

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

**SPONSOR** Lopez **ORIGINAL DATE** 2/05/19  
**LAST UPDATED** 3/05/19 **HB** \_\_\_\_\_  
**SHORT TITLE** Land Grant Elections & Definitions **SB** 223/aSRC/aSJC  
**ANALYST** Glenn

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

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Indeterminate	Indeterminate	Indeterminate		Recurring	See Fiscal Implications

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 32, 33, 36, 94 and SB 13, 17, 44

Conflicts with HB 94

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Attorney General (NMAG)  
 Children, Youth & Families Department (CYFD)

### SUMMARY

#### Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 223 corrects a typographical error in Section 6 of the bill, by changing the word “affect” in subsection (G)(1) to “effect.”

#### Synopsis of SRC Amendment

The Senate Rules Committee amendment to Senate Bill 223 provides that in a land grant-merced with bylaws that include the use of precincts, no more that the apportioned number of members for any given precinct, as specified in the by-laws, may serve on the board of trustees.

The amendment resolves the second issue raised in connection with the original bill under “Technical Issues,” below.

Synopsis of Original Bill

Senate Bill 223 amends laws applying to land grant-mercedes. The bill:

- provides that, unless pardoned or restored to political rights, a person convicted of a felonious or infamous crime is not qualified for election or appointment to the board of trustees of a land grant-merced;
- authorizes the board of trustees to appoint a canvassing board to canvass the votes cast in an election;
- adds a section providing for the use of provisional ballots when a person’s name does not appear in a land grant-merced registration book. To vote on a provisional ballot, a person must establish that the person is a qualified voting member, as defined in Section 49-1-1.1 NMSA 1978, is registered to vote, and has not yet cast a ballot;
- provides for determining the winner of a tie vote between candidates for the board of trustees by lot; and
- provides for election contests by unsuccessful candidates or qualified voting members of land grant-mercedes. SB 223 requires an election contest to be filed with the Guadalupe Hidalgo Treaty Division of NMAG and directs the Division to adopt rules for investigating and deciding the outcome of contested elections and to render a decision on an election contest within 90 days of the date the contest is filed.

**FISCAL IMPLICATIONS**

NMAG likely would incur additional personnel and other costs to fulfill its responsibilities under SB 223 for deciding election contests.

**SIGNIFICANT ISSUES**

NMAG notes that SB 223 restricts the ability of a person convicted of a “felonious or infamous crime” from serving on a land grant board of trustees. NMAG states that it is unclear what constitutes an “infamous crime” for purposes of the bill, and suggests that the bill be amended to refer only to felonies, consistent with other state laws. See, e.g., Section 31-13-1(E) NMSA 1978, which provides: “A person who has been convicted of a felony shall not be permitted to hold an office of public trust for the state, a county, a municipality or a district, unless the person has presented the governor with a certificate verifying the completion of the sentence and was granted a pardon or a certificate by the governor restoring the person’s full rights of citizenship.”

**ADMINISTRATIVE IMPLICATIONS**

NMAG states that, if SB 223 is passed, NMAG will have to promulgate rules for investigating and deciding election contests. This will require NMAG to promulgate rules pursuant to the State Rules Act, Sections 14-4-1 to -11 NMSA 1978, including providing notice to the public and conducting a public hearing. NMAG also states the responsibilities of hearing election contests and rendering decisions imposed by the bill will require significant NMAG staff and attorney time.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to:

HB 94, which pertains to the definition of land grants and partitioning

HB 32, which pertains to legal services for land grants

HB 33, which expands the authority of the Treaty of Guadalupe Hidalgo Division within NMAG

HB 36, which creates a land grant-merced assistance fund;

SB 13, Lineas Issues at Taos-Area Land Grant

SB 17, Land Grant Boards Comprehensive Plans

SB 44, which permits the Department of Transportation to purchase automotive & road equipment for qualified land grants-mercedes.

Conflicts with HB 94, which also amends Section 49-1-1.1 NMSA 1978.

## **TECHNICAL ISSUES**

Section 4 of SB 223 adds the term “Provisional Ballots” to the heading of Section 49-1-5 NMSA 1978, but the neither the existing language of Section 49-1-5 nor language amended by the bill pertains to provisional ballots.

Section 6 of SB 223 amends Section 49-1-7(A) NMSA 1978 to provide that, in addition to receiving the most votes cast, candidates “meeting any precinct restriction requirements established pursuant to Section 49-1-4 NMSA 1978” shall be elected to the board of trustees. As amended by SB 223, Section 49-1-4 no longer includes precinct restriction requirements. It appears that the reference to Section 49-1-4 should be changed to Section 49-1-1.1(E), which, as amended by SB 223, permits the bylaws of a land grant-merced to guarantee a precinct an apportioned number of board members.

BG/gb/sb/gb