F I S C A L   I M P A C T   R E P O R T

SPONSOR	McQueen/Egolf/ Ortez/ Montoya, R./ Romero, A.	**ORIGINAL DATE** **LAST UPDATED**	1/22/22 2/14/22	**HB**	8/aHTRC/aHFl#1
SHORT TITLE	Land Grant-Merced Assistance Fund			**SB**	
				ANALYST	Torres

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY22	**FY23**	**FY24**	**FY25**	**FY26**		
--	($1,490.0)	Up to ($1,540.0)	Up to ($1,590.0)	Up to ($1,650.0)	Recurring	General Fund
--	$1,490.0	$1,540.0	$1,590.0	$1,650.0	Recurring	Land Grant-Merced Assistance Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
$2.2	$32.0	--	$34.0	Nonrecurring	TRD – IT and Staff Costs

Parenthesis ( ) indicate expenditure decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Office of the State Auditor

Responses Not Received From
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of HFl#1 Amendment

The House Floor amendment to house bill 8, strikes a previous amendment made by the House Taxation and Revenue Committee that required certification of the total number of assistance-qualified land grants and replaces it with a determination by the land grant council pursuant to subsection C of the act.

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 8 moves the first distribution from FY23 to FY24 in order to ensure revenues in the fund, extends the time the land grant council has to determine qualifying land grants-mercedes and distributions, and clarifies the certification process.

Synopsis of Original Bill

House Bill 8 creates the land grant-merced assistance fund, distributions to qualified land grants-mercedes, and a gross receipt tax (GRT) distribution to the newly created fund.

The bill creates the land grant-merced assistance fund to be administered by the Department of Finance and Administration (DFA). It adds to the Tax Administration Act that a distribution be made to the land grant-merced assistance fund attributable to the gross receipts tax (GRT) after distributions have been made pursuant to food and medical hold harmless distributions.

Distributions are made to land grants-mercedes based on their annual revenue exclusive of capital outlay, federal revenue, or private grants. A full distribution is defined as the entirety of the fund balance equally divided among qualified land grant-merced. Distributions are then made based on a full distribution as follows:

Land Grant-Merced with Annual Revenues of:	Receives a Distribution of XX% of a Full Distribution:
<$50,000	100%
$50,000 - $249,000	75%
$250,000 - $500,000	50%
>$500,000	25%

If distributions to land grants-mercedes are less than the balance in the fund for the prior ending fiscal year, the remainder is reverted to the general fund.

The effective date of this bill is July 1, 2022.

FISCAL IMPLICATIONS

The revenue impact is estimated with the December 2021 Consensus Revenue Estimating Group's (CREG) estimates for net gross receipts tax after food and medical hold harmless payments have been subtracted. The bill provides for reversion of unused amounts in the Land Grant-Merced Assistance Fund to the General Fund at the end of each fiscal year. No reversion will occur in FY23 due to timing. Beginning in FY24, up to the full potential distribution is reflected in the revenue impact tables.

In the House Appropriations and Finance Committee Substitute for House Bill 2, $2 million in FY22 was included in this fund, contingent on enactment of legislation. If the appropriation is enacted, distributions and reversions could begin in FY23. *See Technical Issues.*

This bill may be counter to the LFC tax policy principle of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures, revenues may be insufficient to cover growing recurring appropriations. Increasing the cost of tax expenditures narrows the tax base and reduces the state's revenue diversification, contributing to revenue volatility.

The earmarking of nearly $1.5 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of the distribution period shall revert to the general fund. Establishing an earmark creates an expectation that the program will continue in future fiscal years, reducing the ability of future legislatures to fully appropriate all funds comprehensively and set spending priorities.

SIGNIFICANT ISSUES

The Taxation and Revenue Department Reports:

> This earmark will provide the advantage of a recurring revenue source for the land grant-merced assistance fund without the need for future appropriations. The earmark therefore creates a reliable funding source for this program, although, as the earmark is calculated as a percentage of gross receipts tax revenue, it is subject to volatility. This earmark will have the disadvantage of reducing the legislature's budgetary flexibility with respect to the broad appropriation needs of the general fund in future years, but this reduction is expected to be minimal relative to the typical size of the general fund.
>
> Currently, the gross receipts tax revenue stream has a number of percentage-based earmarks, formulaic earmarks, and fixed dollar earmarks, which reduce the total amount of revenues flowing to the general fund. This percentage-based earmark does not increase the volatility of the general fund revenue (unlike fixed earmarks) and will share equally in the volatility of the state's overall gross receipts tax revenue stream.

PERFORMANCE IMPLICATIONS

TRD notes:

> This bill diverts monies from the State GRT distribution that is already being made to the general fund and is considered a general fund distribution. When amounts are diverted at TRD's point of distribution, economists and policymakers have to add back these amounts to determine actual general fund revenues from the pertinent tax program. Additionally, financial reporting is unnecessarily made more complex as revenues are reported across various state agencies. In some cases, agencies are reporting amounts as transfers from TRD, therefore underreporting state revenue. To simplify the process for all involved parties, the new proposed distribution should be made by DFA once the state gross receipts tax distribution (SGRT) to the general fund has been completed and general fund revenue properly recorded. DFA can then make a transfer of the 5 hundredths percent received each month to the new land grant-merced assistance fund.

ADMINISTRATIVE IMPLICATIONS

It is estimated that implementation will cost $32,000 in contractual services cost for the Information and Technology Division (ITD) of TRD. The Administrative Services Division (ASD) will work conjunctly with ITD to implement the new distribution as well as establishing the new fund with the Department of Finance and Administration. ASD will have $2,155 in associated staff workload costs.

Due to the effective date of July 1, 2022 for this bill and other proposed bills, any changes to rates, deductions and distributions adds to the complexity and risk TRD faces July 1, 2022 to ensure complete readiness and testing of all processes. TRD will be in the first months of implementing the new cannabis excise tax program and working through any identified issues with this implementation of a new tax program. Based on this uncertainly there may be additional costs that cannot be estimated at this time.

If several bills with similar effective dates become law there will be a greater impact to TRD and additional staff workload costs or contract resources may be needed to complete the changes specified by the effective date(s) of each bill.

TECHNICAL ISSUES

The Office of the State Auditor suggests:

> Consider amending Section 2 (E) so distributions are made by the Department of Finance and Administration (rather than the State Treasurer as drafted) to ensure that administration of the fund remains with one agency in order to properly account for these activities.
>
> Section 2 (F) (2) should be updated to indicate the land grant council has certified the total number of assistance-qualified land grant-mercedes, as noted in the Significant Issues section of this analysis.

This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date.

The House Appropriations and Finance Committee Substitute for House Bill 2 included $2 million for this purpose, contingent on enactment of such a fund as contained in this bill. The transfer would occur in FY22, providing funds for distribution beginning in FY23. The distribution dates could be changed back to the original bill if the HB2 appropriation for this purpose is enacted.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate.

IT/al/acv/rl/al