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FISCAL IMPACT REPORT

SPONSOR	Reps. Garcia and Martinez, J./Sen. Jaramillo	LAST UPDATED	03/17/25
		ORIGINAL DATE	02/17/25
SHORT TITLE	Land Grant-Merced & Acequia Infrastructure	BILL NUMBER	House Bill 330/aHRDLC/aHTRC/aSCONC
		ANALYST	Graeser/Carswell/Torres

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
	(\$93,100.0)	(\$93,600.0)	(\$95,950.0)	(\$99,300.0)	(\$101,650.0)	Recurring	Severance Tax Bonding Fund - Capacity for New Capital Appropriations by the Legislature
	\$17,900.0	\$18,000.0	\$18,450.0	\$19,900.0	\$20,350.0	Recurring	Colonias Infrastructure Project Fund
	\$35,800.0	\$36,000.0	\$36,900.0	\$37,800.0	\$38,700.0	Recurring	Tribal Infrastructure Fund
	\$19,700.0)	\$19,800.0)	\$20,300.0	\$20,800.0	\$21,300.0	Recurring	Land Grant-Merced Infrastructure Project Fund (from severance tax bonding fund)
	\$0	\$0.0	\$0.0	\$0.0	\$0.0	Recurring	Land Grant-Merced Infrastructure Project Fund (from Trust Fund)
	\$0	\$0.0	\$0.0	\$0.0	\$0.0	Recurring	Land Grant-Merced & Acequia Infrastructure Trust Fund (from LG-M Project Fund & Acequia Project Fund reversions)
	\$19,700.0)	\$19,800.0)	\$20,300.0	\$20,800.0	\$21,300.0	Recurring	Acequia Infrastructure Project Fund (from severance tax bonding fund)
	\$0)	\$0.0	\$0.0	\$0.00	\$0.0	Recurring	Acequia Infrastructure Project Fund (from Trust Fund)

Parentheses () indicate revenue decreases.

*Amounts reflect 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
Interstate Stream Commission	No fiscal impact	\$500.0	\$500.0	\$1,000.0	Recurring	General Fund
DFA	No fiscal impact	\$258.8	\$258.8	\$517.6	Recurring	General Fund
DOJ	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
Total	No fiscal impact	\$758.8	\$758.8	\$1,517.6	Recurring	General Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 21

Conflicts with House Bills 25 and 450 and Senate Bill 374

Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Attorney General (NMAG)

Department of Finance and Administration (DFA)

Board of Finance (BOF)

Acequia Commission (ACE)

Office of the State Engineer (OSE)

State Investment Council (SIC)

Acequias Association

SUMMARY

Synopsis of SCONC Amendment to House Bill 330

The Senate Conservation Committee amendment to House Bill 330 (HB330) increases the fraction of severance tax capacity for the colonias infrastructure project fund from 4.5 percent to 5.5 percent.

Synopsis of HTRC Amendment to House Bill 330

The House Taxation and Revenue Committee adopted four amendments to House Bill 330. To conform to Article IV, Section 16 of the New Mexico Constitution, the amendments add the words, “INCREASING SEVERANCE TAX BOND ISSUANCE FOR THE TRIBAL INFRASTRUCTURE PROJECT FUND’ is added to the title. The amendments increase the fraction of severance tax bond capacity allocated to the tribal infrastructure fund from 4 ½ percent to 6 ½ percent. The amendments specify that distributions from the land grant-merced and acequia infrastructure trust fund to the land grant-merced infrastructure project fund and the acequia infrastructure project fund will take place on August 1st. Lastly, the amendments delay the start of distributions by formula from the land grant-merced and acequia infrastructure trust fund to the land grant-merced infrastructure project fund beginning in fiscal year 2031.

Synopsis of HRDLC Amendment to House Bill 330

The House Rural Development, Land Grants and Cultural Affairs Committee adopted six primarily stylistic amendments to HB330. The first amendment replaced “adopt” with “promulgate” in describing the rule-making authority of the Land Grant Council. The second reassigned an administrative duty to the New Mexico Department of Finance and Administration (DFA) instead of the authority. Three of these amendments added “of 1986” to the specification of the Internal Revenue Code. The final amendment corrected the inadvertent lack of DFA authority to monitor reversions of acequia projects.

