

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/20/2026 **Check all that apply:**
Bill Number: HB 63 **Original** **Correction**
Amendment **Substitute**

Sponsor: <u>Rep. Kathleen Cates</u>	Agency Name and Code
Short Title: <u>NMFA Water Project Fund Projects</u>	Number: <u>NMFA (385)</u>
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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
(\$178,182.0)	(\$177,006.0)	Recurring	Net Severance Tax Bond Capacity
\$178,182.0	\$177,006.0	Recurring	Water Project Fund
(\$4,312.0)	(\$4,606.0)	Recurring	Net Water Trust Fund
\$4,312.0	\$4,606.0	Recurring	Water Project Fund

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
None	None	None	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Relates to: LFC budget recommendation which transfers \$100 million from the general fund to the water project fund in fiscal year 2027, contingent on enactment of legislation of the second session of the fifty seventh legislature suspending legislative authorization of water trust board projects.

SECTION III: NARRATIVE

BILL SUMMARY

HB 63, endorsed by the New Mexico Finance Authority Oversight Committee, authorizes 113 projects to be eligible for funding from the Water Project Fund pursuant to the Water Project Finance Act, §72-4A-1 to §72-4A-11, NMSA 1978. The New Mexico Finance Authority (“NMFA”) establishes the terms and conditions of the loans and grants awarded from the Water Project Fund as recommended by the Water Trust Board (“WTB”) and authorized by the Legislature. HB 63 contains an emergency clause.

FISCAL IMPLICATIONS

Assuming no direct appropriations are made from the Water Project Fund during the 2026 Regular Legislative Session, approximately \$182.494 million, net of adjudication, will be available for projects authorized by HB 63. The Water Project Fund receives an annual distribution of nine percent of the severance tax bonds issued by the State Board of Finance (“SBOF”). This sum is estimated to be \$185.9 million for FY 2026 based on December 2025 SBOF estimates. Also in FY 2026, the Water Project Fund is expected to receive a \$4.4 million distribution from the Water Trust Fund.

Historically, the Office of the State Engineer (“OSE”) receives 10% of the distributions deposited into the Water Project Fund annually for water rights adjudications, and 20% of the money dedicated to water rights adjudications is allocated to the Administrative Office of the Courts (“AOC”) for costs associated with water rights adjudications. House Bill 211 passed in the 2024 Regular Legislative Session, provided that from July 1, 2024, through June 30, 2029, the lesser of four million dollars (\$4,000,000) or eight percent of all water project funds shall be dedicated to the State Engineer for water rights adjudications and two percent of all water project funds shall be dedicated to the Administrative Office of the Courts for the costs associated with water rights adjudications. It is estimated that the OSE will receive \$4 million and the AOC will receive \$3.806 million from the FY 2026 Severance Tax Bonds and FY 2026 Water Trust Fund distribution.

House Bill 2, passed in the 2025 Regular Legislative Session, provided a \$200 million transfer from the general fund to the water project fund in fiscal year 2026 for projects authorized by the legislature in 2025 and 2026. The remaining unawarded balance of the \$200 million transfer after the completion of the FY 2025 application cycle is \$152,181,680. When added to the \$182.494 million available from FY 2026 Severance Tax Bonds and the Water Trust Fund distribution, the estimated total funding available for projects authorized by HB 63 is \$334,675,680.

SIGNIFICANT ISSUES

The projects authorized in HB 63 were evaluated using criteria and policies established by the WTB which require applications to be accompanied by relevant planning documents, such as preliminary engineering reports, design analysis reports, or technical memoranda. WTB policies also require that applicants timely expend prior awarded funds in order to be recommended for legislative authorization.

The WTB policies require that applicants match the awards with non-Severance Tax Bond funds. The amount of the local match is determined on a sliding scale based upon the median household income of the applicant, the size of the request and the type of project. In 2022 the WTB approved policy revisions which allow for waivers of the local match requirement for water systems when the applicant serves fewer than 250 connections and has previously secured WTB funding for the proposed project; or the system upgrade is to consolidate with another system; or the system upgrade/expansion is to incorporate previously unserved customers and is not for future development. To qualify for the local match waiver, the applicant must have implemented an Asset Management Plan for the current and future maintenance, replacements, and repair of the system.

