

Calendar No. 476

119TH CONGRESS
2D SESSION**S. 1363**

To provide for greater cooperation and coordination between the Federal Government and the governing bodies and community users of land grant-mercedes in New Mexico relating to historical or traditional uses of certain land grant-mercedes on Federal public land, and for other purposes.

 IN THE SENATE OF THE UNITED STATES

APRIL 9, 2025

Mr. LUJÁN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JULY 23, 2026

Reported by Mr. LEE, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To provide for greater cooperation and coordination between the Federal Government and the governing bodies and community users of land grant-mercedes in New Mexico relating to historical or traditional uses of certain land grant-mercedes on Federal public land, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “New Mexico Land
3 Grant-Mercedes Historical or Traditional Use Cooperation
4 and Coordination Act”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) **COMMUNITY USER.**—The term “community
8 user” means an heir (as defined under the laws of
9 the State) of a qualified land grant-merced.

10 (2) **FEDERAL LAND.**—

11 (A) **IN GENERAL.**—The term “Federal
12 land” means any land ~~or interest in land owned~~
13 ~~by the United States~~ *under the jurisdiction of*
14 *the Secretary concerned.*

15 (B) **EXCLUSIONS.**—The term “Federal
16 land” does not include—

17 (i) land within the boundary of an In-
18 dian reservation;

19 (ii) land held in trust or in restricted
20 status by the United States for the benefit
21 of—

22 (I) an Indian Tribe; or

23 (II) an individual Indian; or

24 (iii) land held in fee by an Indian or
25 Indian Tribe that is subject to restrictions
26 on alienation by the United States.

1 (3) GOVERNING BODY.—The term “governing
2 body” means the board of trustees authorized under
3 State law with the control, care, and management of
4 a qualified land grant-merced.

5 (4) HISTORICAL OR TRADITIONAL USE.—The
6 term “historical or traditional use” means the fol-
7 lowing long-established and habitual uses conducted
8 by a qualified land grant-merced on Federal land for
9 noncommercial benefit and for the benefit of the
10 qualified land grant-merced:

11 (A) The use of water in accordance with
12 all applicable Federal and State laws (including
13 regulations).

14 (B) Gathering herbs in small quantities.

15 (C) Gathering wood products in small
16 quantities.

17 (D) Gathering flora or botanical products
18 in small quantities.

19 (E) Grazing, to the extent that grazing has
20 traditionally been carried out on Federal land,
21 as determined by the Secretary concerned, in
22 coordination with the New Mexico Land Grant
23 Council.

24 (F) Subsistence hunting or fishing that is
25 conducted in accordance with State law.

1 (G) Soil or rock gathering in small quan-
 2 tities.

3 (H) The use and maintenance of an exist-
 4 ing monument or shrine.

5 (I) The use and maintenance of an existing
 6 cemetery by a qualified land grant-merced.

7 (J) Any other long-established and habit-
 8 ual use conducted by a qualified land grant-
 9 merced for noncommercial benefit that—

10 (i) has a sustainable use by the quali-
 11 fied land grant-merced, as determined by
 12 the Secretary concerned, in coordination
 13 with the New Mexico Land Grant Council;

14 (ii) supports the long-term integrity of
 15 the qualified land grant-merced, as deter-
 16 mined by the Secretary concerned, in co-
 17 ordination with the New Mexico Land
 18 Grant Council; and

19 (iii) is agreed to in writing by the Sec-
 20 retary concerned and the New Mexico
 21 Land Grant Council.

22 (5) INDIAN TRIBE.—The term “Indian Tribe”
 23 means the governing body of any individually identi-
 24 fied and federally recognized Indian or Alaska Na-
 25 tive tribe, band, nation, pueblo, village, community,

1 affiliated Tribal group, or component reservation in-
2 cluded on the most recent list published pursuant to
3 section 104(a) of the Federally Recognized Indian
4 Tribe List Act of 1994 (25 U.S.C. 5131(a)).

5 (6) MEMORANDUM OF UNDERSTANDING.—The
6 term “memorandum of understanding” means a
7 memorandum of understanding entered into or ex-
8 tended, renewed, or revised under section 3(a)(1).

9 (7) NONCOMMERCIAL BENEFIT.—The term
10 “noncommercial benefit” means a benefit from a
11 use, the primary purpose of which is not the sale of
12 a good or service.

13 (8) QUALIFIED LAND GRANT-MERCED.—The
14 term “qualified land grant-merced” means a com-
15 munity land grant issued under the laws or customs
16 of the Government of Spain or Mexico that—

17 (A) is recognized under New Mexico Stat-
18 utes Chapter 49, Articles 1 and 4 (or a suc-
19 cessor statute); and

20 (B)(i) has a record of historical or tradi-
21 tional use on Federal land under the jurisdic-
22 tion of the Secretary concerned; or

23 (ii) has a patented exterior boundary that
24 is or was previously located on or adjacent to

1 Federal land under the jurisdiction of the Sec-
 2 retary concerned.

3 (9) SECRETARY CONCERNED.—The term “Sec-
 4 retary concerned” means the Secretary of Agri-
 5 culture or the Secretary of the Interior, with respect
 6 to Federal land under the jurisdiction of the Sec-
 7 retary of Agriculture or the Secretary of the Inte-
 8 rior, respectively.