Synopsis of House Bill 330

House Bill 330 creates new sections of statute that:

- Provide for the creation of a land grant-merced and acequia infrastructure trust fund (trust fund) and two related project funds, the land grant-merced infrastructure project fund and the acequia infrastructure project fund. LFC staff conclude that there is no revenue source for the trust fund, absent a separate appropriation into the trust fund of at least \$5 million each;
- Grant the New Mexico Land Grant Council and the Interstate Stream Commission the authority to administer, in conjunction with DFA, various aspects of the infrastructure funding process;
- Allow for the allocation of 1.1% of the estimated bonding capacity for severance tax bonds for qualified land grant-merced infrastructure projects and an equal amount for qualified acequia infrastructure projects; and
- Require New Mexico Land Grant Council and the Interstate Stream Commission to report to the appropriate legislative interim committee on expenditures from the project funds, the purposes for which expenditures were made, an analysis of the progress of the projects fund-ed, and recommendations for improvement of HB330.

Qualified projects for land grant-merced infrastructure assistance include:

- 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.
- Developing engineering feasibility reports for infrastructure projects.
- Providing special engineering services.
- Completing environmental assessments or archaeological clearances and other surveys for infrastructure projects.
- Acquiring land, easements, or rights of way.
- Purchasing durable equipment.

Qualified projects for acequia infrastructure assistance include planning, engineering design, or construction of irrigation works and infrastructure projects, including dams, reservoirs, diversions, ditches, flumes, or other appurtenances for the purpose of restoration, repair, improvement of irrigation efficiency, and protection from floods.

This bill does not contain 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 SCONC amendment increases the share of severance tax bond capacity for the colonias infrastructure project fund from 4.5 percent to 5.5 percent. This would decrease the severance tax bonding (STB) capacity available for appropriation by the Legislature to new capital projects on a recurring basis. Overall, including the tribal, acequia, and land grant earmarks, the bill increases earmarks on severance tax bond capacity by 5.2 percentage points (25 percent) and decreases the amount available for appropriation by the Legislature in the future by the same amount. An estimated \$93 million to \$102 million less would be available for new capital

appropriations by the Legislature each year as a result. These estimates are based on the most recent severance tax bonding capacity estimates available from the Board of Finance, which extend through FY29.

If HB330 is enacted, total earmarks on severance tax bond capacity would reach 25.7 percent, including 9 percent for water projects, 5.5 percent for colonias projects, 6.5 percent for tribal projects, 2.5 percent for the housing trust fund, 1.1 percent for acequias, and 1.1 percent for land grants.

DFA notes HB330 would take effect in FY25 and possibly before the final bond sale of the fiscal year. There is insufficient capacity in the bonding fund to accommodate the new or increased earmarks in FY25. There is already an estimated shortfall of \$92.7 million in the bonding fund's short-term senior capacity for FY25, which is the funding source for existing earmarks, due to appropriations made in the 2024 capital outlay bill. (This issue is described further in the Board of Finance's January 2025 bonding capacity estimate.) In practice, the new earmarks for acequias and land grants in HB330 may need to delay certifying to the Board of Finance the need for funding until FY26 due to the need to stand up administrative oversight of the new programs, develop an application process, and propose projects. The additional earmarks for the tribal and colonias infrastructure funds presumably could certify in FY25 for the higher capacity earmarked by HB330, however adequate revenue for those is not available from either short-term or long-term capacity.

The delay in transfers by formula from the land grant-merced and acequia infrastructure trust fund to the land grant-merced infrastructure project fund will have no impact unless money is appropriated or granted to the trust fund corpus. The initial 3 percent per year when the corpus is at least \$5 million is not affected by this amendment. The 4.7 percent distribution when the five-year average exceeds that amount is delayed until after FY31. However, previous analysis did not expect this distribution to occur until at least 10 years after the initial \$5 million had been appropriated or granted to the trust fund.

HRLDC amendments did not affect the fiscal implications of the bill.