Additionally, the policies provide that WTB financial assistance for projects supported by a rate-paying constituency may contain a loan component of between 10% and 40% of the total award, with the remainder delivered as a grant. The 2022 WTB policy revisions also allow NMFA to waive loan requirements for water projects when the applicant serves fewer than 500 connections and has previously secured WTB funding for the same project; or the project is to consolidate with another system. To qualify for the loan waiver, the applicant must have implemented an Asset Management Plan for the current and future maintenance, replacements, and repair of the system.

The WTB also offers 100% grant funding to design only projects if the project serves or will serve fewer than 500 connections. Grants for design only projects may not exceed \$500,000. The average award in FY 2025 was approximately 87% grant and 13% loan. The loans are for terms of up to 20 years and are made at a 0% interest rate.

ADMINISTRATIVE IMPLICATIONS

The Water Project Fund was created by the Water Project Finance Act and is administered by the NMFA. The NMFA makes grants and loans for qualified projects recommended by the WTB and authorized by the Legislature. NMFA is reimbursed for costs of administration, including paying contractors for engineering and construction oversight, from annual loan repayments.

House Bill 211 passed in the 2024 Regular Legislative Session, added wastewater conveyance and treatment as an eligible project category for funding from the water project fund. The FY 2026 application and award cycle is the first to include wastewater conveyance and treatment projects. NMFA received 33 wastewater conveyance and treatment applications during this cycle totaling over \$218 million, representing a significant increase in program activity.

NMFA further notes that removing the requirement for legislative authorization and therefore the requirement for this bill, could cut as much as 180 days off the timeline for consideration and approval of potential water and wastewater projects. Under current procedures, the WTB makes its initial recommendations to the Legislature for inclusion of projects on this list. The recommendations are not considered by the Legislature until 60 to 90 days after they are made, and then the bill authorizing the projects takes an additional 30 to 60 days to be approved, and then additional time before the Governor signs the bill and it becomes effective. NMFA has proposed removing the requirement of legislative authorization of all projects in the past, and continues to recommend the removal as the authorization does not add to the process, and causes delays of up to 180 days in project approval and commencement.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The LFC budget recommendation transfers \$100 million from the general fund to the water project fund in fiscal year 2027, contingent on enactment of legislation of the second session of the fifty seventh legislature suspending legislative authorization of water trust board projects.

OTHER SUBSTANTIVE ISSUES

The NMFA administers an annual application cycle on behalf of the WTB. From July 14 to September 11, 2025, the NMFA received 135 Notices of Intent to submit an application totaling approximately \$685.5 million. On September 11, 2025, 114 applications were filed. On October 29, 2025, the WTB approved for recommendation to the legislature 113 applications totaling approximately \$522.2 million of requests. One project was not recommended due to non-compliance with WTB policies and the timely expenditure of prior awarded funds. The 113 projects are included in HB 63.

There are significant gaps between the dollar amounts of Notices of Intent received, project applications filed, and available funding for this cycle, as actual project needs may have been pared down to meet application requirements. Currently there is an approximate \$187.5 million funding gap between the \$522.2 million in WTB applications received and the \$334.7 million available to water project fund projects in fiscal year 2026 through severance tax bonds, the water trust fund distribution, and remaining balance of the \$200 million transfer.

The projects listed in HB 63 were submitted by qualified entities for qualified projects that were fully evaluated by a technical team from seven agencies. The WTB prioritized the projects based upon recommendations from the technical team. Projects appearing on HB 63 will be required to demonstrate compliance with relevant regulations and laws, such as water rights, state drinking water regulations, and state audit rule requirements. Those projects with regulatory deficiencies will be by-passed by the WTB.

The 2026 WTB application cycle began on July 14, 2025, and concludes with NMFA approval of the projects expected to occur on May 28, 2026. The WTB application to award timeline is significantly longer than other programs administered by NMFA due to legislative authorization, which typically begins 2-3 months after the WTB makes its recommendation of projects to the legislature and lasts 30 or 60 days. Applicants recommended for legislative authorization are also required to submit a second application, or readiness application, which updates project information that may have changed since the project application was submitted in the fall. It is estimated that eliminating legislative authorization and the need for a readiness application could shorten the WTB application to award process by 180 days.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The 113 qualifying water projects listed in the bill will not be eligible for funding from the Water Project Fund in FY 2026.