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FISCAL IMPACT REPORT

SPONSOR McQueen/Cisneros ORIGINAL DATE 1/23/2018
 LAST UPDATED _____ HJM 1

SHORT TITLE Assistance Creating Land Grant Plat Map SB _____

ANALYST Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	NFI	Unknown		

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (NMAG)

Responses Not Received From

Taxation and Revenue Department (TRD)

Association of Counties

SUMMARY

Synopsis of Bill

House Joint Memorial 1 (HJM1) resolves that the Guadalupe Hidalgo Treaty division within the New Mexico Attorney General’s (NMAG) office collaborate with the Taxation and Revenue Department, the Cristobal de la Serna land grant-Merced, and the Taos County board of commissioners and assessor’s office to research the history and legal basis of a plat map created in 1941 of the Cristobal de la Serna land grant-Merced, develop a proposal for how property titles and land boundaries may be rationalized, and present to an appropriate interim legislative committee by November 1, 2018.

FISCAL IMPLICATIONS

HJM1 requests that the NMAG coordinate with several other entities, all of which will utilize existing staff to accomplish the requests of the memorial. Since staff currently exist in each entity to accomplish the requests, the memorial’s fiscal impact is de minimis.

House Joint Memorial 1 – Page 2

The NMAG reports that although no additional staff is needed, that “there may be fiscal constraints that can prevent the [NMAG] from carrying out the Memorial’s request. As drafted, HJM1 requests the Treaty of Guadalupe Hidalgo division of the Office of the Attorney General to research the history and legal basis for the creation of the 1941 plat map for the Cristobal de la Serna land grant-Merced and develop a proposal for how the property titles and boundaries for the land may be rationalized to be presented to a legislative committee by November 1, 2018, however the Memorial provides no appropriation for staff. To meet that timing, the NMAG would need to commit resources and staff time within the limited constraints of its current budget and would need to account for the increased fiscal impact to the agency in the next fiscal cycle. The Treaty of Guadalupe Hidalgo Division is currently unfunded. Sufficient qualified staff would be needed to accomplish the proposed study and proposal requested. Without additional funding, it may be difficult for the NMAG to fully comply with the Memorial.”

SIGNIFICANT ISSUES

The NMAG also identified two significant issues as they relate to the HJM1. First, “the minutes of the interim Land Grant Committee meeting on November 6, 2016 report that in the late 1930s and early 1940s, county assessors were under direction from the state to assess property taxes on land grants, and some assessors created plat maps of individual ownership by land grant heirs without consulting the land grants and ignoring the communal title to these lands. Additionally, the minutes reflect that inaccuracies and controversies regarding land boundaries at many land grants have led to multiple parties paying property taxes for the same parcels of land.”

And second, the HJM1 “raises questions regarding what options, if any, may be available to pursue if it is found that ‘dividing the communal lands at Cristobal de la Serna may not have been a proper recognition of the property title protected by the Treaty of Guadalupe Hidalgo and Article 2, Section 5 of the Constitution of New Mexico.’ HJM1, p. 3 paragraphs 4-8.”

OTHER SUBSTANTIVE ISSUES

According to the previous research conducted by the New Mexico Attorney General (NMAG), U.S. Supreme Court decisions governing statute of limitations law prevented bringing lawsuits to pursue claims for land grant issues under the Treaty. The NMAG identifies that the most viable option to pursue redress was to request U.S. Congressional action regarding the Treaty’s implementation and compliance.

Finally, the NMAG recognized that “as a legal and ethical matter, the Memorial may place the Attorney General in a potential conflict of interest. The Attorney General is the attorney for the State, who defends the State in court and brings legal actions on behalf of the State. The Memorial requests the Attorney General to research the history and legal basis for the creation of the plat map for the Cristobal de la Serna Land grant-Merced and develop a proposal to rationalize property titles and land boundaries. Should the [NMAG] conclude any provisions of Treaty of Guadalupe Hidalgo pertaining to the requests set forth in HJM1 to have been violated and if the State may have had a role in violating any provisions of the Treaty, the Attorney General would also be obligated to defend against any possible action brought forth. It may therefore be more appropriate for another public official or agency to be asked to comply with the Memorial’s request.”