Each project fund receives 1.1 percent of senior STB capacity. This is initially over \$19 million. It is doubtful that either fund has projects that are sufficiently project-ready to qualify the Board of Finance to approve selling bonds for the purpose. The trust fund will receive new funds only by amounts that revert from the project funds after any amounts that revert to the severance tax bonding fund. Funds for projects that are approved and funded but not completed within three years will revert to the severance tax bonding fund. Six months after completion of the project that received STB funding, any unspent STB proceeds for that project would revert to the severance tax bonding fund. Only distributions from the trust fund to the project funds that are unallocated in any year would revert to the trust fund. The Office of the State Engineer indicates that funding applications for acequia projects may result in full allocations of available funds. Because of this asymmetry, the \$19 million distribution from the severance tax bonding fund to the land grant-merced infrastructure project fund will, in the short run, be unallocated and reverted to the severance tax permanent fund. As noted below once the balance in the trust fund exceeds \$5 million, there will be a distribution to the project funds. If these funds derived from the trust fund are unallocated, those funds would revert to the trust fund. As soon as those total reversions plus a minimum of \$5 million appropriation exceed \$5 million, there will be a distribution from the trust fund to the project funds split 50-50.

There are three temporal regimes for distributions from the trust fund to the project funds:

1. Initially, until the balance in the fund exceeds \$5 million, there will be no distribution from the trust fund to the project funds.
2. When the balance in the trust fund exceeds \$5 million, three percent of the balance will be divided equally between the land grant-merced infrastructure project fund and the acequia infrastructure project fund.
3. When 4.7 percent of the average of the year-end market values of the balance in the trust fund for the preceding five calendar years exceeds \$5 million, then 4.7 percent of the balance in the trust fund shall be divided equally between the land grant-merced infrastructure project fund and the acequia infrastructure project fund.

The State Investment Council (SIC) provides extensive analysis:

The bill creates a trust fund with potential to provide a recurring funding source to the project funds; however, without an appropriation to the trust fund, this provision would have no fiscal impact. Should the trust fund receive a future appropriation, then on July 1 each year, the fund would distribute 3 percent of the fund balance to the project funds, or 4.7 percent of the fund balance if that amount exceeds \$5 million. The trust fund would make no distribution if the market value is less than \$5 million.

As currently constructed, the primary source of funding for the project funds would be a 1.1 percent earmark for each fund of annual STB capacity. 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.

The table [below] provides a simplified example of the available funding for the land grant-merced infrastructure project fund and the table [on the next page] provides a similar example of the available funding for the acequia project fund, assuming the entire available amount would be spent that year; however, in practice, any unspent funds would be available for use in subsequent years.

Land Grant-Merced Infrastructure Project Fund (\$millions)						
Fiscal Year	Distribution Date	Beginning Balance	Contrib. from Trust Fund (July 1)	Contrib. from 1.1% STBs (June 30)	Approp. for Projects	Ending Balance
FY25	24-Jul	\$ -	\$ -	\$19.70	\$ -	\$19.70
FY26	25-Jul	\$19.70	\$ -	\$19.82	(\$19.70)	\$19.82
FY27	26-Jul	\$19.82	\$ -	\$20.26	(\$19.82)	\$20.26
FY28	27-Jul	\$20.26	\$ -	\$20.78	(\$20.26)	\$20.78
FY29	28-Jul	\$20.78	\$ -	\$20.89	(\$20.78)	\$20.89
FY30	29-Jul	\$20.89	\$ -	\$20.62	(\$20.89)	\$20.62
FY31	30-Jul	\$20.62	\$ -	\$20.08	(\$20.62)	\$20.08
FY32	31-Jul	\$20.08	\$ -	\$19.63	(\$20.08)	\$19.63
FY33	Jul-32	\$19.63	\$ -	\$19.40	(\$19.63)	\$19.40
FY34	Jul-33	\$19.40	\$ -	\$19.67	(\$19.40)	\$19.67
FY35	Jul-34	\$19.67	\$ -	\$19.00	(\$19.67)	\$19.00

FY36	Jul-35	\$19.00	\$ -	\$19.00	(\$19.00)	\$19.00
FY37	Jul-36	\$19.00	\$ -	\$19.00	(\$19.00)	\$19.00
FY38	Jul-37	\$19.00	\$ -	\$19.00	(\$19.00)	\$19.00
FY39	Jul-38	\$19.00	\$ -	\$19.00	(\$19.00)	\$19.00
FY40	Jul-39	\$19.00	\$ -	\$19.00	(\$19.00)	\$19.00

Project fund balances at the end of a fiscal year would revert to the trust fund, except for STB proceeds. Six months after completion of the project that received STB funding, any unspent STB proceeds for that project would revert to the severance tax bonding fund. 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 \$39.4 million would be available in FY27 for land grant-merced and acequia infrastructure projects (\$19.7 million each), and the project funds would each 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.

