

LFC Requester: \_\_\_\_\_

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

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**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** 2/13/2026 *Check all that apply:*  
**Bill Number:** H371 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Serrato  
**Short Title:** LAND GRANT-MERCED  
 ACEQUIA INFRASTRUCTURE  
 ACT  
**Agency Name and Code Number:** DFA-341  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0	\$0	Indeterminate but reduction of up to \$175M	Recurring	Senior STB Revenue for Other Capital Projects
\$0	\$0	Indeterminate but up to \$175M	Recurring	Land Grant-Merced and Acequia Infrastructure Trust Fund

(Parenthesis ( ) indicate revenue decreases)

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

	<b>FY26</b>	<b>FY27</b>	<b>FY28</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	\$364.6	\$359.4	*\$359.3	\$1,083.3	RECURRING	GF

(Parenthesis ( ) Indicate Expenditure Decreases)

*\*EST. REDUCED ONBOARDING COSTS AND ASSUMED 2% SALARY INC*

Duplicates/Conflicts with/Companion to/Relates to: Duplicates SB 59, HB 21  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

The House Finance and Appropriations Committee Substitute for House Bill 371 (HB371) introduces a detailed plan to promote infrastructure development for land grants-mercedes and acequias in New Mexico. It establishes two dedicated project funds—namely, the Land Grant-Merced Infrastructure Project Fund and the Acequia Infrastructure Project Fund—along with a trust fund to support these projects. The Department of Finance and Administration will manage these funds, working closely with the Land Grant Council and the Interstate Stream Commission. Additionally, HB371 adjusts severance tax bonding allocations to fund these initiatives and mandates annual reports to maintain transparency and accountability.

- Definitions: HB371 defines key terms, including:
  - Acequia: A community ditch or irrigation system organized as a political subdivision under New Mexico law.
  - Land Grant-Merced: A land grant designated as a political subdivision under specific New Mexico statutes.
  - Infrastructure Assistance: Grants provided to land grants-mercedes and acequias for approved projects.
  - Qualified Project: Infrastructure projects selected for assistance under the act.
  - Trust Fund: The Land Grant-Merced and Acequia Infrastructure Trust Fund.
- Land Grant Council Powers and Duties: The council is tasked with:
  - Developing rules and procedures for infrastructure assistance to land grants-mercedes by July 1, 2027.
  - Providing grants for qualified projects.

- Authorizing funding for projects related to community and economic development, engineering, environmental assessments, land acquisition, and durable equipment.
- Interstate Stream Commission Powers and Duties: The commission is responsible for:
  - Developing rules and procedures for infrastructure assistance to acequias by July 1, 2027.
  - Providing grants for qualified acequia projects.
  - Authorizing funding for projects such as irrigation works, flood protection, land acquisition, and durable equipment.
- Land Grant-Merced and Acequia Infrastructure Trust Fund:
  - A non-reverting trust fund is created in the state treasury, consisting of distributions, appropriations, gifts, grants, and donations.
  - The state investment officer will invest the fund under the Uniform Prudent Investor Act.
  - Annual distributions from the trust fund will be made to the Land Grant-Merced Infrastructure Project Fund and the Acequia Infrastructure Project Fund starting July 1, 2028, if the trust fund balance exceeds \$5 million.
- Land Grant-Merced Infrastructure Project Fund:
  - A separate fund is created to support qualified land grant-merced projects.
  - The fund will consist of distributions from the trust fund, loan repayments, and other legislative appropriations.
  - Balances at the end of the fiscal year will revert to the trust fund.
  - Land grants-mercedes must apply to the council for funding before requesting legislative appropriations.
- Acequia Infrastructure Project Fund:
  - A separate fund is created to support qualified acequia projects.
  - The fund will consist of distributions from the trust fund, loan repayments, and other legislative appropriations.
  - Balances at the end of the fiscal year will revert to the trust fund.

- Acequias must apply to the commission for funding before requesting legislative appropriations.
- Reporting Requirements:
  - The council must report annually (by November 1) to the legislative interim committee on land grant-merced issues, detailing expenditures, project progress, and recommendations for improvement.
  - The commission must report annually (by October 1) to the legislative interim committee on acequia issues, providing similar details.
- Amendments to Severance Tax Bonding Allocations:
  - HB371 authorizes the issuance of severance tax bonds for the Land Grant-Merced and Acequia Infrastructure Trust Fund, with a cap of \$175 million annually between FY27 and FY31.
  - Specifies that unexpended balances from bond proceeds must revert to the severance tax bonding fund within six months of project completion.
- Effective Date: HB371 will take effect on July 1, 2026.

## **FISCAL IMPLICATIONS**

### **DFA Administrative Costs**

The Department of Finance and Administration (DFA) will incur significant administrative costs to manage the Land Grant-Merced Infrastructure Project Fund and the Acequia Infrastructure Project Fund. Additionally, DFA would be required to promulgate rules for the origination of grants and loans for qualified projects. DFA has not included any administrative cost burden in its base budget for FY27.

