

105TH CONGRESS
2D SESSION

S. 2155

To provide restitution of the economic potential lost to communities dependent on Spanish and Mexican Land Grants in New Mexico due to inadequate implementation of the 1848 Treaty of Guadalupe Hidalgo.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 1998

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

A BILL

To provide restitution of the economic potential lost to communities dependent on Spanish and Mexican Land Grants in New Mexico due to inadequate implementation of the 1848 Treaty of Guadalupe Hidalgo.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Deal for Northern
5 New Mexico of 1998”.

6 **SEC. 2. PURPOSE, DEFINITIONS AND FINDINGS.**

7 (a) PURPOSE.—The purpose of this Act is to create
8 a mechanism for the settlement of Spanish and Mexican

1 land grant claims in New Mexico as claimed under the
 2 Treaty of Guadalupe-Hidalgo.

3 (b) DEFINITIONS.—For purposes of this Act:

4 (1) TREATY OF GUADALUPE-HIDALGO.—The
 5 term “Treaty of Guadalupe-Hidalgo” means the
 6 Treaty of Peace, Friendship, Limits, and Settlement
 7 (Treaty of Guadalupe-Hidalgo), between the United
 8 States and the Republic of Mexico, signed February
 9 2, 1848 (TS 207; 9 Bevans 791);

10 (2) COMMUNITY LAND GRANT.—The term
 11 “community land grant” means a village, town, set-
 12 tlement, or pueblo consisting of land held in common
 13 (accompanied by lesser private allotments) by three
 14 or more families under a grant from the King of
 15 Spain (or his representative) before the effective
 16 date of the Treaty of Cordova, August 24, 1821, or
 17 from the authorities of the Republic of Mexico before
 18 May 30, 1848, in what became the State of new
 19 Mexico, regardless of the original character of the
 20 grant.

21 (3) LAND GRANT CLAIM.—The term “land
 22 grant claim” means a claim of title to land by a
 23 community land grant under the terms of the Treaty
 24 of Guadalupe-Hidalgo.

1 (4) ELIGIBLE DESCENDANTS.—The term “eligi-
2 ble descendant” means a descendant of a person
3 who—

4 (A) was a Mexican citizen before the Trea-
5 ty of Guadalupe-Hidalgo;

6 (B) was a member of a community land
7 grant; and

8 (C) became a United States citizen within
9 ten years after the effective date of the Treaty
10 of Guadalupe-Hidalgo, May 30, 1848, pursuant
11 to the terms of the Treaty.

12 (5) SETTLEMENT COMMITTEE.—The term “set-
13 tlement committee” refers to committee, or one of
14 the county specific subcommittees as appropriate,
15 authorized in Section 3 of this Act.

16 (6) RECONSTITUTED.—The term “reconsti-
17 tuted,” with regard to a valid community land grant,
18 means restoration to full status as a municipality
19 with rights properly belonging to a municipality
20 under State law, including the nontaxability of mu-
21 nicipal property (common lands) and the right of
22 local self-government.

23 (c) FINDINGS.—Congress finds the following:

24 (1) New Mexico has a unique and complex his-
25 tory regarding land ownership due to the substantial

1 number of Spanish and Mexican land grants that
2 were an integral part of the colonization of New
3 Mexico before the United States acquired the area in
4 the Treaty of Guadalupe-Hidalgo.

5 (2) Under the terms of the Treaty of Guada-
6 lupe-Hidalgo, these land grant claims were recog-
7 nized as valid property claims under United States
8 law.

9 (3) Several studies, including the New Mexico
10 Land Grant Series published by the University of
11 New Mexico, have documented that the Treaty of
12 Guadalupe-Hidalgo in regards to these land grant
13 claims in New Mexico was never well implemented.
14 Whether because of a lack of knowledge of Spanish
15 land law on the part of the judicial system in the
16 then new Territory of New Mexico, whether because
17 of inadequate or conflicting documentation of these
18 claims, or whether it was due to sharp legal prac-
19 tices, many of the former citizens of Mexico, and
20 then new citizens of the United States, lost title to
21 lands that had been guaranteed to them by treaty.

22 (4) Following the United States war with Mex-
23 ico, the economy of the Territory of New Mexico was
24 dependent on the use of land resources, and that
25 held true for much of this century as well. When the

1 land grant claimants lost title to their land, the pre-
2 dominantly Hispanic communities in northern New
3 Mexico lost a keystone to their economy. The effects
4 of this loss have had long lasting economic con-
5 sequences and are in part the cause that these com-
6 munities remain some of the poorest in the United
7 States.

