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FISCAL IMPACT REPORT

ORIGINAL DATE 2/4/15

SPONSOR Cisneros/Gonzales LAST UPDATED _____ HB _____

SHORT TITLE Land Grants Into Colonias Infrastructure Act SB 172

ANALYST Malone

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$108.0	\$108.0	\$216.0	Recurring	Colonias and Land Grants-Mercedes Infrastructure Trust Fund

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with SB 25, which extends the definition of “colonias” to include areas with a population less than 25,000 within 50 miles of a municipality with a population over 250,000.

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Finance Authority (NMFA)
State Land Office (SLO)

Response Not Received From

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 172, for the Land Grant Committee, adds land grants-mercedes as eligible entities to receive funding under the newly renamed Colonias and Land Grants-Mercedes Infrastructure Act. It also adds two additional non-voting advisory board members to the governing board (for a total of seven voting members and seven advisory members): the executive director (or designee) of the North Central New Mexico Economic Development District and the chair (or designee) of the Land Grant Council. That board and the fund created under the Act are also renamed to reflect the expanded nature of the projects that may be funded under the Act.

FISCAL IMPLICATIONS

NMFA estimates the fiscal impact of this bill is the amount shown in the table above, which in the FY 15 figure includes funding the amendment of all of the Colonias Infrastructure fund policies, by-laws, and rules, much of which will require multiple public hearings as part of that process. Other recurring expenses include the cost of an additional staff member to NMFA to assist and train the additional eligible entities, travel for staff to additional hearings throughout the entire state, and per-diem and mileage for the two new board members.

Laws 2010, Chapter 10, created the Colonias Infrastructure Act, the colonias board, and the colonias infrastructure project fund effective July 1, 2011. The legislation amended the Severance Tax Bonding Act (Section 7-27 NMSA 1978) to allow an allocation of five percent of the annual estimated senior severance tax bond (STB) capacity for deposit in the colonias infrastructure project fund beginning on January 1, 2012. Earmarked senior STB for deposit into the fund in FY15 totals \$16 million. During the 2013 application cycle, \$16.6 million was available and awarded, out of \$45.2 million in capital requests received.

The newly renamed fund would continue to be funded pursuant to the set-aside already in statute.

SIGNIFICANT ISSUES

A colonia is defined in the Act as a rural community with a population of 25,000 or less located within 150 miles of the United States-Mexico border that has been so designated by the municipality or county in which it is located because it lacks a potable water supply, adequate sewage systems or decent, safe and sanitary housing. See Section 3I(1)(a),(b) and (c). It should be noted that this bill does not require a land grant-mercedes seeking funding under this Act be lacking any of these basic infrastructure needs.

NMFA points out that the proposed amendments contained in SB 172 would dilute the available funds to designated colonias by effectively taking a program that was originally intended to assist approximately 155 designated colonias located within 12 southern counties all of which are within 150 miles of the United States-Mexico border and make it a statewide program now available to land grant-mercedes, which have no such restrictions. Currently there are 35 land grant-mercedes in various levels of organization, of which 25 are currently political subdivisions of the state.

Similarly, New Mexico Environment Department (whose secretary or designee is a voting member of the board) commented on substantially similar legislation considered in 2014 (SB 83) that adding to the number of eligible entities that could apply for these funds makes the funding process more competitive. Though the number of eligible entities will increase, without additional appropriations either the number of projects funded will remain constant or the amount distributed will decrease across a broader pool of applicants.

In response to the 2014 legislation (SB 83), DFA noted a lack of knowledge as to how many land grant-mercedes operate as a political subdivision of the state, which is a requirement for funding under SB 172, as well as how many have the necessary systems in place to properly expend capital outlay funds. The Land Grant Council is directed under existing law (Section 49-11-3 NMSA 1978,) to work with land grant-mercedes with technical support and capacity. However, it is not authorized to ensure that land grant-mercedes are correctly complying with state law

governing political subdivisions.

ADMINISTRATIVE IMPLICATIONS

NMFA provides staff support to the Colonias Infrastructure Board including applicant outreach, application review and administration and oversight of projects. Additional staff and attorney costs will be required to implement the changes of SB 172 should it be signed into law. The NMFA will be required to amend its policies and rules (2.9.1.2 *et seq.* NMAC) to accommodate the additional eligible projects, which will likely require multiple public hearings.

RELATIONSHIP

SB 25 amends the Colonias Infrastructure Act to expand the definition of a colonia to include certain rural communities located within 50 miles of a municipality with a population over 250,000 rendering the definition inconsistent with federal law. It is unknown if this inconsistency will threaten or impact the efficiency of delivering federal funding, or leveraging federal funding as matching requirements.

CEM/je/aml