Acequia Infrastructure Project Fund (\$millions)						
Fiscal Year	Distrib Date	Beginning Balance	Contrib. from Trust Fund (July 1)	Contrib. from 1.1% STBs (June 30)	Approp. for Projects	Ending Balance
FY25	24-Jul	\$ -	\$ -	\$19.70	\$ -	\$19.70
FY26	25-Jul	\$19.70	\$ -	\$19.82	(\$19.70)	\$19.82
FY27	26-Jul	\$19.82	\$ -	\$20.26	(\$19.82)	\$20.26
FY28	27-Jul	\$20.26	\$ -	\$20.78	(\$20.26)	\$20.78
FY29	28-Jul	\$20.78	\$ -	\$20.89	(\$20.78)	\$20.89
FY30	29-Jul	\$20.89	\$ -	\$20.62	(\$20.89)	\$20.62
FY31	30-Jul	\$20.62	\$ -	\$20.08	(\$20.62)	\$20.08
FY32	31-Jul	\$20.08	\$ -	\$19.63	(\$20.08)	\$19.63
FY33	Jul-32	\$19.63	\$ -	\$19.40	(\$19.63)	\$19.40
FY34	Jul-33	\$19.40	\$ -	\$19.67	(\$19.40)	\$19.67
FY35	Jul-34	\$19.67	\$ -	\$19.00	(\$19.67)	\$19.00
FY36	Jul-35	\$19.00	\$ -	\$19.00	(\$19.00)	\$19.00
FY37	Jul-36	\$19.00	\$ -	\$19.00	(\$19.00)	\$19.00
FY38	Jul-37	\$19.00	\$ -	\$19.00	(\$19.00)	\$19.00
FY39	Jul-38	\$19.00	\$ -	\$19.00	(\$19.00)	\$19.00
FY40	Jul-39	\$19.00	\$ -	\$19.00	(\$19.00)	\$19.00

Office of the State Engineer (OSE) notes:

The [Interstate Stream Commission] would require additional staffing to administer the \$19.7M in new annual acequia funding provided by this bill dependent on needs/shovel-ready projects as recommended by the Commission. The Acequia Bureau within the agency is currently staffed with five FTEs administering \$2.5 million annually in

Acequia and Community Ditch Infrastructure Funding in addition to all capital outlay appropriations directly to acequias, totaling over 300 individual awards and over \$27M in the last six years. Acequia and Community Ditch Infrastructure Funding currently provides funding to acequias for planning, engineering designs, disaster response recovery and hazard mitigation, and construction of infrastructure improvement projects in accordance with guidelines that have been adopted by the Commission. The funding provided by HB330 could complement Acequia and Community Ditch Infrastructure Funding and could be used in the same manner as the existing funding sources for acequias. However, it is anticipated at this time that the Commission would need approximately \$500,000 recurring general fund to hire four additional FTEs to provide sufficient staff capacity to administer and oversee a significant increase in funds and projects administered.

New Mexico Attorney General (NMAG) notes the agency may see a small fiscal impact due to the bill's requirement that the Land Grant Council adopt rules. NMAG provides legal representation to the Land Grant Council and the council will likely request legal assistance from NMAG in developing and adopting the rules contemplated by the bill and in implementing the bill.

This bill creates three new fund and provides for continuing appropriations. LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds because it reduces the ability of the Legislature to establish spending priorities. In any event, this new diversion of Senior STB capacity may crowd out other projects of higher priority.

SIGNIFICANT ISSUES

OSE notes:

HB330 addresses the unmet needs of acequias and community ditches for planning, engineering design, and construction of infrastructure projects. There are an estimated 700 acequias and community ditches in 23 counties in New Mexico. Statewide, hundreds of acequias and community ditches require repairs and improvements to efficiently convey irrigation water.

The need for acequia infrastructure funding is demonstrated by the high number of acequias requesting funding from the acequia and community ditch infrastructure fund at the Interstate Stream Commission. According to the annual workplans of the Interstate Stream Commission, which administers the fund through the Acequia Bureau with 5 FTE, during FY24 and FY25 the applications to the Interstate Stream Commission for the acequia and community ditch infrastructure fund far exceeded the annual funding of \$2.5 million. In FY24, the Interstate Stream Commission approved \$6.5 million for 42 projects and, in FY25, the Interstate Stream Commission approved \$5.8 million for 36 projects. The reason that Interstate Stream Commission was able to fund a higher amount than \$2.5 million per year was because of special appropriations from the Legislature to the Interstate Stream Commission for acequia projects statewide. A reliable revenue stream from severance tax bonds for the acequia infrastructure project fund would help meet the demonstrated need.

