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FISCAL IMPACT REPORT

SPONSOR: Regensberg DATE TYPED: 02/10/03 HB HJM 22

SHORT TITLE: Exchange Land Grant Info with Spain & Mexico SB _____

ANALYST: Geisler

APPROPRIATION

| Appropriation Contained | | Estimated Additional Impact | | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|---------------|----------------------|---------------|
| FY03 | FY04 | FY03 | FY04 | | |
| | | See Narrative | See Narrative | | |
| | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Relates to: HB 74, SB 541, HJM 43

SOURCES OF INFORMATION

LFC Files
 Office of Cultural Affairs
 State Commission on Public Records
 State Land Office

SUMMARY

Synopsis of Bill

House Joint Memorial 22 requests the New Mexico congressional delegation to reestablish special diplomatic ties with Spain and Mexico for the exchange of information regarding land grants made by Spain and Mexico and to solicit the support of Spain and Mexico in these land grant investigations and readjudications. Additionally, this memorial requests the United States, Spain and Mexico, through legal and educational institutions, to form a joint venture with local governments and local nonprofit organizations for the exchanging of information relating to land grant laws, customs and traditions. Furthermore, this memorial requests that copies of this memorial be transmitted to the members of the New Mexico congressional delegation, each member of the United States Congress, the president of the United States, the ambassador of Spain to the United States and the ambassador of Mexico to the United States.

Significant Issues

The State Commission of Public Records notes the following:

- land grant documents are currently held by the Commission of Public Records in the State Archives (a.k.a. State Records Center and Archives);
- research in Spanish and Mexican Archives is costly and is not easily accomplished by, nor available to, the average New Mexican;
- funds would be required to translated documents into English to be of use to the general public; and
- HJM 22 may duplicate initiatives in HB 74, which creates a Land Grant Committee to study existing law regarding land grants and to develop legislation to improve existing law.

The Office of Cultural Affairs included the following significant issues in its analysis of these land grant issues:

Prior to the United States occupation of New Mexico (1846), Spain and Mexico granted lands to individuals, pueblos, and communities to promote development and security in this region north of the Rio Grande del Norte. The grantees were to follow Spanish law, especially the 1680 Recopilación de las Leyes de los Reynos de las Indias, in settling and fulfilling their grants. However, local laws, customs, and circumstances often dictated how grants were given and confirmed.

Upon annexation of New Mexico, the United States guaranteed to recognize these land grants in the Treaty of Guadalupe Hidalgo (1848). To verify claims of land grants, the United States charged first the Office of Surveyor General of New Mexico and subsequently the Court of Private Land Claims with verifying/adjudicating land grants. Both institutions only adjudicated a small portion of claims.

The historical and legal research to date is for the most part critical about the verification process. Research based on materials in archives in Mexico (mainly Archivo General) and Spain (mainly Archivo General de Indias), in US government and state archives and in university archives, indicates irregularities (both innocent and deliberate) in the documentation and adjudication process of land grants.

Although much of the Spanish and Mexican documentation is available in reproduction form in US government archives and university archives (due to efforts of scholars like Eleanor Adams and France Scholes [University of New Mexico] and Herbert Bolton [University of California]), the establishment of special ties with the Governments of Spain and Mexico should be encouraged as it might help shed light on New Mexico land grants investigations and readjudications.

The State Land Office notes that future investigations and readjudications of land grant claims could have implications for the State Land Office and state trust lands if any land grant claims extend to state trust lands.

FISCAL IMPLICATIONS

The Land Records of New Mexico a.k.a. Spanish Archives of New Mexico, Series I, are currently available for resale in two formats, microfilm (\$16/roll - 66 rolls) and digital images (**ap**-proximately \$25/CD - 7 CDs. These costs only include the cost of duplication.

According to the State Commission of Public Records, if repositories in Mexico and Spain have documents available that are microfilmed or digitized, they may be willing to sell or exchange copies. If repositories in Mexico and Spain wish copies of the Spanish and Mexican Archives, the Commission of Public Records could work out an exchange that would be mutually beneficial.

If the intent is to send someone to Spain and Mexico to locate documents that have not been filmed or digitized, then the Legislature will need to appropriate money to fund a research expedition - this could be quite costly. As the official state repository for records of current and prior governments, any copies of documents obtained during such an expedition should be deposited in the State Archives.

If copies of documents are to be purchased, the Commission of Public Records would require an appropriation to purchase these documents.

ADMINISTRATIVE IMPLICATIONS

The State Commission of Public Records provided the following information:

Although the memorial specifically addresses sharing information, the bill appears to intend to facilitate the research process for New Mexicans who wish to research land grant records in Mexico and Spain. Many archival facilities in Spain and Mexico will only allow scholarly research. Researchers much have credentials such as a doctorate, or have a letter of introduction from a research facility in the United States, before they are allowed access to collections. There may not be many researchers in Spain or Mexico who are interested in New Mexico land grants.

Many New Mexicans who are interested in researching land grants are unaware that the State Archives has land grant records, and believe all records are held by Spain and Mexico. Documentation of land grants made prior to the Pueblo Revolt (which are missing from the collections) may, perhaps, be found in Mexico and Spain. However, before New Mexicans plan trips to Mexico and Spain, they should be made aware of the records held in State Archives.

Copies of documents obtained directly from repositories in Spain and Mexico would be arranged and described just as they are in the originating repositories. The finding aid would simply note that they are copies and the originals are held by another repository. The Commission of Public Records has properly trained staff (4 certified archivists) that can arrange, describe, and provide access to the materials to all New Mexicans. Requests for access or copies would be handled in the same manner as any other request.

RELATIONSHIP

HJM 22 relates to HB 74, which creates a Land Grant Committee to study existing law regarding land grants and to develop legislation to improve existing law and SB 541, which creates a

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Guadalupe Hidalgo Treaty Department within the Office of the Attorney General to oversee concerns relating to the treaty. HJM 43 provides pardons for certain individuals caught up in land grant disputes.

TECHNICAL ISSUES

The first WHEREAS clause, page 1, line 19 "... internal provinces of the *west*," which is repeated in line 21, is erroneous. During both the Spanish and Mexican periods, which are being referenced, were recognized as the "internal provinces of the *north*." This error is repeated again on page 3, line 8.

OTHER SUBSTANTIVE ISSUES

Page 2 makes reference to the actions of two adjudication tribunals. Although the actions of the tribunals have been contested, the merit of those decisions has not yet been fully tested.

GG/yr