FISCAL IMPACT REPORT

		LAST UPDATED	2/16/2025
SPONSOR	Garcia	**ORIGINAL DATE**	1/27/2025
SHORT TITLE	Land Grant-Merced Infrastructure Act	**BILL NUMBER**	House Bill 25
		ANALYST	Graeser

APPROPRIATION*
(dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
	$20,000.0	Nonrecurring	General Fund (*to Land Grant-Merced Trust Fund)*
	$18,000.0	Recurring	Land Grant-Merced Trust Fund (*to Land Grant-Merced Project Fund and thence to projects)*
	$50.0	Recurring	Land Grant-Merced Council for administration from the Project Fund

Parentheses ( ) indicate expenditure decreases.

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Senior STBs	$19,700.0	$19,820.0	$20,260.0	$20,780.0	$20,900.0	Recurring	Land Grant-Merced Infrastructure Project Fund
Interest on Corpus	$0.0	See SIC discussion in FISCAL IMPLICATIONS				Recurring	Land Grant-Merced Infrastructure Trust Fund

Parentheses ( ) indicate revenue decreases.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Land Grant Council	$0.0	Up to $50.0	Up to $50.0	$100.0	Recurring	Other state funds

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect the most recent analysis of this legislation.

Relates to House Bill 21,
Conflicts with HB330 and SB374

Sources of Information

LFC Files

Agency Analysis Received From
Office of State Auditor (OSA)

State Treasurer's Office (STO)
State Investment Council (SIC)
Department of Finance and Administration (DFA)
Board of Finance (BOF)

Responses Not Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of House Bill 25

House Bill 25 (HB25) proposes to create the Land Grant-Merced Infrastructure Act with a corresponding land grant-merced infrastructure trust fund (Trust Fund) and land grant-merced project fund (Project Fund). With this proposal, land grants-mercedes would have recurring funding to develop infrastructure rather than relying on annual special appropriations. The Land Grant Council would be given the authority to recommend and approve grants and technical assistance from the land grant-merced project fund, with the "advice and assistance" of legislative land grant committees.

The Trust Fund would be seeded with a $20 million appropriation from the general fund. If sufficient funds are available, the Trust Fund will make an annual $18 million distribution on July 1 to a newly created land grant-merced infrastructure project fund. The distribution amount would change to 4.7% of the prior five-year average market value of the Trust Fund once that amount exceeds $18 million.

Additionally, the bill allocates 1.1 percent of severance tax bond (STB) capacity for land grant-merced infrastructure projects and appropriates the bond sale proceeds to the Project Fund.

The Land Grant Council, along with the Department of Finance and Administration (DFA), would administer the Project Fund and may create rules and procedures for originating grants for qualified projects. The bill requires an interim legislative committee to review rules proposed by the Land Grant Council and requires the council to brief the legislative committee on grant proposals submitted to the council.

The balance of the Project Fund is appropriated to the Land Grant Council in FY26 and subsequent years for qualified projects. The bill appropriates the lesser of 1 percent or $50 thousand of the Project Fund balance to the Land Grant Council to administer applications to the fund. Any unexpended/unencumbered funds at the end of a fiscal year would revert to the Project Fund. Project Fund balances do not revert to the Trust Fund or the general fund.

This bill does not have an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or June 20, 2025, if enacted.

FISCAL IMPLICATIONS

The appropriation of $20 million contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY26 shall not revert.

Unspent amounts in the project fund would not revert. The Land Grant Council would be allowed the lesser of 1 percent of the project fund or $50 thousand.

The bill includes a recurring (continuing) appropriation from the trust fund to the project fund. However, the bill diverts or "earmarks" revenue from the severance tax bonding (STB) fund to the land grant-merced project 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. This is coupled with the possible unconstitutional delegation of approval authority from the Legislature to the Land Grant Council

The State Investment Council (SIC) provides a comprehensive analysis of the future flow of funds:

> The new Trust Fund is seeded with a $20 million appropriation from the general fund, assumed to be deposited in July 2025 (FY26). Immediately after receiving this initial appropriation, the Trust Fund will distribute $18 million to the Project Fund. Without additional appropriations into the Trust Fund, the remaining balance of $2 million will remain in the Trust Fund to grow via investment earnings until it again reaches the $18 million threshold to make a distribution to the Project Fund (roughly 34 years depending on market performance).
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> In addition to the Trust Fund distribution, the Project Fund will receive regular inflows from a 1.1 percent earmark of STB capacity, which would provide recurring funding for land grant-merced projects. Since the bill has no effective date (becoming effective on June 20, 2025) the earmark is assumed to apply to the June 30, 2025, bond sale, affecting FY25 STB capacity.