The New Mexico Acequia Association has compiled data showing that the need for acequia infrastructure funding far exceeds the available resources. A total of the unfunded capital outlay from FY25, FY26, infrastructure capital improvement plan requests, and the acequia

and community ditch infrastructure fund FY26 applications is \$51.7 million. The amount needed to respond to disasters from FY25, which would help acequias meet the cost share requirements of federal disaster programs (75% federal/25% local-state) is estimated to be \$24.5 million. This amounts to over \$75 million in unmet needs.

These proposed funds can play a vital role in addressing needs for infrastructure funding. The acequia and community ditch infrastructure fund is used to administer acequia project funding and prioritizes acequia projects but is a fund that is capped at a \$2.5 million annual appropriation from the New Mexico irrigation works construction fund. If enacted, these new funds will have the necessary capital to provide the needed funding to acequias and meet the ever-growing need.

DFA notes the following:

The Land Grant Council is administratively attached to the DFA/Local Government Division, while the Interstate Stream Commission is administratively attached to OSE. OSE has developed acequia and community ditch infrastructure fund guidelines that are used to make recommendations to the commission for planning, engineering design, and construction of acequia and community ditch projects under their Acequias Construction Programs. It is recommended that OSE works in consultation with the Interstate Stream Commission to carry out the acequia infrastructure project fund.

SIC provides the following guidance:

The bill's structure for trust fund distributions is to send a percentage of the current fund value as of July 1 any given year to the project funds, which is not standard and will create more volatile distribution levels year-over-year, especially during times of market volatility. Typically, endowments and trusts base distributions on three- or five-year fund valuations, as longer-term averages create smoother distributions, aiding the budgeting and planning process.

The State Investment Officer, with the approval of the SIC would manage the fund in accordance with the Uniform Prudent Investor Act and would seek to ethically optimize risk-adjusted returns and grow the fund over time. The council does not currently have a "boilerplate" asset allocation for any fund, including the proposed fund, but it is a fair assumption that the new fund could/would be constructed in a manner similar to other permanent/trust funds managed by SIC.

ADMINISTRATIVE IMPLICATIONS

SIC notes no current administrative impact but wishes policy makers to understand the magnitude of impact if all proposed trust funds were enacted:

Because the bill does not seek funding for the trust fund it places under SIC management, the bill would have no immediate impact on SIC operations.

However, we would note this bill is one of several bills introduced so far this session that seek to create new funds to be placed under SIC management, which collectively would require significant additional staff time and resources:

- 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 25 creates a new land grant-merced infrastructure trust fund to be managed by SIC. The bill seeks to seed the trust fund with a \$20 million general fund appropriation.
- 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 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.

The Office of the State Auditor (OSA) has a role to play in implementing this proposal:

Projects created and developed by HB330 would be subject to the requirements for financial certification put in place by Executive Order 2013-006. Many 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. The 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.

TECHNICAL ISSUES

DFA notes HB330 would take effect in FY25 and possibly before the final bond sale of the fiscal year. There is insufficient capacity in the bonding fund to accommodate the new or increased earmarks in FY25. There is already an estimated shortfall of \$92.7 million in the bonding fund’s short-term senior capacity for FY25, which is the funding source for existing earmarks, due to appropriations made in the 2024 capital outlay bill. (This issue is described further in the Board of Finance’s January 2025 bonding capacity estimate.) In practice, the new earmarks for acequias and land grants in HB330 may need to delay certifying to the Board of Finance the need for funding until FY26 due to the need to stand up administrative oversight of the new programs, develop an application process, and propose projects. The additional earmarks for the tribal and colonias infrastructure funds presumably could certify in FY25 for the higher capacity earmarked

by HB330, however adequate revenue for those is not available from either short-term or long-term capacity.

This significant technical issue could be resolved by delaying the effective date of the new and increased earmarks in HB330 until FY26. However, it should also be noted that funding earmarks at the level envisioned in HB330 could be a challenge in the future and could require the Board of Finance to use long-term debt, contrary to current practice, instead. This would require potentially significant administrative changes to the earmark programs, according to the Board of Finance.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB330 relates to House Bill 21, which would make changes to the distributions of the land grant-merced assistance fund.

