
18 "emergency" refers to unforeseen circumstances that, if not  
19 addressed immediately by the public body, will likely result in  
20 injury or damage to persons or property or substantial  
21 financial loss to the public body.

22 G. The board, commission or other policymaking body  
23 shall keep written minutes of all its meetings. The minutes  
24 shall include at a minimum the date, time and place of the  
25 meeting, the names of members in attendance and those absent,

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1 the substance of the proposals considered and a record of [~~any~~]  
2 decisions and votes taken that show how each member voted. All  
3 minutes are open to public inspection. Draft minutes shall be  
4 prepared within ten working days after the meeting and shall be  
5 approved, amended or disapproved at the next meeting where a  
6 quorum is present. Minutes shall not become official until  
7 approved by the policymaking body.

8 H. The provisions of Subsections A, B and G of this  
9 section do not apply to:

10 (1) meetings pertaining to issuance,  
11 suspension, renewal or revocation of a license, except that a  
12 hearing at which evidence is offered or rebutted shall be open.  
13 All final actions on the issuance, suspension, renewal or  
14 revocation of a license shall be taken at an open meeting;

15 (2) limited personnel matters; provided that  
16 for purposes of the Open Meetings Act, "limited personnel  
17 matters" means the discussion of hiring, promotion, demotion,  
18 dismissal, assignment or resignation of or the investigation or  
19 consideration of complaints or charges against [~~any~~] an  
20 individual public employee; provided further that this  
21 [~~subsection~~] paragraph is not to be construed as to exempt  
22 final actions on personnel from being taken at open public  
23 meetings, nor does it preclude an aggrieved public employee  
24 from demanding a public hearing. Judicial candidates  
25 interviewed by [~~any~~] a commission shall have the right to

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1 demand an open interview;

2 (3) deliberations by a public body in  
3 connection with an administrative adjudicatory proceeding. For  
4 purposes of this paragraph, [~~an~~] "administrative adjudicatory  
5 proceeding" means a proceeding brought by or against a person  
6 before a public body in which individual legal rights, duties  
7 or privileges are required by law to be determined by the  
8 public body after an opportunity for a trial-type hearing.  
9 Except as otherwise provided in this section, the actual  
10 administrative adjudicatory proceeding at which evidence is  
11 offered or rebutted and [~~any~~] final action taken as a result of  
12 the proceeding shall occur in an open meeting;

13 (4) the discussion of personally identifiable  
14 information about [~~any~~] an individual student, unless the  
15 student, his parent or guardian requests otherwise;

16 (5) meetings for the discussion of bargaining  
17 strategy preliminary to collective bargaining negotiations  
18 between the policymaking body and a bargaining unit  
19 representing the employees of that policymaking body and  
20 collective bargaining sessions at which the policymaking body  
21 and the representatives of the collective bargaining unit are  
22 present;

23 (6) that portion of meetings at which a  
24 decision is made concerning purchases in an amount exceeding  
25 two thousand five hundred dollars (\$2,500) that can be made

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1 only from one source and that portion of meetings at which the  
2 contents of competitive sealed proposals solicited pursuant to  
3 the Procurement Code are discussed during the contract  
4 negotiation process. The actual approval of purchase of the  
5 item or final action regarding the selection of a contractor  
6 shall be made in an open meeting;

7 (7) meetings subject to the attorney-client  
8 privilege pertaining to threatened or pending litigation in  
9 which the public body is or may become a participant;

10 (8) meetings for the discussion of the  
11 purchase, acquisition or disposal of real property or water  
12 rights by the public body;

13 (9) those portions of meetings of committees  
14 or boards of public hospitals where strategic and long-range  
15 business plans or trade secrets are discussed; and

16 (10) that portion of a meeting of the gaming  
17 control board dealing with information made confidential  
18 pursuant to the provisions of the Gaming Control Act.

19 I. If [~~any~~] a meeting is closed pursuant to the  
20 exclusions contained in Subsection H of this section [~~the~~  
21 ~~closure~~]:

22 (1) the closure, if made in an open meeting,  
23 shall be approved by a majority vote of a quorum of the  
24 policymaking body; the authority for the closure and the  
25 subject to be discussed shall be stated with reasonable

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1 specificity in the motion calling for the vote on a closed  
2 meeting; the vote shall be taken in an open meeting; and the  
3 vote of each individual member shall be recorded in the  
4 minutes. Only those subjects announced or voted upon prior to  
5 closure by the policymaking body may be discussed in a closed  
6 meeting; and

7 (2) the meeting, if a closure is called for  
8 when the policymaking body is not in an open meeting, shall not  
9 be held until public notice, appropriate under the  
10 circumstances, stating the specific provision of the law  
11 authorizing the closed meeting and stating with reasonable  
12 specificity the subject to be discussed is given to the members  
13 and to the general public.

