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## FISCAL IMPACT REPORT

SPONSOR Lopez ORIGINAL DATE 2/14/17  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Treaty of Guadalupe Hidalgo and Landowner Harm SM 58  
ANALYST Downs

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	\$104.6	\$104.6	\$209.2	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the Attorney General (OAG)

### SUMMARY

#### Synopsis of Bill

Senate Memorial 58 requests the New Mexico Attorney General investigate adherence to the provisions of the Treaty of Guadalupe Hidalgo to find out if New Mexico has liabilities or has harmed landowners and report to the appropriate interim legislative committee by December 1, 2017.

### FISCAL IMPLICATIONS

The New Mexico Attorney General currently operates a Treaty of Guadalupe Hidalgo Division staffed by one Assistant Attorney General assigned to review, oversee and address concerns relating to the provisions of the Treaty that have not been implemented or observed in the spirit of Article 2, Section 5 of the New Mexico constitution. The division does not currently have staff available for compliance investigations requested in the memorial and would require additional staff to meet the requested deadline of December 1, 2017 for a report on the investigation and findings. The average cost per FTE at the New Mexico Attorney General is \$104.6 thousand.

### SIGNIFICANT ISSUES

The New Mexico Attorney General provided the following commentary on the memorial:

Senate Memorial 58 does not create or amend any law, but it does raise legal issues regarding what litigation options, if any, may be available to pursue even if “any outstanding liability for harm to landowners” from the Treaty was found to have occurred.

In 2008, the Office of the Attorney General reviewed and responded to inequities in the legal conclusions and reasoning of the federal general accounting office in its 2004 report on land grants. Previous research concluded that U.S. Supreme Court decisions applying governing Statute of Limitations law prevented bringing lawsuits to pursue claims under the Treaty and also indicated that the most viable option to pursue was to request U.S. Congressional action regarding redress for the way the Treaty was implemented and complied with or not.

As a legal/ethical matter, the Memorial places the Attorney General in a potential conflict of interest. On the one hand, the Attorney General is the lawyer for the State, who defends the State in court and brings legal actions on behalf of the State. On the other hand, the memorial requests the Attorney General to determine whether the State has any legal liability under the Treaty, which the Attorney General would also be obligated to defend against if such an action were brought.

JD/al/jle