The bill conflicts with House Bill 25, which also creates a new land grant-merced infrastructure trust fund and project fund. The bill seeks to seed the trust fund with a \$20 million general fund appropriation and provide the project fund with a recurring 1.1 percent earmark of STB capacity.

It also conflicts with House Bill 450, the 2025 capital bill, which fully appropriates long-term severance tax bond capacity for FY25. This means inadequate funding for the new and increased earmarks from short-term capacity could not be made up with long-term bonds.

Duplicates Senate Bill 374 with minimal differences.

SIC notes that 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 and creates more consistent trust fund distribution mechanisms that are based on a percentage of a rolling average calendar-year-end market value.

OTHER SUBSTANTIVE ISSUES

SIC requests consideration of possible amendments:

The bill calls for a distribution from the trust fund to the project funds on July 1 equal to 3 percent or 4.7 percent of the fund balance as of that date. For accounting and timing reasons, the structure is problematic.

The funds managed by SIC – now 12 reserve, endowment and permanent funds as well as 25 governmental clients – are unitized in investment pools with valuations determined monthly. Therefore, the valuation would need to be as of June 30. However, the reconciliation process for determining monthly valuations for each of those funds takes roughly 21 days each month, so the earliest a June 30 valuation could be determined based on unaudited totals would be roughly July 21, making a July 1 distribution impossible.

SIC staff recommend amending the bill to allow SIC sufficient time to determine the market value of the fund and make a distribution as soon as practicable. This would allow

for a functional fund structure to be in place should the trust fund receive future appropriations.

OSE notes:

The Interstate Stream Commission, through its Acequia Bureau, administers all of the individual capital outlay funds that are appropriated by the Legislature to individual acequias within their districts. This workload currently consists of over 300 individual appropriations totaling over \$27 million during the last six years. In addition, the Acequia Bureau provides \$2.5 million annually to acequias as grants for planning, engineering designs, disaster response recovery and hazard mitigation, and construction of infrastructure improvement projects in accordance with guidelines that have been adopted by the commission. These guidelines require acequias to submit funding applications, which are ranked, and funding decisions are made based on their rankings. The acequia community has also received special appropriations and capital outlay appropriations to be used at the commission's discretion for acequia projects statewide. That funding has been utilized, in coordination with the Department of Finance and Administration, along with the existing acequia and community ditch infrastructure fund funding to provide more than \$2.5 million to the acequias over the past few years. The FY24 and FY25 budgets for acequia and community ditch infrastructure fund projects have exceeded \$5 million each year because of that additional funding. HB330 could provide additional recurring funding for acequia projects and could best serve the acequias if used in conjunction with the existing acequia and community ditch infrastructure fund program and in accordance with the guidelines that have already been adopted. Those guidelines were developed in coordination with the NM Acequia Commission and NM Acequia Association. HB330 requires the commission and the department to promulgate rules but if the funding were instead allowed to be utilized in conjunction with the existing acequia and community ditch infrastructure fund then rulemaking could be eliminated, and the funds would be administered according to the existing acequia and community ditch infrastructure fund guidelines. The applications received over the past few years have exceeded the budgets available demonstrating a need for additional funding for acequia infrastructure projects.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

OSE comments:

If HB330 is not enacted, acequias and community ditches will have a severe shortfall of available infrastructure funding.

If HB330 is not enacted, the Legislature would retain its current flexibility to prioritize capital funds on an annual basis, with discretion over \$75 million to \$81 million that would otherwise be statutorily committed to tribal infrastructure, acequias, and land grants under HB330.

LG/rl/SL2/rl/sgs/rl/hj/sgs

Attachments:

1. Acequia and community ditch infrastructure fund workplan
2. Severance tax bonding capacity estimate and letter from Board of Finance, January 2025

Attachment 1 - FY 2024 ACDIF Work Plan

Planning

Funding for planning assistance to acequias and community ditches.	100,000.00
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Engineering

