Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Ma	rtinez DATE TYPED	02/21/05 HF	HJM 74
SHORT TITLE Native American Use of State Lands Study		tudy SF	E
		ANALYST	Weber

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Department of Indian Affairs (DIA)

SUMMARY

Synopsis of Bill

House Joint Memorial 74 (HJM 74) provides for a study of allegations of unauthorized use of state lands by Native Americans. It directs the Indian Affairs Department and the State Land Office to report to the appropriate interim legislative committees on the findings and recommendations for resolving any potential unauthorized use of state lands. Finally, it directs that copies of HJM 74 be sent to the tribal leaders of Navajo Nation, Navajo Nation Council, Mescalero Apache Tribe, and Jicarilla Apache Nation, as well as to the commissioner of public lands and the secretary of Indian affairs department.

Significant Issues

The Indian Affairs Department reports.

HJM 74 finds that by an act of Congress of June 20, 1910, certain lands were transferred to New Mexico. It also finds that at the time when the land transfers were made, there was no survey done to determine whether such lands were utilized or occupied even though some of those lands had been and were being occupied and utilized by Native Americans. The bill also finds that al-

House Joint Memorial 74 -- Page 2

legations have been made that Native Americans are using or occupying lands without authorization.

The federal government maintains a special trust relationship with Indian tribes pursuant to treaties, statutes, Executive Orders, judicial decisions and other legal instruments. Inherent in this relationship is an enforceable fiduciary responsibility to Indian tribes to protect their lands and resources, unless otherwise unencumbered through mutual agreement. Therefore, the proposed study would necessarily involve the participation of the federal government to investigate and resolve any jurisdiction and land ownership issues involving the NM Indian tribes.

FISCAL IMPLICATIONS

HJM 74 does not provide funds to support the study. Funds to conduct the study will have to be supported by the respective department's budget.

HJM 74 directs the Indian Affairs Department and the State Land Office work together to conduct a study of Native American unauthorized use of state lands. DIA is concerned that due to the complex nature of the study, it may require additional staff time or a reassignment of the limited number of current staff.

TECHNICAL ISSUES

HJM 74 requires the DIA and State Land Office to report to the interim legislative committees no later than November 2005 on the findings and recommendations from the study. The deadline as provided may not be enough time for the State entities to have completed a thorough review of potential unauthorized use of state lands by Native Americans and offer thoughtful legislative recommendations.

DIA recommends the following: On page 3, Line 10, add 'department.' after 'affairs."

MW/lg