8 (5) The history of the implementation of the
9 Treaty of Guadalupe-Hidalgo has been a source of
10 continuing controversy for generations and has left
11 a lingering sense of injustice in the communities in
12 northern New Mexico, which has periodically led to
13 armed conflicts.

14 (6) The Government of the United States has
15 an obligation to try to find an equitable remedy for
16 the inadequate implementation of the Treaty of Gua-
17 dalupe-Hidalgo and the consequences that has had
18 on the communities and people of New Mexico. This
19 should be done as expeditiously as possible. How-
20 ever, reconstructing the one hundred and fifty year
21 history of land title claims and transfers in these
22 communities is likely to prove lengthy and costly. In
23 some cases it may never be possible to adequately
24 reconstruct the title history.

1 (7) The Secretary of the Interior has had an
2 experience in administratively developing settlement
3 packages to resolve large and complex Tribal water
4 rights claims as an alternative to lengthy and expen-
5 sive litigation. This experience may be invaluable in
6 resolving the large, complex, and sometimes conflict-
7 ing Spanish and Mexican land grant claims in north-
8 ern New Mexico.

9 (8) The history of colonial Spanish America,
10 the system of land distribution under Spanish and
11 Mexican law, and the subsequent impacts to that
12 system following the transfer of territory from Mex-
13 ico to the United States under the Treaty of Guada-
14 lupe-Hidalgo is a requisite body of knowledge in de-
15 termining an appropriate settlement of land grant
16 claims. It is also an integral part of the national his-
17 tory and culture of the United States of America
18 and, as such, deserves formal recognition and inter-
19 pretation by our institutions of historical preserva-
20 tion.

21 **SEC. 3. CREATION OF SETTLEMENT COMMITTEES.**

22 (a) Within one hundred and eighty (180) days of en-
23 actment of this Act, the Secretary of the Interior working
24 through the Bureau of Land Management and the Bureau
25 of Indian Affairs, and the Secretary of Agriculture work-

1 ing through the Forest Service are hereby authorized and
2 directed to establish a “Settlement Committee” to develop
3 comprehensive settlements for land grant claims on a
4 county by county basis.

5 (b) The Settlement Committee will be comprised of
6 separate subcommittees for each county in which there are
7 land grant claims in New Mexico.

8 (c) Each county subcommittee shall be comprised of
9 seven members including:

10 (1) a representative of the Secretary of the In-
11 terior;

12 (2) a representative of the Secretary of Agri-
13 culture;

14 (3) a representative of the State Commissioner
15 of Public Lands; and

16 (4) four residents of the particular county in
17 question. The four county representatives are to be
18 appointed their county commissions: *Provided*, That
19 in counties with federally recognized Native Amer-
20 ican Indian Tribes that at least one county rep-
21 resentative shall be an enrolled member of a tribe
22 whose reservation pueblo boundaries come within
23 that county: *Provided further*, That at least one
24 county representative shall be an eligible descendent

1 who is not an enrolled member of a Native American
2 Indian Tribe.

3 (d) Each member shall be appointed for the life of
4 the Settlement Committee. A vacancy in the Settlement
5 Committee shall be filled in the manner in which the origi-
6 nal appointment was made.

7 **SEC. 4. SUBMISSION OF LAND GRANT CLAIMS.**

8 (a) Within ninety (90) days of the creation of the set-
9 tlement committee it shall establish a set of guidelines for
10 the submission of land grant claims, and publish these
11 guidelines within papers of general circulation in each of
12 the counties in New Mexico.

13 (b) Land grant claims must be submitted to the ap-
14 propriate county settlement committee within one year of
15 the publication of the guidelines.

16 **SEC. 5. REVIEW AND SETTLEMENT PACKAGE.**

17 (a) The settlement committee for each county shall
18 review all of the submitted claims in the county and, based
19 on the documentation at its disposal, make an initial de-
20 termination concerning their potential validity including:
21 possible past conveyances, the accuracy of the boundaries
22 of the land claimed, and the number of eligible heirs af-
23 fected.

24 (b) Upon completing this review, the settlement com-
25 mittee shall develop a proposed settlement package in sat-

1 isfaction of land grant claims within that county. In creat-
2 ing the settlement package, the settlement committee shall
3 take into account: the degree of certainty with which it
4 has determined that various claims are valid, the impacts,
5 including economic and social impacts, that any unfulfilled
6 land grant claims may have had on the communities with-
7 in that county, the relative benefits of various settlement
8 options on those communities, and whether there is a legal
9 entity that can accept settlement. The elements of a pro-
10 posed settlement package may include, but are not limited
11 to:

12 (1) restoration of lands to a given land grant
13 community or communities;

14 (2) reconstitution of a given land grant commu-
15 nity or communities;

16 (3) the setting aside of certain lands for com-
17 munal use for fuel wood, building materials, hunt-
18 ing, recreation, etc. These lands could be set aside
19 as special managerial units within existing Federal
20 land management agencies or transferred to local
21 county, tribal, or municipal, governments;

22 (4) trust funds for scholarships or home and
23 business loans; or

24 (5) land for commercial use with the proceeds
25 to be deposited into the trust funds.

