

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

FISCAL IMPACT REPORT

| | |
|---|---|
| SPONSOR <u>McQueen</u> | LAST UPDATED _____ |
| | ORIGINAL DATE <u>1/22/25</u> |
| SHORT TITLE <u>Land Grant-Merced Assistance Fund Changes</u> | BILL NUMBER <u>House Bill 21</u> |
| | ANALYST <u>Graeser</u> |

REVENUE* (dollars in thousands)

| Type | FY25 | FY26 | FY27 | FY28 | FY29 | Recurring or Nonrecurring | Fund Affected |
|------|-------|-----------|-------------|-------------|-------------|---------------------------|---------------------|
| | \$0.0 | (\$590.0) | (\$1,200.0) | (\$1,240.0) | (\$1,280.0) | Recurring | General Fund |
| | \$0.0 | \$590.0 | \$1,200.0 | \$1,240.0 | \$1,280.0 | Recurring | Land Grant Mercedes |

Parentheses () indicate revenue decreases.

*Amounts reflect the most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|------------------------------------|-------|-------|-------|-------------------|---------------------------|---------------|
| State Auditor, DFA, Indian Affairs | \$0.0 | \$0.0 | \$0.0 | \$0.0 | Recurring | General Fund |
| Total | \$0.0 | \$0.0 | \$0.0 | \$0.0 | Recurring | General Fund |

*Amounts reflect the most recent analysis of this legislation.

Sources of Information

LFC Files

Office of State Auditor land grant-merced audits for 2023 and 2024

Agency Analysis was Solicited but Not Received From

Department of Finance and Administration

Office of the State Auditor

SUMMARY

Synopsis of House Bill 21

House Bill 21 makes two changes to the distributions of the land grant-merced assistance fund created in 2022 (Laws 2022, Chapter 32). The 100 percent class ceiling is increased from annual audited revenue of \$50 thousand to \$100 thousand. The balance in the fund at the end of the fiscal year will no longer revert to the general fund.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

This act has an unusual direct earmark of 0.05 percent of the general fund after all other distributions have been made. The earmarked funds, after this amendment, would be distributed based on annual audited revenue of each land grant-merced. A 100 percent qualifying share is calculated by dividing the total revenue in the fund by the number of qualifying land grants-mercedes. The 100 percent distribution share revenue cap is increased.

| Qualifications based on Annual Audited Revenue of the Land Grant Merced | |
|---|-------------------|
| (1) less than \$100,000 | 100% distribution |
| (2) at least (\$100,000) but less than \$250,000 | 75% distribution |
| (3) at least \$250,000) but less than \$500,000 | 50% distribution |
| (4) \$500,000 or more | 25% distribution |

These less-than-full distributions mean structurally all the money in the fund will not be distributed unless all land grants-mercedes have less than \$100 thousand annual audited revenue. This change means the full amount of the 0.05 percent of annual net general fund gross receipts tax revenue earmark will be eventually distributed to the qualifying land grant-merced.

This program was initially funded with a \$2 million special appropriation included in 2022 General Appropriation Act. The first two years of this program have been used to calculate the percentage of shrinkage (without the change in the 100 percent distribution) and that shrinkage has been applied to the December consensus revenue forecast. LFC staff has solicited information from the Department of Finance and Administration on the number and annual audited revenue of qualifying land grants-mercedes. It is expected that most, if not all, land grants-mercedes will now qualify for the 100 percent distribution and there will be no reversion.

| | GRT | Distributable Revenue | Reversion | Net General Fund Impact | Net Impact for LGMs |
|------|-----------|-----------------------|-----------|-------------------------|---------------------|
| FY23 | \$2,016.6 | \$2,016.6 | \$506.5 | \$0.0 | \$0 |
| FY24 | \$2,093.1 | \$2,093.1 | \$525.7 | \$0.0 | \$0 |
| FY25 | \$2,250.0 | \$2,250.0 | \$560.0 | \$0.0 | \$0 |
| FY26 | \$2,360.0 | \$2,360.0 | \$0.0 | -\$590.0 | \$590 |
| FY27 | \$2,440.0 | \$3,030.0 | \$0.0 | -\$1,200.0 | \$1,200 |
| FY28 | \$2,510.0 | \$3,120.0 | \$0.0 | -\$1,240.0 | \$1,240 |
| FY29 | \$2,600.0 | \$3,230.0 | \$0.0 | -\$1,280.0 | \$1,280 |

The revenue table on page 1 exhibits the sum of the increased distribution and the decreased reversion. If further data become available to separate the two effects, this FIR will be amended.

