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FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/13

SPONSOR Rue LAST UPDATED _____ HB _____

SHORT TITLE Notice for Surveys on Land Grants SB 10

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Secretary of State (SOS)

Department of Finance & Administration (DFA)

Regulation & Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Senate Bill 10 repeals section 61-23-34 NMSA 1978, which requires licensed professional surveyors to give written notice by certified mail to the board of trustees or the commissioners of the affected land grant prior to recording the boundary survey or plat with the county clerk.

This bill contains an emergency clause.

FISCAL IMPLICATIONS

No fiscal impact to the State is anticipated.

SIGNIFICANT ISSUES

The DFA explains that the intent of SB 10, according to the chair of the New Mexico Land Grant Council and the Council's technical support contractor, is to void Section 61-23-34 NMSA 1978, which was enacted by the 2012 Legislature. When introduced, that legislation was designed to protect certain land grants that are not political subdivisions of the State and thus are subject to

adverse possession, so the threat of an inaccurate survey is more detrimental to them. As that contractor explains “an incorrect survey can result in a private third party adversely possessing common land and winning in court based on the incorrect survey, whereas, the law for land grants that are political subdivisions clearly states that the common land cannot be adversely possessed.” (The section barring claims of adverse possession against land grants that are political subdivisions is Section 49-1-11.2 NMSA 1978.) During the legislative process, however, references to the specific land grants it intended to protect were removed, and the resulting legislation appears to be overbroad.

However, as the RLD points out, another provisions of law, enacted by the 2010 legislature and currently codified as Section 61-23-33 NMSA 1978, is virtually identical to the section being repealed in SB 10, but for certain additional details regarding the required notice to land grants prior to filing a plat of survey.

AMENDMENTS

If the intent of the 2012 law was as explained by the DFA, and to avoid unnecessary notice and duplication, rather than repealing Section 61-23-34 1978, that intent might be better met by amending it to limit its application to require the specified notice to land grants only if they are not political subdivisions, as well as also repealing the virtually duplicate Section 61-23-33 NMSA 1978.

MD/svb