1 (c) The settlement committee shall complete its re-
2 view and proposed settlement package within three years
3 of the deadline for submission of land grant claims under
4 this Act, and submit them in a report to the Senate Com-
5 mittee on Energy and Natural Resources and the Senate
6 Committee on Indian Affairs, and to the House Resources
7 Committee. Any proposal that requires action by the gov-
8 ernment of the State of New Mexico shall be submitted
9 to the Governor, to the Speaker of the State House of
10 Representatives, and to the President Pro Tem of the
11 State Senate for New Mexico.

12 **SEC. 6. ADMINISTRATION OF THE SETTLEMENT COMMIT-**
13 **TEE.**

14 (a) To complete its tasks the settlement committee
15 may use a variety of methods to gather information and
16 to build community consensus on the form of a proposed
17 settlement package, including: the use of town meetings,
18 holding formal hearings, the solicitation of written com-
19 ments, and the use of mediators trained in alternative dis-
20 pute resolution methods. The settlement committee is also
21 authorized to hire consultants as it may choose for histori-
22 cal, economic, and legal analysis. In its efforts to develop
23 a consensus on a settlement package, the Settlement Com-
24 mittee is not subject to the Federal Advisory Committee
25 Act (Public Law 92-462; 5 U.S.C. Ap. 2 § 1).

1 (b) GIFTS, BEQUESTS, AND DEVISES.—The Settle-
2 ment Committee may accept, use, and dispose of gifts, be-
3 quests, or devises of services or property, both real and
4 personal, for the purpose of aiding or facilitating the work
5 of the Settlement Committee. Gifts, bequests, or devises
6 of money and proceeds from sales of other property re-
7 ceived as gifts, bequests, or devises shall be deposited in
8 the Treasury and shall be available for disbursement upon
9 order of the Settlement Committee. For purposes of the
10 Federal income, estate, and gift taxes, property accepted
11 under this subsection shall be considered as a gift, be-
12 quest, or devise to the United States.

13 (c) ADMINISTRATIVE SUPPORT SERVICES.—Upon the
14 request of the Settlement Committee, the Administrator
15 of General Services shall provide to the Settlement Com-
16 mittee, on a reimbursable basis, the administrative sup-
17 port services necessary for the Settlement Committee to
18 carry out its responsibilities under this Act.

19 (d) IMMUNITY.—The Settlement Committee is an
20 agency of the United States for the purpose of part V of
21 title 18, United States Code (relating to the immunity of
22 witnesses).

23 (e) COMPENSATION.—Members of the Settlement
24 Committee shall each be entitled to receive the daily equiv-
25 alent of level V of the Executive Schedule for each day

1 (including travel time) during which they are engaged in
2 the actual performance of duties vested in the Settlement
3 Committee.

4 **SEC. 7. SPANISH LAND GRANT STUDY PROGRAM.**

5 (a) The Secretary of the Smithsonian Institution and
6 the Settlement Committee working in conjunction with the
7 University of New Mexico, and Highlands University shall
8 establish a Spanish Land Grant Study program with a re-
9 search archive at the Oñate Center in Alcalde, New Mex-
10 ico. This program shall be designed to meet the require-
11 ments of the Smithsonian Institution's Affiliated Institu-
12 tions Program.

13 (b) The purposes of the Spanish Land Grant Study
14 Program are to assist the Settlement Committee in the
15 performance of its activities under section 5, and to ar-
16 chive and interpret the history of land distribution in the
17 southwestern United States under Spanish and Mexican
18 law, and the changes to this land distribution system fol-
19 lowing the transfer of territory from Mexico to the United
20 States under the terms of the Treaty of Guadalupe-Hi-
21 dalgo in 1848.

22 **SEC. 8. TERMINATION.**

23 The Settlement Committee shall terminate on 180
24 days after submitting its final report to Congress under
25 section 5.

1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2 There is authorized to be appropriated \$1,500,000
3 for each of the fiscal years 1999 through 2003 for the
4 purpose of carrying out the activities of the Settlement
5 Committee created in section 3, and the Spanish Land
6 Grant Study Program created in section 7.

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