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FISCAL IMPACT REPORT

ORIGINAL DATE 1/21/19

SPONSOR Salazar, T. **LAST UPDATED** _____ **HB** 94

SHORT TITLE Land Grant-Mercedes Partitions **SB** _____

ANALYST Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bills 32, 33, and 36.
Relates to Senate Bills 17 and 44.

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

Responses Not Received From

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 94 expands the types of land grants by changing the definition of “land grant-mercedes” to include grants of land that fit three criteria:

1. The grant of land was made by another community, town, colony, or pueblo that itself received a grant of land from either the government of Spain or Mexico.
2. The grant of land was partitioned prior to 2004 (from the original land grant created by either the government of Spain or Mexico) for the purpose of establishing common lands for a separate community.
3. The grant of land has had the boundaries of its common lands confirmed by deed of title or indenture executed by its board of trustees or by a state or federal court.

Additionally, House Bill 94 amends Section 49-1-2, NMSA 1978 to apply the provisions of Article 1, Chapter 49 of the New Mexico Statutes to land grants fitting the above criteria. It does so by adding a new subsection that requires the partition to have been either conveyed by deed of title or indenture prior to 2004, affirmed by a court of competent jurisdiction, or certified by the Guadalupe Hidalgo Treaty Division of the Office of the Attorney General as having been managed as common lands for at least twenty years prior to 2019. The effect would be to convert this new category of land grants into political subdivisions of the state.

House Bill 94 would also add new language creating an affirmative obligation on the part of the Guadalupe Hidalgo Treaty Division of the Office of the Attorney General to establish methods and procedures for certifying partitions of land grants.

FISCAL IMPLICATIONS

The NMAG reports no fiscal impact. For the similar House Bill 35, 2017 Session, the Department of Finance and Administration (DFA) reported no fiscal impact, but noted that if partitioned land grant-mercedes gain political subdivision status under the provisions of this bill, they will be eligible to apply for state funding, which could increase requests for various capital outlay and other programs.

SIGNIFICANT ISSUES

In 2017, DFA reported that there may be six sub-land grant-mercedes that could be recognized as political subdivisions under this bill. Four are from the Las Vegas land grant-mercedes and include Los Vigiles, Lower Gallinas, San Geronimo and the San Augustin sub land grant-mercedes. These communities were deeded common land by the Las Vegas land grant-mercedes and are acting as sub land grant-mercedes. Two others are the Arroyo Hondo Arriba, in Taos County, which is a sub land grant-mercedes of the Arroyo Hondo land grant-mercedes, and the El Carmel in Mora County which a sub grant-mercedes of the Mora land grant-mercedes.

Additionally, DFA noted that partitioned land grant-mercedes granted recognition as political subdivisions of the State under this bill would be subject to the strictures of Executive Order 2013-006, which establishes uniform funding criteria and grant management and oversight requirements for grants of state capital outlay appropriations to state agencies and other entities.

PERFORMANCE IMPLICATIONS

As drafted, House Bill 94 requires the Guadalupe Hidalgo Treaty Division of the NMAG to establish methods and procedures for certifying partitions of land grants, which may impact the agency's other performance-based targets.

TECHNICAL ISSUES

NMAG suggests that "Section 1's addition of Section 49-1-1.1(B)(2) should be rewritten to add clarity" because "it refers to two separate types of land grants" which creates ambiguity. NMAG proposes that the ambiguity could be clarified if the section were rephrased to read:

- (2) a grant of land made by a community, town or pueblo that itself received a grant of land as provided in Paragraph (1) of this subsection, provided that the grant of land

was partitioned prior to 2004 for the purpose of establishing common lands for a separate community from the lands of the community, town or pueblo that itself received a grant of land as provided in Paragraph (1) of this subsection, and provided that the boundaries of those common lands have been confirmed by deed of title or indenture executed by the board of trustees of that land grant-mercedes or by a state or federal court; and

OTHER SUBSTANTIVE ISSUES

Although the Guadalupe Hidalgo Treaty Division of the Office of the Attorney General would be obligated to establish methods and procedures for certifying partitions of land grants, House Bill 94 does not actually create an obligation to *certify* the land grants. If the bill intends to create an ongoing obligation on the part of the Division to continuously certify the land grants, it should so state.

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