9 (10) STATE.—The term “State” means the
 10 State of New Mexico.

11 **SEC. 3. MEMORANDUM OF UNDERSTANDING ON PERMIT**
 12 **REQUIREMENTS AND OTHER LAND USE AU-**
 13 **THORIZATIONS FOR HISTORICAL OR TRADI-**
 14 **TIONAL USES OF QUALIFIED LAND GRANT-**
 15 **MERCEDES; REDUCTION OR WAIVER OF CER-**
 16 **TAIN FEES.**

17 (a) MEMORANDUM OF UNDERSTANDING.—

18 (1) IN GENERAL.—The Secretary concerned,
 19 acting through the appropriate officials of the De-
 20 partment of Agriculture and the Department of the
 21 Interior in the State, in consultation with Indian
 22 Tribes, shall—

23 (A) not later than 2 years after the date
 24 of enactment of this Act, enter into an initial

1 memorandum of understanding with the New
2 Mexico Land Grant Council; and

3 (B) subject to the requirements of this sec-
4 tion, on the expiration of the initial memo-
5 randum of understanding entered into under
6 subparagraph (A) or any successor memo-
7 randum of understanding entered into under
8 this subparagraph—

9 (i) enter into a successor memo-
10 randum of understanding with the New
11 Mexico Land Grant Council; or

12 (ii) extend or renew, with any revi-
13 sions determined to be appropriate by the
14 Secretary concerned and the New Mexico
15 Land Grant Council, the expired memo-
16 randum of understanding.

17 (2) APPLICABLE REQUIREMENTS AND AUTHOR-
18 IZATIONS.—

19 (A) IN GENERAL.—A memorandum of un-
20 derstanding shall—

21 (i) provide for enhanced cooperation
22 and coordination between the Secretary
23 concerned and qualified land grant-mer-
24 cedes;

(ii) provide for the Secretary concerned, acting through the appropriate officials of the Department of Agriculture and the Department of the Interior, to enter into subsidiary agreements with qualified land grant-mercedes for specific projects consistent with the memorandum of understanding; and

(iii) be consistent with, and subject to—

(I) applicable Federal laws (including regulations);

(II) applicable land use plans; and

(III) valid existing rights.

(B) PERMITS AND OTHER LAND USE AUTHORIZATIONS.—A memorandum of understanding shall include—

(i) a description of the types of historical or traditional uses that—

(I) a community user or a governing body of a qualified land grant-merced may conduct for noncommercial benefit on Federal land under the

1 jurisdiction of the Secretary con-
2 cerned; and

3 (II) require a permit or other
4 land use authorization from the Sec-
5 retary concerned;

6 (ii) a citation to, and description of,
7 any administrative procedures for obtain-
8 ing the permit or other land use authoriza-
9 tion under clause (i);

10 (iii) a description of—

11 (I) the types of fees, including
12 cost recovery fees and land use fees,
13 that may be associated with a permit
14 or other land use authorization under
15 clause (i); and

16 (II) if applicable, the process to
17 request a reduction or waiver of the
18 fees described in subclause (I) under
19 regulations promulgated by the Sec-
20 retary concerned;

21 (iv) a description of the process for
22 determining the permissible use of motor-
23 ized and nonmotorized vehicles and equip-
24 ment by a community user or the gov-
25 erning body of a qualified land grant-

1 merced for noncommercial historical or
2 traditional use on Federal land under the
3 jurisdiction of the Secretary concerned;

4 (v) a description of the process for de-
5 termining the permissible use of mecha-
6 nized vehicles or equipment by a commu-
7 nity user or governing body of a qualified
8 land grant-merced for historical or tradi-
9 tional use on Federal land under the juris-
10 diction of the Secretary concerned;

11 (vi) a description of the process for
12 determining the permissible use of non-
13 native material by a community user or the
14 governing body of a qualified land grant-
15 merced for any of the uses described in
16 subparagraphs (C) and (D) on Federal
17 land under the jurisdiction of the Secretary
18 concerned;

19 (vii) a description of any applicable
20 restrictions and prohibitions on historical
21 or traditional uses conducted by a qualified
22 land grant-merced on Federal land under
23 the jurisdiction of the Secretary concerned;
24 and

1 (viii) a description of the process, in
2 accordance with applicable law, for con-
3 sulting with 1 or more Indian Tribes that
4 would be directly affected by a proposed
5 historical or traditional use on Federal
6 land by a qualified land grant-merced.

7 (C) ROUTINE MAINTENANCE AND MINOR
8 IMPROVEMENTS.—A memorandum of under-
9 standing shall address authorization of routine
10 maintenance and minor improvements of infra-
11 structure used by a qualified land grant-merced
12 in connection with a historical or traditional use
13 on Federal land under the jurisdiction of the
14 Secretary concerned, including—

15 (i) cleaning, repair, or replacement-in-
16 kind of infrastructure;

17 (ii) maintenance of a trail, road, cattle
18 guard, culvert, or fence;

19 (iii) maintenance of a monument or
20 shrine;

21 (iv) maintenance of a community cem-
22 etery by a qualified land grant-merced;

23 (v) maintenance of a livestock well,
24 water line, water storage container, or
25 water tank; and

1 (vi) any other routine maintenance or
2 minor improvement associated with histor-
3 ical or traditional uses identified by the
4 New Mexico Land Grant Council during
5 the development of the memorandum of
6 understanding.