Land Grant-Merced Infrastructure Trust Fund ($millions)					
Calendar Year	Beginning Balance	Contrib	Investment Gains & Losses	Distrib	Ending Balance
2025	$0.00	$20.00	$0.00	($18.00)	$2.00
2026	$2.00	$0.00	$0.10	$0.00	$2.10
2027	$2.10	$0.00	$0.10	$0.00	$2.30
2028	$2.30	$0.00	$0.20	$0.00	$2.50
2029	$2.50	$0.00	$0.20	$0.00	$2.60
2030	$2.60	$0.00	$0.20	$0.00	$2.80
2031	$2.80	$0.00	$0.20	$0.00	$3.00
2032	$3.00	$0.00	$0.20	$0.00	$3.20
2033	$3.20	$0.00	$0.20	$0.00	$3.40
2034	$3.40	$0.00	$0.20	$0.00	$3.70
2035	$3.70	$0.00	$0.30	$0.00	$3.90
2036	$3.90	$0.00	$0.30	$0.00	$4.20
2037	$4.20	$0.00	$0.30	$0.00	$4.50
2038	$4.50	$0.00	$0.30	$0.00	$4.80
2039	$4.80	$0.00	$0.30	$0.00	$5.20
2040	$5.20	$0.00	$0.40	$0.00	$5.50

The table above provides a simplified example of potential investment returns for the Trust Fund. The table below illustrates revenues/expenditures to and from the Project Fund.

Land Grant-Merced Project Fund ($millions)						
Fiscal Year	Beginning Balance	Contrib. from Trust Fund (July 1)	Contrib. from 1.1% STBs (June 30)	Admin Expenses	Approp. to Land Grant Council for Projects	Ending Balance
FY25	$0.00	$0.00	$19.70	$0.00	$0.00	$19.70
FY26	$19.70	$18.00	$19.82	($0.05)	($37.65)	$19.82
FY27	$19.82	$0.00	$20.26	($0.05)	($19.77)	$20.26
FY28	$20.26	$0.00	$20.78	($0.05)	($20.21)	$20.78
FY29	$20.78	$0.00	$20.89	($0.05)	($20.73)	$20.89
FY30	$20.89	$0.00	$20.62	($0.05)	($20.84)	$20.62
FY31	$20.62	$0.00	$20.08	($0.05)	($20.57)	$20.08
FY32	$20.08	$0.00	$19.63	($0.05)	($20.03)	$19.63
FY33	$19.63	$0.00	$19.40	($0.05)	($19.58)	$19.40
FY34	$19.40	$0.00	$19.67	($0.05)	($19.35)	$19.67
FY35	$19.67	$0.00	$19.00	($0.05)	($19.62)	$19.00
FY36	$19.00	$0.00	$19.00	($0.05)	($18.95)	$19.00
FY37	$19.00	$0.00	$19.00	($0.05)	($18.95)	$19.00
FY38	$19.00	$0.00	$19.00	($0.05)	($18.95)	$19.00
FY39	$19.00	$0.00	$19.00	($0.05)	($18.95)	$19.00
FY40	$19.00	$0.00	$19.00	($0.05)	($18.95)	$19.00

The Trust Fund is required to distribute $18 million until 4.7 percent of the five-year average value of the fund exceeds that amount. To distribute more than $18 million, the Trust Fund would need a five-year average of at least $383 million.

Because the initial appropriation to the Trust Fund is $20 million, and there are no additional revenues into the fund, it would only be able to make one distribution in FY26, with the balance of $2 million remaining in the fund. The table above assumes a long-term annual average investment return of 7 percent for the purpose of this analysis.