Acequia Name	County	Project Type	Funding Requested
Acequia de Alcalde	Rio Arriba	Bank Stabilization/Concrete Lining	\$24,125.50
Acequia de la Canada Ancha	Rio Arriba	Sluice/Water Control Structure	\$17,956.93
Acequia de la Jarita	Rio Arriba	Irrigation Pipeline	\$19,428.50
Acequia Madre del Bosque	Rio Arriba	Culverts/Concrete Water Control Structure	\$21,892.60
Mariano Acequia Association	Rio Arriba	Diversion, Siphon, Pipeline, Desague	\$19,428.50
Acequia de la Concepcion	San Miguel	Irrigation Pipeline	\$21,502.72
La Fragua Puertecito y Saiz Acequia Association	San Miguel	Irrigation Pipeline	\$23,539.17
Canon Community Ditch	Sandoval	Diversion Dam/Pipeline/Turnouts/Siphon	\$42,273.00
Acequia de los Indios	Santa Fe	Infiltration Gallery	\$26,536.00
Las Acequias de las Trampas	Taos	Log Flume Replacement	\$25,308.69
Rebalse Ditch Association	Taos	Concrete Ditch Lining	\$4,021.44
Vigil y Romo Acequia Association	Taos	Bank Stabilization & Pipeline	\$11,412.19
Engineering Services Subtotal			\$257,425.23
Approx. 5% Contingency			\$17,574.77
Engineering Services Total			\$275,000.00

Construction

Acequia Name	County	Project Type	Total Request	Engineering Services
Lower Bull Creek Ditch	San Miguel	Diversion & Heading Structure	\$50,000.00	\$ -
Acequia del Finado Francisco Martinez	Taos	Irrigation Pipeline	\$225,000.00	\$14,085.90
Tularosa Community Ditch	Otero	Irrigation Pipeline	\$157,500.00	\$ -
Abeyta-Trujillo Acequia Association	Rio Arriba	Irrigation Pipeline	\$250,000.00	\$10,520.61
Cuarteles Ditch Association	Santa Fe	Grade Stabilization/Sluice Structures	\$135,425.75	\$ -
Acequias de Chamisal y Ojito	Taos	Divider Structure	\$65,023.00	\$7,003.49
Acequia del Molino (Acequia de los Barrales Fiscal Agent)	Rio Arriba	Irrigation Pipeline	\$75,000.00	\$8,140.70
Acequia de Abajo la Loma	Taos	Irrigation Pipeline/Heading Structure	\$100,000.00	\$4,862.81
Acequia Madre de Penasco Sur	Taos	Diversion Dam Rehabilitation	\$250,000.00	\$19,546.07
Des Montes Ditch Association	Taos	Division/Splitter Boxes	\$86,037.56	\$5,943.44
Acequia Madre de Las Vegas	San Miguel	Irrigation Pipeline	\$250,000.00	\$21,705.37
Ferran Community Ditch Association	Rio Arriba	Heading Structure Improvements	\$180,000.00	\$6,100.00
West Puerto de Luna Community Ditch	Guadalupe	Flume Replacement	\$42,762.00	\$ -
Pacheco Community Ditch	Taos	Diversion Dam Improvements	\$23,400.00	\$2,863.66
Lower Animas Community Ditch	San Juan	Concrete Ditch Lining	\$250,000.00	\$26,656.25
Acequia del Cano	Santa Fe	Diversion Structure	\$250,000.00	\$ -
Farmers Mutual Ditch	San Juan	Heading Structure	\$205,000.00	\$ -

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Acequia del Llano	Rio Arriba	Flume Rehabilitation	\$112,094.86	\$11,008.32
Acequia del Ancon	Rio Arriba	Irrigation Pipeline	\$250,000.00	\$3,000.00
Polvadera Acequia #1 Association	Rio Arriba	Irrigation Pipeline	\$250,000.00	\$6,511.75
Vallecitos West Ditch Association	Rio Arriba	Heading Structure Improvements	\$44,000.00	\$4,000.00
Acequia de Martinez de Abajo	Santa Fe	Diversion Dam	\$250,000.00	\$4,392.00
Storm Ditch	Lincoln	Diversion Dam Improvements	\$137,114.00	\$15,487.98
Acequia Madre del Rio Grande del Rancho	Taos	Diversion Dam	\$215,674.50	\$38,437.87
Acequia de la Agua Caliente	San Miguel	Irrigation Pipeline	\$250,000.00	\$20,000.00
Acequia del Pueblo Abiquiu	Rio Arriba	Irrigation Pipeline	\$250,000.00	\$7,045.50
Acequia de los Duranes	Rio Arriba	Irrigation Pipeline	\$250,000.00	\$5,551.00
Acequia de La Joya	Socorro	Concrete Ditch Lining	\$250,000.00	\$-
Subtotal			\$4,854,031.67	\$242,862.72
Approx. 5% Contingency			\$811,105.22	\$17,000.39
Total			\$5,665,136.89	\$259,863.11
Total Construction Funding Request			\$5,925,000.00	

