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FISCAL IMPACT REPORT

ORIGINAL DATE 1/22/07

SPONSOR M Garcia LAST UPDATED _____ HB 118

SHORT TITLE Land Grant Right of First Refusal at Auction SB _____

ANALYST Wilson

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	Minimal			Various

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation & Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 118 amends statute to require bids by land grant trustees *to be considered the highest* bids under the existing circumstances described in statute.

Under current statute (Section 7-78-67 (H) NMSA 1978) boards of trustees of a community land grant-merced (i.e., royal grant or gift, grant of land or water) are allowed to match the highest bids on properties within their boundaries when auctioned by the State of New Mexico to pay delinquent property taxes and related costs.

Statutes currently stipulate that after properties are sold and delinquent taxes, penalty, interest and other costs are paid, funds remaining are distributed to owners of property that is sold..

HB-118 will do the following:

- Require land grant properties on which taxes have not been paid to be sold for only accrued taxes, penalty and interest and sale costs;

- Deny outside bidders some opportunities to bid for properties within community land grants.
- Prevent owners of properties that are auctioned and sold from receiving funds that would otherwise be distributed to them after delinquent taxes, penalty, interest and similar costs have been paid.

FISCAL IMPLICATIONS

No significant fiscal impacts will result from this bill because very few community land grants are sold at public auction in New Mexico. In addition, property tax recipients (counties, municipalities, school districts and others) would presumably receive the same tax revenues on delinquent property sales that they will in absence of this proposed legislation.

Property Tax Division of TRD representatives state that fewer than fifteen land grant properties are typically sold at auction annually.

SIGNIFICANT ISSUES

TRD believes HB 118

- ❖ may violate the equal protection clause of the US Constitution.
- ❖ is inconsistent with stipulations in Subsection E of Section 7-38-67 NMSA 1978 stating that in determining the minimum price, TRD shall consider the value of the property owner's interest in the real property, the amount of all delinquent taxes, penalties and interest for which it is being sold and costs. Currently real property may not be sold for less than the minimum price unless no offer met the minimum price when it was offered at public auction.
- ❖ will circumvent the normal course of public auctions by not allowing registered bidders opportunities to bid on some properties and thus convey special rights to land grants that are not otherwise available to the general public. When it became known that a land grant bid on properties auctioned in their grants, other potential bidders would likely avoiding the associated auctions. Fewer bidders generally result in lower prices.

ADMINISTRATIVE IMPLICATIONS

HB 118 will impose no significant administrative costs on the TRD

OTHER SUBSTANTIVE ISSUES

The proposed bill will help community land grants maintain their land integrity.

According to the New Mexico Commission on Public Records State Records Center and Archives land grants were made to individuals and communities during the Spanish (1598-1821) and Mexican (1821-1846) periods of New Mexico's history. Because the Pueblo Revolt of 1680 destroyed nearly all of the Spanish documents in New Mexico, we can only be certain of land grants that were made after the Spanish Reconquest of New Mexico in 1693. The two major types of land grants were private grants made to individuals, and communal grants made to

groups of individuals for the purpose of establishing settlements. Communal land grants were also made to Pueblos for the lands they inhabited.

A document published on the web as part of the Albuquerque Triennial celebration notes the Spanish king or his representatives conveyed land to individuals, groups and towns through a system of land grants, or mercedes, in order to promote settlement on the frontier. Spanish authorities used the system in Florida, Texas, Arizona and California, but the oldest land grants are in New Mexico. There were more than 150 community land grants totaling 9.3 million acres awarded by first the Spanish and then the Mexican governments.

There were two kinds of grants – the private grant given to an individual, who was required to live on the land and improve it for four years before receiving title, and the grant to settlers for a new town. Members of the community grant could own a small piece of farmland along an irrigation ditch, but most of the land was held in common for grazing, wood cutting or other uses.

In New Mexico, land grants were issued to encourage settlement, to reward patrons of the Spanish government and military officers, and to create a buffer zone between Indian tribes and populated areas.

Spain also issued land grants to several Indian Pueblo groups who had occupied the areas long before Spanish settlers arrived. In the Albuquerque area the Spanish governor awarded grants to the Pueblo de Sandia and the Pueblo de Isleta. The Spanish also enforced the Four Square League law, which required that the land surrounding an Indian pueblo be allotted to that pueblo for one league in each direction from the pueblo. No grant could cover this land. This set up political and ethnic boundaries for the Pueblo Indians and helped sustain Pueblo cultures.

Community land grants were typically organized around a central plaza, and each settler received an individual allotment for a household and a tract of land to farm; common land was set aside for use by the entire community. Spanish and Mexican law usually authorized the local governor to make such community land grants, and the size of each grant was at the governor's discretion. Individual land grants were made in the name of specific individuals. Again, the governor could also make this type of grant.

DW/mt