For the Project Fund, approximately $37.6 million would be available for land grant-merced projects in FY26 (this includes $19.7 million from the FY25 bond sale and $18 million from the Trust Fund distribution). The table above assumes the entire appropriated amount would be spent that year; however, in practice, any remaining unspent funds would revert to the Project Fund and would be available for use in subsequent years.

Bond sales generally occur on December 31st and June 30th. For this analysis, we assume the proceeds from the STB earmark are part of the June 30 bond sale each year, making those funds available for projects the following fiscal year.

Under this assumption, approximately $19.77 million would be available in FY27 for land grant-merced projects, and the Project Fund would receive an inflow of $20.3 million in STB proceeds at the end of that fiscal year, which would be available for expenditure in FY28 (less a $50 thousand appropriation to the Land Grant Council for administrative costs).

SIGNIFICANT ISSUES

The use of funds is quite broad within the general scope of infrastructure development:

> … the council may authorize funding for qualified projects, including:
>
> (1) planning, designing, constructing, improving, expanding or equipping water and wastewater facilities, major water systems, electrical power lines, communications infrastructure, roads, health infrastructure, emergency response facilities and infrastructure needed to encourage economic development.
> (2) developing engineering feasibility reports for infrastructure projects.
> (3) providing special engineering services.
> (4) completing environmental assessments or archaeological clearances and other surveys for infrastructure projects.
> (5) acquiring land, easements or rights of way; and
> (6) purchasing durable equipment.

The Board of Finance of the Department of Finance and Administration (DFA) has concerns about further earmarking of senior STB capacity:

> DFA plays a crucial role in administering the project fund in consultation with the Land Grant Council. DFA is tasked with ensuring proper investment of the trust fund, managing the project fund, and overseeing the disbursement of funds for qualified projects. Additionally, DFA's Local Government Division (LGD) will monitor and ensure proper reversions of bond proceeds appropriated for land grant-mercedes infrastructure projects. This legislation impacts local governments and municipalities by providing financial support for essential infrastructure projects, thereby promoting economic development and improving public services in land grant-merced communities.
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> The legislation also creates a new STB earmark. The bill amends the Severance Tax Bonding Act to authorize the state Board of Finance to provide 1.1 percent of annual severance tax bonding capacity to fund land grant-merced infrastructure projects. The Land Grant Council must certify the need for the issuance of the bonds to the State Board of Finance. Bond proceeds that fund certified projects will revert six months upon completion of each project. The legislation implies that the allocation of 1.1 percent of senior STB capacity by the state board of finance division will begin in FY26.
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> The allocation of senior STB capacity to the project fund is offset by an equal reduction in capacity for other capital projects to be funded by senior STB capacity. The reduction in funding for other capital projects (to be appropriated by the Legislature) ranges from $19.7 million in FY25 to $20.3 million in FY27. Current commitments to existing earmark programs, including water, tribal, and colonias, and the housing trust fund comprise one-third of all senior STB capacity. Adding the FY25 distribution to the recently created capital development reserve fund, annual earmarks/set-asides comprise 40 percent of senior STB capacity in FY25. The 1.1 percent earmark provided for in the legislation is not a significant dollar amount, but it will result in further constriction of senior STB capacity for other general capital appropriations moving forward.

> A critical fiscal impact of additional earmark/set-asides for the senior STB capacity relates specifically to senior short-term note capacity. The earmark/set-aside programs are either statutorily required to be funded (capital development reserve fund) or are traditionally funded with severance tax notes (water, tribal, colonias, housing trust fund). This provides flexibility to the earmark programs in the use of funds, as they do not need to comply with federal IRS tax requirements, as would be the case if they were funded with tax-exempt long-term bonds. The earmark programs are specifically structured to have that needed flexibility. An increase in annual earmarks/set-asides to be funded with short-term note capacity could eventually use up the entire short-term note capacity in a fiscal year. In fact, legislation passed during the 2024 session created this scenario. In FY25, commitments of senior short-term note capacity exceed the funding available. If the Legislature does not correct the issue in the 2025 Session, the board of finance will be required to delay some funding to earmark programs. While FY25 is a unique example, it is important to be aware of increasing commitments from senior short-term note capacity. It further constricts flexibility in the use of funds from senior severance tax bonding capacity overall.