14 J. Following completion of [~~any~~] a closed meeting,  
15 the minutes of the open meeting that was closed or the minutes  
16 of the next open meeting if the closed meeting was separately  
17 scheduled shall state that the matters discussed in the closed  
18 meeting were limited only to those specified in the motion for  
19 closure or in the notice of the separate closed meeting. This  
20 statement shall be approved by the public body under Subsection  
21 G of this section as part of the minutes. "

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

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

AN ACT

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

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

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

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

A. "heir" means a person who has a beneficial  
interest in land within the boundaries of a land grant-merced  
under the person's management and control or who is a  
descendent of those determined to be owners at the time of  
confirmation of the land grant-merced by the board of trustees

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1 or by the district court;

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

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

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

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

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

19 "49-1-1. MANAGEMENT OF SPANISH AND MEXICAN GRANTS. --  
20 [~~Section 1.~~] All [~~grants of land~~] land grants-mercedes in the  
21 state [~~of New Mexico made by the government of Spain or by the~~  
22 ~~government of Mexico to any community, town or pueblo~~] or [~~of~~  
23 ~~the class of grants mentioned~~] land grants-mercedes described  
24 in Section [~~800~~] 49-1-2 NMSA 1978 shall be managed, controlled  
25 and governed by their bylaws, by the Treaty of Guadalupe

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1 Hidalgo and as [herein] provided in Sections 49-1-1 through  
2 49-1-18 NMSA 1978 as political subdivisions of the state. "

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

5 "49-1-2. APPLICATION. -- [~~Sec. 2. This article]~~

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

24 B. If a majority of the members of the board of  
25 trustees of a land grant-merced covered by specific legislation

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1 determine that the specific legislation is no longer beneficial  
2 to the land grant-merced, the board has the authority to  
3 petition the legislature to repeal the legislation and to be  
4 governed by its bylaws and as provided in Sections 49-1-1  
5 through 49-1-18 NMSA 1978.

6 C. Any issue that is not addressed in a specific  
7 statute for a land grant-merced shall be addressed pursuant to  
8 Sections 49-1-1 through 49-1-18 NMSA 1978."

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

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

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

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1 with applicable statutes for the government thereof;

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

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

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

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

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

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

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

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

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

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

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

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1 residents of the same precinct. [~~No~~] A person shall be  
2 qualified to be a member of [~~said~~] the board [~~unless he shall~~  
3 ~~be~~] if the person is a qualified [~~voter at a general election~~  
4 ~~in this state, and shall have an interest in said grant by~~  
5 ~~inheritance or by purchase of an interest in common lands~~  
6 voting member and [~~who shall~~] is not [~~be~~] in default of any  
7 dues, rent or other payment for the use of any of the common  
8 lands of [~~said grant~~] the land grant-merced. "

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

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

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

25 B. All qualified voting members of the land

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

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

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

19 [D-] ~~In each community land grant in which an~~  
20 ~~election is to be held in April of the year 1937, the boards of~~  
21 ~~trustees, immediately after the passage and approval of this~~  
22 ~~act, shall proceed to call registration boards and provide for~~  
23 ~~the registration of all duly qualified electors for the~~  
24 ~~election to be held at such time; provided that the board of~~  
25 ~~registration shall be required to meet only one day for the~~

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1 ~~purpose of registering the electors, which day shall not be~~  
2 ~~less than twenty days prior to the election.]~~

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

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

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

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

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1 elected ~~[thereat]~~. "

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

4 "49-1-8. ORGANIZATION OF BOARD- - BONDS- - VACANCIES. - - ~~[The]~~

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

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

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

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

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

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

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

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1 days' notice [~~thereof~~] being given to each member. "

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

4 "49-1-10. QUORUM. -- [~~Sec. 40.~~] A majority of [~~such~~] the  
5 board of trustees shall constitute a quorum for the transaction  
6 of business, and the [~~town, colony or community aforesaid~~] land  
7 grant-merced and [~~the~~] its inhabitants [~~thereof~~] shall be bound  
8 by the acts of [~~such~~] the board done [~~in pursuance of~~] pursuant  
9 to the provisions [hereof] of Sections 49-1-1 through 49-1-18  
10 NMSA 1978 and the land grant-merced bylaws. "

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

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

20 A. The board of trustees of a land grant-merced  
21 shall not sell the common lands of the land grant-merced.

22 B. A conveyance of any property of a land grant-  
23 merced shall be in accordance with the land grant-merced bylaws  
24 and the provisions of this section and shall be for the benefit  
25 of the land grant-merced.

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1           C. A mortgage or other conveyance shall not be  
2 effective until thirty days following authorization by the land  
3 grant-merced board of trustees by resolution in an open meeting  
4 and approval of the resolution by the district judge of the  
5 district in which the property is located.

6           D. An heir of a land grant-merced may file a  
7 protest of a mortgage or conveyance of the property with the  
8 board of trustees of the land grant-merced within thirty days  
9 of the passing of the resolution conveying the property. If a  
10 protest is filed, the board shall have a public meeting in  
11 which to address the protest.