7 (D) MAJOR IMPROVEMENTS.—A memo-
8 randum of understanding may describe the
9 process for authorizing major improvements of
10 infrastructure of a qualified land grant-merced
11 in connection with a historical or traditional use
12 on Federal land under the jurisdiction of the
13 Secretary concerned, including—

14 (i) construction or expansion of a
15 community water or wastewater system of
16 a qualified land grant-merced;

17 (ii) construction or major repair of a
18 livestock well, water line, water storage
19 container, or water tank of a qualified land
20 grant-merced;

21 (iii) major repair of a monument or
22 shrine of a qualified land grant-merced;

23 (iv) installation of a cattle guard;

24 (v) construction of a trail, road, or
25 fence;

(vi) construction or expansion of a community cemetery by a qualified land grant-merced; and

(vii) any other major improvement associated with historical or traditional uses, as determined by the Secretary concerned.

(E) NOTICE AND COMMENT.—A memorandum of understanding shall describe the policies and procedures for notice and comment on land management planning decisions and major Federal actions that could affect historical or traditional uses of Federal land by a qualified land grant-merced, and methods of providing the notice, including notice—

(i) online;

(ii) in print; and

(iii) by mail or email to the New Mexico Land Grant Council and Indian Tribes, including through a listserv that would include qualified land grant-mercedes, the New Mexico Land Grant Council, and Indian Tribes.

(3) DEVELOPMENT, EXECUTION, AND IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING.—

1 (A) ROLE OF THE NEW MEXICO LAND
 2 GRANT COUNCIL.—The New Mexico Land
 3 Grant Council may represent qualified land
 4 grant-mercedes in developing, executing, and
 5 implementing a memorandum of understanding.

6 (B) ROLE OF GOVERNING BODIES OF
 7 QUALIFIED LAND GRANT-MERCEDES.—The Sec-
 8 retary concerned may invite representatives of
 9 governing bodies of qualified land grant-mer-
 10 cedes to participate in meetings and provide
 11 input during the development of a memo-
 12 randum of understanding.

13 (4) LIMITATION.—A memorandum of under-
 14 standing—

15 (A) shall describe the process for a quali-
 16 fied land grant-merced to obtain authorizations
 17 for historical or traditional uses through exist-
 18 ing authorities, subject to existing Federal laws
 19 (including regulations) and applicable permit
 20 and land use authorization requirements; but

21 (B) shall not directly approve or authorize
 22 a historical or traditional use described in sub-
 23 paragraph (A).

24 (b) FEES FOR QUALIFIED LAND GRANT-MER-
 25 CEDES.—Where the Secretary concerned is authorized to

1 reduce or waive land use fees or consider the fiscal capac-
 2 ity of the applicant in determining whether to reduce or
 3 waive a fee for a land use permit, the Secretary shall con-
 4 sider—

5 (1) the socioeconomic conditions of community
 6 users of a qualified land grant-merced; and

7 (2) the annual operating budget of the gov-
 8 erning body of the qualified land grant-merced.

9 **SEC. 4. CONSIDERATION AND INCLUSION OF PROVISIONS**
 10 **WITH RESPECT TO HISTORICAL OR TRADI-**
 11 **TIONAL USES IN LAND USE PLANNING.**

12 In developing, maintaining, and revising land use
 13 plans pursuant to section 202 of the Federal Land Policy
 14 and Management Act of 1976 (43 U.S.C. 1712) and sec-
 15 tion 6 of the National Forest Management Act (16 U.S.C.
 16 1604), as applicable, the Secretary concerned shall, in ac-
 17 cordance with applicable law, and, as determined to be ap-
 18 propriate by the Secretary concerned, include a section in
 19 the applicable land use plan that considers and evaluates
 20 the impact of other uses in the land use plan on historical
 21 or traditional uses by qualified land grant-mercedes.

22 **SEC. 5. EFFECT.**

23 Nothing in this Act—

24 (1) modifies, limits, expands, or otherwise af-
 25 fects any treaty-reserved right, or any other right of,

1 or obligation to, any Indian Tribe, including treaties
2 or agreements with the United States, Executive or-
3 ders, statutes, regulations, or case law, that is recog-
4 nized on or after the date of enactment of this Act
5 by any other means;

6 (2) affects the authority of the State to regulate
7 water use in accordance with all Federal and State
8 laws (including regulations);

9 (3) affects the authority of the State to regulate
10 the management of game and fish, in accordance
11 with all Federal and State laws (including regula-
12 tions);

13 (4) affects any valid existing rights, or valid
14 permitted authorized uses of, Federal land; or

15 (5) creates any implicit or explicit right to any
16 type of use of Federal land.

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S. 1363

A BILL

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