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## FISCAL IMPACT REPORT

**SPONSOR** Salazar, T./Garcia, M.      **ORIGINAL DATE** 01/20/17      35/aHLELC/aHJC/  
**LAST UPDATED** 03/09/17      **HB** aSCONC

**SHORT TITLE** Partition as Land Grant-Mercedes      **SB** \_\_\_\_\_

**ANALYST** Daly

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance & Administration (DFA)

Office of the Attorney General (OAG)

### SUMMARY

#### Synopsis of SCONC Amendment

The Senate Conservation Committee amendment to House Bill 35, as amended, corrects a grammatical error on page 3, line 7 by changing “is” to “was”.

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment to HB 35, as amended, adds language that clarifies and makes more consistent the two definitions of land grant-mercedes being added to existing law to incorporate partitioned land grant-mercedes that meet the specifications set out in those definitions.

#### Synopsis of HLELC Amendment

The House Local Government, Elections, Land Grants and Cultural Affairs Committee amendment to HB 35 requires (by changing “may” to “shall”) the Guadalupe Hidalgo treaty division in the AGO to establish methods and procedures governing its certification of partitioned land grant-mercedes meeting the requirements of the bill.

Synopsis of Original Bill

House Bill 35, for the Land Grant Committee, amends existing statutes governing land grant-mercedes, particularly as to partitions of those lands to establish community land for a separate community, town or pueblo and whose common land boundaries have been confirmed by deed of title or indenture executed by its board of trustees or by a state or federal court (“confirmation requirement”). Subject to additional preconditions, HB 35 authorizes these partitioned lands to be recognized as their own independent land grant-mercedes, managed, controlled and governed as political subdivisions of the State.

Section 1 authorizes partitioned land grant-mercedes meeting the confirmation requirement and that were partitioned prior to 2004 to be so recognized. Section 2 of the bill authorizes partitioned land grant-mercedes meeting the confirmation requirement and that have been certified by the Guadalupe Hidalgo treaty division in the AGO as having been managed as common lands for their heirs for at least 20 years prior to HB 35’s enactment to be recognized as political subdivisions of the State as well.

The effective date of this bill is July 1, 2017.

**FISCAL IMPLICATIONS**

DFA reports no fiscal impact on its operating budget, but notes that if partitioned land grant-mercedes gain political subdivision status under the provisions of this bill, they will be eligible to apply for state funding, which could increase requests for various capital outlay and other programs.

**SIGNIFICANT ISSUES**

DFA reports that currently there may be six sub land grant-mercedes that could be recognized as political subdivisions under this bill. Four are from the Las Vegas land grant-merced and include Los Vigiles, Lower Gallinas, San Geronimo and the San Augustin sub land grant-mercedes. These communities were deeded common land by the Las Vegas land grant-merced and are acting as sub land grant-mercedes. Two others are the Arroyo Hondo Arriba, in Taos County, which is a sub land grant-merced of the Arroyo Hondo land grant-merced, and the El Carmel in Mora County which a sub grant-merced of the Mora land grant-merced. DFA explains that the “prior to 2004” precondition contained in HB 35 reflects the 2004 enactment of legislation allowing land grant-mercedes to become political subdivisions of the state. The six partitioned land grant-mercedes referenced above were all established and deeded prior to 2004.

In addition, DFA notes that partitioned land grant-mercedes granted recognition as political subdivisions of the State under this bill would be subject to the strictures of Executive Order 2013-006, which establishes uniform funding criteria and grant management and oversight requirements for grants of state capital outlay appropriations to state agencies and other entities.

OAG calls attention to the different descriptions of partitioned land grant-mercedes contained in Sections 1 and 2 of the bill, which raise the question whether the same partitioned land-grant mercedes are being described in those two sections. DFA, in its analysis, suggests that that partitioned land grant-mercedes that meet the confirmation requirement (confirmed common land boundaries) must satisfy both the pre-2004 partitioning and the 20 year common land

management requirement. These differing readings could lead to confusion in applying the provisions of HB 35 should it be enacted.

### **PERFORMANCE IMPLICATIONS**

OAG reports that, as drafted, HB 35 requires its Guadalupe Hidalgo Treaty division to establish methods and procedures for certification of the partitioned land grant-mercedes and to certify those partitioned land-grant mercedes to which this bill applies, but provides no appropriation for additional staff, which may impact the agency's other performance based budget targets.

### **ADMINISTRATIVE IMPLICATIONS**

DFA reports that once partitioned lands are recognized as political subdivisions of the State under the provisions of this bill, they may apply for and receive state funding, which will increase DFA's workload.

Additionally, OAG notes that HB 35 requires its Guadalupe Hidalgo Treaty division to establish methods and procedures for certification of the partitioned land grant-mercedes and to certify those partitioned land-grant mercedes to which this bill applies, which may result in staff time dedicated to additional administrative duties not previously designated to the division.

### **AMENDMENTS**

An amendment making the definition contained in Section 1 (B) (2) and the language of Section 2 (A) (1) (b) consistent—or clarifying the distinctive nature of each--would clear up the potential confusion discussed in the Significant Issues section.

MD/sb