Alternate Construction Projects				
Rio Puerco Community Ditch	Rio Arriba	Diversion Dam	\$250,000.00	\$5,450.63
Questa Citizens Ditch Association	Taos	Diversion Dam/Headgate	\$250,000.00	\$35,000.00

Disaster Response Recovery and Hazard Mitigation	\$100,000.00
Staffing funding for one acequia full-time position.	\$100,000.00

TOTAL WORK PLAN REQUEST	\$6,500,000.00
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Attachment 2 – Board of Finance Letter and Capacity Estimate



181 Bataan Memorial Building
407 Galisteo St., Santa Fe, NM 87501

State Board of Finance

Governor Michelle Lujan Grisham, President
Lt. Governor Howie Morales, Member

Cabinet Secretary Wayne Propst, Executive Officer
Ashley Leach, Director

January 14, 2025

BY EMAIL

To: Legislative Leadership

Representative Javier Martinez, Speaker of the House
Representative Gail Chasey, Majority Floor Leader
Representative Rod Montoya, Minority Floor Leader

Senator Mimi Stewart, President Pro Tempore
Senator Peter Wirth, Majority Floor Leader
Senator Gregory A. Baca, Minority Floor Leader

Dear Legislative Leadership,

Pursuant to Section 7-27-10.1 NMSA 1978, the State Board of Finance shall estimate the amount of bonding capacity available for severance tax bonds to be authorized by the Legislature by January 15 of each year.

The total senior severance tax bonding capacity available for capital appropriation for FY25 is estimated to be \$1,114.8 million.

- Long-term senior bonding capacity is \$385.0 million
- Short-term senior bonding capacity (notes) is \$729.8 million

Short-term supplemental bonding capacity (public schools) is \$751.0 million.

The capacity available for new appropriation during the 2025 Legislative Session is either \$292.3 million or \$385.0 million. Below is an explanation of the two estimates.

The current FY25 commitments for projects either necessarily funded or traditionally funded with short-term senior note capacity is \$822.5 million. This accounts for:

- (1) \$350.0 million in set-aside funding for previously authorized but unissued projects, specifically transportation and tribal projects appropriation in 2024;
- (2) \$367.1 million for the earmark programs, including water, tribal, and Colonias and the Housing Trust Fund;
- (3) \$23.8 million for the new capital development program fund; and
- (4) \$81.6 million for the new capital development reserve fund.

FY25 commitments for short-term senior bonding capacity (\$822.5m) exceed FY25 capacity (\$729.8m) by an estimated \$92.7 million as a result of legislative actions taken during the 2024 Session. Unless the Legislature addresses that shortfall during the 2025 Legislative Session, the Board of Finance will be required to either (1) delay some of the earmark funding into FY26 (which will also reduce FY26 capacity for new appropriation) or issue long-



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term bonds for the shortfall (which will be difficult and negatively impact those programs, given the earmark programs' structure and uses don't align with federal IRS tax requirements for tax-exempt bonds).

If the Board of Finance issues long-term bonds for the shortfall in the earmark programs, the FY25 capacity available for new appropriation totals \$292.3 million. If, instead, the Board of Finance delays a portion of the FY25 funding to earmark programs to FY26, the FY25 capacity available for new appropriation totals \$385.0 million.

Potential shortfall fixes relate to the set-aside funding for transportation projects, and include:

- Replacing the remaining set-aside funding for previously authorized but unissued projects, totaling \$169,767,271, with another funding source (e.g., general fund, road bonds). This will be the least impactful to the earmark programs and FY26 capacity.
- Extending the authorization period for the set-aside funding for previously authorized but unissued projects to FY26. This will avoid impacts to the earmark programs but reduce FY26 capacity for new appropriation.

Attached please find the sources and uses table that provides detail and five-year projected capacity totals. The table includes current short-term senior bonding capacity commitments for FY25, therefore the capacity available for new appropriation is shown at \$292.3 million.

Please contact me if you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Ashley Leach".

Ashley Leach
Director
State Board of Finance

CC: Wayne Propst, Cabinet Secretary, Department of Finance & Administration
Charles Sallee, Director, Legislative Finance Committee