There are a total of 26 land grants-mercedes recognized in statute. However, apparently only 16 have qualified for a distribution in the first two years of this program.

The bill does not include a recurring appropriation but diverts or “earmarks” revenue, representing a recurring loss from the general fund. LFC has concerns with including continuing distribution language in the statutory provisions for funds because earmarking reduces the ability of the Legislature to establish spending priorities.

SIGNIFICANT ISSUES

The ratio for the first two years of this program between distributions and revenue is 75 percent. This may imply only one Land Grant Merced with annual audited revenue between \$50,000 and \$100,000. Land Grant Mercedes have little or no recurring revenues and currently rely on grants for operating revenue. The 2022 law now provides a source of recurring revenues as a share of roughly \$2 million. As more Land Grant Mercedes begin submitting annual audits, the amount each Land Grant Merced will receive will decline. There are 27 community Land Grant-Mercedes that are recognized as political subdivisions under New Mexico law as of May 8, 2024. In 2023, the Land Grant Council assisted 41 land grant Mercedes to update their capital infrastructure plans.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met because the Taxation and Revenue Department is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the earmarked revenue. This earmark could be considered a tax expenditure, but because land grants-mercedes are political subdivisions of the state, a more proper interpretation is along the lines of the food and medical services hold harmless distributions to counties and municipalities of gross receipts taxes. Data is easily available for the observer to determine the total amount of money transferred monthly to the land grant merced assistance fund, but data on distributions to individual land grants-mercedes is obscure and not transparent.

TECHNICAL ISSUES

House Rule 11-6 and Senate Rule 11-6 require the phrase “MAKING AN APPROPRIATION” in the title for expenditure of fees, taxes, or other revenues. This bill repeals the reversion to the general fund and that becomes a recurring addition to the amount of money distributed. An argument can be made that including “MAKING THE LAND GRANT-MERCED ASSISTANCE FUND NONREVERTING” does not require the phrase “MAKING AN APPROPRIATION” in the title.

OTHER SUBSTANTIVE ISSUES

In assessing all tax legislation, LFC staff considers whether the proposal is aligned with committee-adopted tax policy principles. Those five principles:

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

In addition, staff reviews whether the bill meets principles specific to tax expenditures. Notably, this is an earmark of general fund revenue but is not considered a tax expenditure.

Attachment

AD/LG/hj/hg

House Bill 21 – Page 5

Statutory land grants receiving assistance (16)

Abiquiu (Mercedes Del Pueblo Abiquiu) Land Grant
Anton Chico Land Grant
La Merced del Pueblo de Chilili Land Grant
La Merced De Cristobal de La Serna Land Grant
Cubero Land Grant
Don Fernando de Taos Land Grant
La Merced de Santa Barbara (Santa Barbara Land Grant)
La Merced del Manzano Land Grant
Los Vigiles Land Grant
Merced de los Pueblos de Tierra Amarilla Land Grant
San Antonio de Las Huertas Land Grant
Merced del Pueblo de San Joaquin del Rio de Chama Land Grant
San Miguel del Bado Land Grant
Santo Domingo de Cundiyo Land Grant
Santo Tomas Apostol del Rio de Trampas Land Grant / Las Trampas Community
Tajique Land Grant
Town of Tome Land Grant

Statutory land grants not receiving assistance (10)

Arroyo Hondo Arriba community land grant-merced,
Atrisco land grant-merced
Canon de Carnue land grant-merced
Cebolleta land grant-merced
Juan Bautista Baldes land grant-merced
Lower Gallinas land grant-merced
San Antonio del Rio Colorado land grant-merced
San Augustin land grant-merced
Ticolote land grant-merced
Torreon land grant-merced