The State Treasurer's Office (STO) points out the following:

> By itself, the creation of a new fund in the state treasury does not have a direct fiscal impact on STO. However, in the aggregate, the creation of many new funds within the state treasury does increase the workload of STO staff. Timing, collaboration, and communication between agencies and STO is critical when transferring or wiring funds.
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> It is important to understand if funds will be managed by STO or the State Investment Council (SIC). STO's investments of public funds are strictly regulated by Chapter 6, Article 10 NMSA 1978, unlike the SIC which can invest longer-term with higher risk.

The Board of Finance comments:

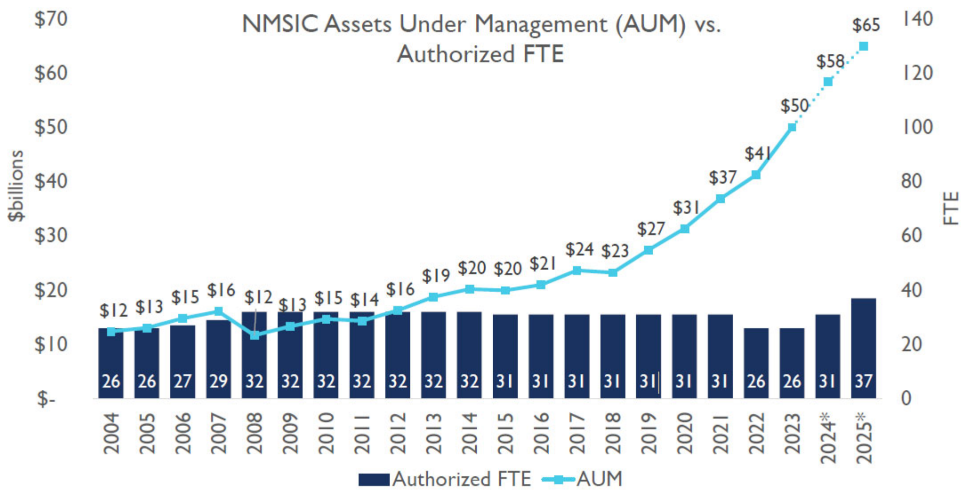
> DFA plays a crucial role in administering the project fund in consultation with the Land Grant Council. DFA is tasked with ensuring proper investment of the trust fund, managing the project fund, and overseeing the disbursement of funds for qualified projects. Additionally, the DFA's Local Government Division will monitor and ensure proper reversions of bond proceeds appropriated for land grant-mercedes infrastructure projects. This legislation impacts local governments and municipalities by providing financial support for essential infrastructure projects, thereby promoting economic development and improving public services in land grant-merced communities.

SIC has concerns with the proliferation of trust funds:

> This bill will require additional time from investment, accounting, and administrative staff at the SIC. SIC's budget is funded out of the land grant and severance tax permanent funds and does not receive general fund support.
>
> Historically, SIC managed four permanent funds (the land grant permanent fund, severance tax permanent fund, water trust fund, and tobacco settlement permanent fund). Since 2019, the Legislature placed eight additional funds under SIC management, bringing total funds under SIC management to 12 and growing total assets under management (AUM) to over $58 billion as of December 2024 (more than double the $27.4 billion total AUM at the end of December 2019).

Growth in AUM requires increasing staff time to implement the funds' asset allocation strategies, which rely heavily on private market investments (e.g., private equity, private credit, real estate, etc.) in addition to traditional stock and bond exposures. About 30 percent of total AUM is invested in private market strategies, which seek to enhance returns and diversify exposures, and the Council's strategic asset allocations target over 50 percent private assets. More assets allocated to these strategies requires staff to source and diligence a growing number of new private fund commitments each year, which is a time-intensive and rigorous process.

Despite rapid growth in AUM, authorized FTE for the State Investment Office has not kept pace, as shown in the chart below. SIC's budget request for FY26 included full funding for all 37 authorized FTE, and expert opinions discussed at the SIC's strategic retreat in December 2024 suggested a need to double the number of investment staff and increase the number of legal and accounting staff to facilitate increased workloads, mitigate risk and maintain proper ongoing due diligence of investments.



