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FISCAL IMPACT REPORT

SPONSOR Garcia **DATE TYPED** 2/16/04 **HB** HJM15/aHJC

SHORT TITLE State Ownership of Former Land Grant Lands **SB** _____

ANALYST Johnson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
		See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SJM10

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General
 State Commission on Public Records
 Office of Cultural Affairs
 Department of Game and Fish
 Energy, Minerals, and Natural Resources Department (EMRND)
 State Land Office (SLO)
 Department of Transportation

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment replaces the Office of Cultural Affairs with the Office of State Records and Archives (presumably the State Commission on Public Records) as one of the two agencies conducting the study. The amendment also strikes language which provided that if the facts showed that the land owned by the state was obtained through “dishonest, unjust or illegal means” that the agencies should “determine what actions” should be taken to return the land to the “heirs of the land grant-merced”.

As amended, the agencies need only determine that the state-owned lands are formerly common lands of a land grant (not whether there was any injustice or illegality) and “shall recommend” (not “determine”) what remedial action, if any, should be used to return the land to the “heirs of the land” (not “heirs of the land grant-merced”).

Synopsis of Original Bill

House Joint Memorial 15 directs the office of cultural affairs and the office of the attorney general to work with other federal and state agencies to conduct a study to determine the extent to which lands that were formally part of the common lands of a land grant-merced now belong to the state and how the land was obtained or acquired by the state. The results of the study are to be reported to the legislature not later than November 1, 2004. Further, if the facts show the land that was once part of the common lands of a land grant-merced was obtained through dishonest, unjust, or illegal means and is now owned by the state, the office of cultural affairs and the office of the attorney general should determine what actions are required for the land to be returned to the heirs of the land grant.

Significant Issues

The Energy, Minerals, and Natural Resources Department reports that there could be a significant impact to public lands in the state depending on the findings. Agencies, including state parks, whose land holdings might be impacted may lose capital investment, revenue sources, and other resources.

The State Land Office reports that as far the SLO is aware, no state trust lands granted to New Mexico by the United States government as part of the creation of New Mexico as a state were formerly part of a Spanish or Mexican land grant.

According to the New Mexico Department of Transportation, the terms “dishonestly, unjustly, or illegally” are too general and could cause the possible return of much state-owned land, including highway right-of-way. If the right-of-way acquisitions are determined to be ‘unjust’, even if legal, the State might be required to pay twice for the property.

FISCAL IMPLICATIONS

EMNRD reports the fiscal implications could be significant if any state owned lands are identified as meeting the criteria for return to the land grant heirs. If the lands were transferred from the state parks division, revenues from the park would be lost. Additionally, state park lands include improvements funded by the taxpayers and, presumably, those would be transferred with the land.

ADMINISTRATIVE IMPLICATIONS

NMDOT reports the lack of definitions or standards for “unjust or dishonest” property acquisitions would cause implementation problems.

The joint memorial does not contain an appropriation. However, a significant amount of staff time and resources from several agencies, which are not currently in the budget, would be neces-

sary to complete this study.

AMENDMENTS

State parks division requested exemption of state parks from this bill.

CJJ/lg