12           E. If there are no protests or after all protests  
13 have been resolved, the board of trustees is authorized to  
14 execute the necessary documents in the name of and under the  
15 seal of the land grant-merced and all heirs shall be bound by  
16 the board's actions.

17           F. If the conveyance of property of a land  
18 grant-merced is to a non-heir of the land grant-merced, the  
19 conveyance shall contain a reversion clause."

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

22           "49-1-12. MEETINGS TO BE PUBLIC--ANNUAL REPORT. --

23           A. All meetings of [said] the board of trustees  
24 shall be [public, and no] open to the heirs. Executive  
25 sessions, other than organizational meetings to prepare agendas

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1 and documents necessary to serve the heirs prior to regular  
2 meetings in accordance with the bylaws of the land grant-  
3 merced, shall not be held. All [~~persons residing within the~~  
4 limits] heirs of [~~such grant~~] the land grant-merced shall have  
5 the right to be present at all times when [~~such~~] the board is  
6 in session and to be heard on all matters in which they may be  
7 interested.

8 B. A person residing within the limits of the land  
9 grant-merced or who has an issue with the land grant-merced and  
10 is not an heir may be allowed to be heard if requested in  
11 writing and placed on the agenda. The person may be present  
12 only during that period allowed on the agenda.

13 C. The board of trustees shall annually make public  
14 a report of all [~~the~~] its transactions [~~of said board~~] for  
15 [~~said~~] that year. The report shall include agendas, minutes,  
16 actions taken and all financial transactions. The report shall  
17 be maintained in a public place and available for public  
18 review.

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

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

24 "49-1-13. VACANCIES. -- [~~Sec. 13.~~] If a vacancy [~~shall~~  
25 ~~occur in any such~~] occurs on the board, the remaining members

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1 [thereof] shall fill [such] the vacancy by appointment [~~to be~~]  
2 made at a regular meeting [~~and~~]. The person [~~so~~] appointed  
3 shall hold [~~his~~] office until the next regular election. "

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

6 "49-1-14. SALARIES OF TRUSTEES--RECORDS--EXPENDITURES.--  
7 [~~Such~~]

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

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

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

25 Section 16. Section 49-1-15 NMSA 1978 (being Laws 1907,

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1 Chapter 42, Section 15, as amended) is amended to read:

2 "49-1-15. REMOVAL FROM LAND GRANT-MERCED--DELINQUENCY--  
3 FORFEITURE. --

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

16 B. [~~Provided, further that~~] Any delinquent [~~person~~  
17 ~~who moves outside the exterior boundaries of such grant and~~  
18 ~~resides outside such exterior boundaries for a period of five~~  
19 ~~years such person~~] heir shall lose the right to vote and all  
20 right or interest that [~~he~~] the heir may have had in the common  
21 lands of [~~said grant~~] the land grant-merced unless [~~he~~] the  
22 heir pays in full all legal assessments or dues due by [~~him~~]  
23 the heir. "

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

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

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

13 "49-1-17. PROCESS--HOW SERVED ON BOARD. -- [~~Sec. 17.~~]

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

17 B. Board of trustee members may not be sued in  
18 their individual capacities for activities performed while in  
19 an official capacity. "

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

22 "49-1-18. CONSTRUCTION. -- [~~Sec. 19. This article~~]

23 Sections 49-1-1 through 49-1-18 NMSA 1978 shall not be  
24 construed as applying to any [~~land grant which~~] land grant-  
25 merced that is managed or controlled in any manner other than

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1 that [~~hereinbefore~~] provided in Section 49-1-2 NMSA 1978. "

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

4 "49-1-19. FAILURE OF TRUSTEE TO PERFORM DUTIES--  
5 PENALTY. -- [~~That~~] Any member of the board of trustees who [~~shall~~  
6 ~~fail~~] fails or [~~refuse~~] refuses to perform any of the duties  
7 required to be performed by the board of trustees of [~~such land~~  
8 ~~grant~~] the land grant-merced or any member [~~thereof, under~~  
9 ~~Article 1 of Chapter 29, New Mexico Statutes Annotated, 1929~~  
10 ~~Compilation, as amended~~] of the board pursuant to Sections  
11 49-1-1 through 49-1-18 NMSA 1978 or by any other law [~~of the~~  
12 ~~State~~] of New Mexico [~~shall be guilty~~] is guilty of a  
13 misdemeanor and upon conviction [~~therefor~~] shall be punished by  
14 a fine of not less than twenty-five dollars (\$25.00) [~~dollars~~]  
15 nor more than one hundred [~~(\$100.00)~~] dollars (\$100) or by  
16 imprisonment in the county jail for a period of not less than  
17 thirty days nor more than ninety days, or both [~~such fine and~~  
18 ~~imprisonment in the discretion of the court~~]. "

19 Section 21. REPEAL. -- Section 49-1-6 NMSA 1978 (being Laws  
20 1907, Chapter 42, Section 6, as amended) is repealed.