*Estimated AUM
Note: AUM reflects total assets under management, including all permanent endowment trust funds, reserve funds, and third party client assets. AUM reported as of calendar year end, except 2004-2007 which reflect fiscal year end balances for TSPF, WTF, and third party clients. FTE reported as of fiscal year end.
Source: NMSIC files, RVK, LFC Volume II reports

This bill is one of several bills introduced so far this session that seek to create new funds to be placed under SIC management:

- House Bill 7 creates a new Children's Future Fund to be managed by SIC. The bill seeks to seed the fund with an initial $5 million general fund appropriation.
- House Bill 11 seeks to create a new Paid Family Medical Leave Fund to be managed by SIC (however, SIC noted in its fiscal impact report that this is an expenditure fund that would be best managed by the State Treasurer's Office).
- House Bill 113 creates a new Animal Welfare Trust Fund to be managed by SIC. The bill seeks to seed the trust fund with a $10 million general fund appropriation.
- Senate Bill 1 creates a new Behavioral Health Trust Fund to be managed by SIC. The bill seeks to seed the trust fund with a $1 billion general fund appropriation.
- Senate Bill 88 creates a new Medicaid Trust Fund to be managed by SIC. The bill seeks to seed the trust fund with a $300 million general fund appropriation.
- Senate Bill 234 creates a Tribal Education Trust to be managed by SIC. The bill seeks to seed the trust fund with a $100 million general fund appropriation.

- Senate Bill 358 creates a new Equine Shelter Rescue Fund to be managed by SIC. The bill seeks to seed the trust fund with a $20 million general fund appropriation.
- Senate Bill 374 creates a Land Grant-Merced and Acequia Infrastructure Trust Fund to be managed by SIC.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB25 relates to House Bill 21, Land Grant-Merced Assistance Fund Changes, which slightly changes the entitlement to distributions of the roughly $2 million land grant-merced fund and makes the fund nonreversionary. This means that the full amount of the earmarked general fund revenue will be ultimately distributed to qualifying land grant merced.

Conflicts with Senate Bill 374, which doubles the amount of senior STBs from 1.1 percent for land grant-mercedes to 1.1 percent for land grant-mercedes plus 1.1 percent for acequias.

Conflicts with House Bill 330, Land Grant-Merced and Acequia Infrastructure, which provides for a total of 2.2 percent of Senior STB capacity, but does not contain the initial 20 million seed funding for the Trust Fund.

SIC notes a potential conflict:

> Language in the bill runs contrary to the clean-up language around Trust/Program fund functions in Senate Bill 202, which creates standardized language requiring investment of funds to be in accordance with the Uniform Prudent Investor Act.

OTHER SUBSTANTIVE ISSUES

The Office of the State Auditor (OSA) notes:

> Projects created and developed by HB25 would be subject to the requirements for financial certification put in place by Executive Order 2013-006. Many of our land grants-mercedes are small, local public bodies that have not conducted up to date agreed upon procedures reviews as required for financial compliance with the Audit Act. OSA has developed and implemented an assistance program to help these land grant communities with achieving financial compliance requirements. OSA works closely with the Land Grant Council to identify land grants with needs in financial certification, providing technical assistance and training opportunities to these organizations and communicating with the Land Grant Council on a regular basis. The small local public bodies program at OSA does cover more than land grants-mercedes, providing assistance to other small rural governments too, such as acequias and mutual domestic water associations (MDWA's). As of January 16, 2025, OSA helped remove such access restrictions for approximately $3.1 million in withheld appropriations to acequias, land grants, and MDWA's, and new entities are being identified for assistance at any given point in time. OSA would continue its partnership with the Land Grant Council to remove any access restrictions related to financial compliance to entities receiving new grants under the new act.

In assessing all fiscal legislation, LFC staff considers whether the proposal is aligned with committee-adopted 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, LFC considers whether a bill's provisions interfere with the plenary duty of the Legislature to make decisions on the details of what programs will be funded and which projects will be approved. In general, the LFC does not approve earmarking of any revenue—particularly earmarking otherwise general fund revenues.

LG/rl/hg/sgs/SL2/rl