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FISCAL IMPACT REPORT

SPONSOR: Garcia, MP DATE TYPED: 02/02/01 HB 180
SHORT TITLE: Grant Lands Sold at Delinquent Tax Auctions SB _____
ANALYST: Rael

REVENUE

| Estimated Revenue | | Subsequent Years Impact | Recurring or Non-Rec | Fund Affected |
|-------------------|------|----------------------------|-------------------------|------------------|
| FY01 | FY02 | | | |
| See Narrative | | | | |

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)
General Accounting Office GAO-01-330
LFC Files

SUMMARY

Synopsis of Bill

The Grant Lands Sold at Delinquent Tax Auctions bill amends Section 7-38-67 NMSA 1978 which prescribes the manner in which properties may be sold when taxes are delinquent. It would require the Taxation and Revenue Department to consider a bid by the board of trustees of a community land grant. If the board of trustees sells the property to an heir of the property, and that heir was alive at the time of purchase of the property at auction, the price must be in excess of the price paid at auction plus the value of improvements and inflation.

Significant Issues

This bill may be unconstitutional. See Other Substantive Issues below. Additionally, there may be some uncertainty over administrative procedures and the purchase price for subsequent heir buyers.

FISCAL IMPLICATIONS

The Taxation and Revenue Department reports that this bill would have no significant fiscal impact on state or local funding sources.

OTHER SUBSTANTIVE ISSUES

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In 1848, the Treaty of Guadalupe-Hidalgo ended the Mexican War and in that treaty, the United States paid Mexico \$15 million and promised to recognize Spanish and Mexican land grants in the area to be added to the United States. However, some historians and land-grant heirs claim that many of the lands were lost or whittled down by inaccurate surveys, unscrupulous land deals or outright seizure by the U.S. government through questionable court actions. A recent report from the General Accounting Office (GAO) identified New Mexico land-grant claims totalling over 3 million acres including 143 individual land grants and 152 community land grants (including 22 Spanish land grants). The GAO report stated that only a quarter of total land-grant claims made in New Mexico were confirmed by Congress or the Courts.

The Taxation and Revenue Department is concerned that the bill may violate equal protection and anti-donation provisions of the New Mexico Constitution. N.M. Const. art. IX, §§ 14 (2000) provides: “Neither the state nor any county, school district or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation or in aid of any private enterprise for the construction of any railroad.” Non-land grant bidders at an auction will likely consider the statute discriminatory and unfair in favor of land grant boards.

The Taxation and Revenue Department believes that the bill may be likened to a condemnation proceeding without due process protections. The bill compels the state to accept the minimum price for the property, regardless of whether other bidders in an open auction would offer more. The owner of the property auctioned is deprived of the opportunity to recover the property’s actual value above the minimum. Additionally, if it became known that a land grant bidder was actively bidding at an auction, other bidders would avoid that auction, creating lower prices for all lands in that particular auction.

FAR/ar/njw