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FISCAL IMPACT REPORT

SPONSOR Tsosie DATE TYPED 03/07/05 HB _____

SHORT TITLE Native American Use of State Lands Study SB SJM 69

ANALYST Weber

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	None				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Indian Affairs Department

SUMMARY

Synopsis of Bill

Senate Joint Memorial 69 (SJM 69) 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 SJM 69 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 contributed the following.

SJM 69 finds that by an act of Congress of June 20, 1910, certain lands were transferred to New Mexico. It 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 allegations have been made that Native Americans are using or occu-

pying lands without authorization and that these Native Americans and their families will be adversely affected if they were to be dispossessed from the lands allegedly owned by the State.

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

The Indian Affairs Department notes SJM 69 does not provide funds to support the study. Funds to conduct the study will have to be supported by the respective department's budget. SJM 69 directs the Indian Affairs Department (IAD) and the State Land Office work together to conduct a study of Native Americans unauthorized use of state lands. IAD is concerned that due to the complex nature of the study, it may require additional staff with expertise in land issues and Indian Law or a reassignment of the limited number of current staff. SJM 69 requires the IAD 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, particularly without adequate resources.

MW/lg