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## FISCAL IMPACT REPORT

**SPONSOR** Garcia, MP      **DATE TYPED** 02/24/05      **HB** HJM 41

**SHORT TITLE** Address Loss of Land Grant Community Lands      **SB** \_\_\_\_\_

**ANALYST** Ford

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Energy, Minerals, and Natural Resources Department (EMNRD)

### SUMMARY

#### Synopsis of Bill

House Joint Memorial 41 makes findings related to the injustices and hardships visited upon land grant communities because of the process by which New Mexico land grants were confirmed, and references a study by the U.S. general accountability office (GAO) entitled *Treaty of Guadalupe Hidalgo: Findings and Possible Options Regarding Longstanding Community Land Grant Claims in New Mexico*.

The memorial calls upon the New Mexico congressional delegation and the U.S. Congress to take action in support of remedies offered by the GAO and resolves that any program for the recovery of lands be implemented in a manner that will avoid negatively impacting the public lands in the state and Native American religious or ceremonial sites.

#### Significant Issues

The GAO conducted its review at the request of U.S. Senators Pete Domenici and Jeff Bingaman and U.S. Representative Tom Udall. In its report, GAO wrote:

“As part of our report, we were asked to outline possible options that Congress may wish to consider in response to remaining concerns. The possible options we have identified are based in part on our conclusion that there does not appear to be a specific legal basis for relief, because the Treaty was implemented in compliance with all applicable U.S. legal requirements. Nonetheless, Congress may determine that there are compelling policy or other reasons for taking additional action...”

“...We do not express an opinion as to which, if any, of these options might be preferable, and Congress may wish to consider additional options beyond those offered here. The last four options are not necessarily mutually exclusive and could be used in some combination. The five possible options are:

**Option 1:** Consider taking no additional action at this time because the majority of community land grants were confirmed, the majority of acreage claimed was awarded, and the confirmation processes were conducted in accordance with U.S. law.

**Option 2:** Consider acknowledging that the land grant confirmation process could have been more efficient and less burdensome and imposed fewer hardships on claimants.

**Option 3:** Consider establishing a commission or other body to reexamine specific community land grant claims that were rejected or not confirmed for the full acreage claimed.

**Option 4:** Consider transferring federal land to communities that did not receive all of the acreage originally claimed for their community land grants.

**Option 5:** Consider making financial payments to claimants’ heirs or other entities for the non-use of land originally claimed but not awarded.”

## **TECHNICAL ISSUES**

Since one of the options in GAO report is to take no further action, it may be prudent for the resolution to be more specific about what actions it is requesting from the congressional delegation and Congress.

## **OTHER SUBSTANTIVE ISSUES**

The EMNRD notes that lands in six state parks are located within the original boundaries of community land grants that could be affected by this bill and that there are numerous other state parks located within the original boundaries of community land grants, the lands of which are owned by various state and federal agencies that could be affected as well. EMNRD notes that the impact of the GAO options on state parks lands is unclear but suggests adding a provision to the resolution specifying that a program for the recovery of lands not apply to state parks managed by the EMNRD.

**EF/lg**