Based on the information in HB 371, it is anticipated that HB 371 will create additional administrative costs for the DFA, the Land Grants Council, and the Interstate Stream Commission. DFA anticipates that administering both the Land Grant-Merced Infrastructure Project Fund and the Acequia Infrastructure Project Fund will require approximately 4,124 additional work hours per year. The administrative costs are likely to include:

- Fund Management: Costs associated with DFA managing expenditures as well as the drawdowns of both the Land Grant-Merced Infrastructure Project Fund and the Acequia Infrastructure Project Fund, including staff salaries, office expenses, and financial management systems.
- Legal Drafting and Review: Cost associated with DFA drafting and promulgating rules, drafting template agreements for grants and loans, as well as reviewing projects to ensure compliance with bonding and IRS requirements.

- Project Evaluation and Monitoring: Expenses related to evaluating project proposals, monitoring funded projects, and ensuring compliance with the requirements, including staff time and resources for site visits and data analysis.
- Reporting: Costs associated with preparing/submitting annual reports to the appropriate interim legislative committees, and including staff time and administrative support.

As detailed below, if the bill is passed, DFA would anticipate hiring two project managers to perform administrative services for the funds at pay band 75 for fiscal year 2026, at an estimated cost of \$284,402.80.

**FTE COST DETAILS**

**PAY BAND 75**

<b>SALARY</b>	\$ 101,816.00
<b>BENEFITS</b>	\$ 35,292.40
<b>ISD RATE</b>	\$ 950.40
<b>HCM ASSESSMENT FEE</b>	\$ 385.00
<b>TELECOM RATE</b>	\$ 677.60
<b>*ON-BOARDING EQUIPMENT</b>	\$ 3,080.00
<b>TOTAL COST PER</b>	\$ 142,201.40
<b>FTES NEEDED</b>	2
<b>TOTAL FTE COST</b>	\$ 284,402.80

\* Includes cell phone, laptop, monitors, and licensing

Additionally, DFA anticipates 500 work hours (at \$150 per hour, totaling \$75,000 per fiscal year) for legal drafting and review, along with general indirect costs for fund accounting and administration. DFA also anticipates a one-time \$5,250 cost to promulgate rules, for a total of \$364,652.80 in FY26 and \$359,402.80 in FY27. DFA has not included these costs in its base budget for FY26 or FY27.

**Impacts to Severance Tax Bonding Capacity**

The impacts to Severance Tax Bonding Capacity are dependent on some interpretation. Functionally, some severance tax bonding capacity could be available for the proposed trust fund. But a conservative interpretation §§ 7-27-8, 7-27-10.1, 7-27-10.2, and 7-27-52 would indicate that the allocation to the proposed trust fund would occur after allocations to existing earmark programs but prior to the capital development reserve fund allocation and minimum transfers to the severance tax permanent fund.

The fiscal analysis below assumes a functional reading of the proposed bill, but it's important to note (see Significant Issues section) that a legal interpretation exists that could result in the proposed trust fund being prioritized over the statutory allocation to the capital development reserve fund.

- Currently, earmark projects are anticipated to require \$420.8 million in short-term note capacity in FY27. The capital development reserve fund allocation is estimated at \$312.6

million. Based on modeling projections, it is likely that little to no senior note capacity will exist in FY27 or beyond to fund the proposed Land Grant-Merced and Acequia Infrastructure Trust Fund.

- The allocation of excess senior note capacity to the proposed trust fund would result in foregone capacity that would otherwise exist for public school capital projects and the severance tax permanent fund. This is because excess senior bonding capacity at the end of any given fiscal year typically flows to a combination of supplemental severance tax bonding capacity, which is utilized by the Public School Capital Outlay Council for capital awards to public school districts, and the severance tax permanent fund, which then provides distributions back into the general fund annually.

Should the proposed statutory changes be interpreted to say the proposed trust fund would be prioritized over the capital development reserve fund, then short-term note capacity will be insufficient to fund existing allocations (earmarks, capital reserve fund).

- This would result in a shortfall in funding of up to \$175 million that would directly impact the capital development reserve fund. This would have negative impacts beyond the funding shortfall (see Significant Issues).

## **SIGNIFICANT ISSUES**

### **Priority of Issuance and Transfers**

- It is unclear whether the intent of the bill is to make the proposed capacity for the Land Grant-Merced and Acequia Infrastructure Trust Fund subordinate to all other existing allocations in the Severance Tax Bonding Act. That is likely the functional interpretation, but certain legal interpretation creates confusion.
  - As currently written, HB371 could be interpreted to require the Land Grant-Merced and Acequia Infrastructure Trust Fund to receive any additional note capacity, prior to certain allocations, of up to \$175 million annually, until 2031.
  - Currently, in accordance with §§ 7-27-8, 7-27-10.1, 7-27-10.2, and 7-27-52, there is no additional or excess note capacity. HB371 would create additional note capacity by preempting statutory transfers to the capital development reserve fund and the Severance Tax Permanent Fund.
  - If enacted, HB371 would allow the Land Grant-Merced and Acequia Infrastructure Trust Fund to essentially intercept the transfers required under §§7-27-8, 7-27-10.2, and 7-27-52 until the fund reaches \$175 million.
  - As such, as currently written, HB371 will allow the Land Grant-Merced and Acequia Infrastructure Trust Fund to succeed transfers to the capital development reserve fund and possibly statutorily required minimum transfers to the Severance Tax Permanent Fund.

### **Severance Tax Bonding Capacity and Capital Outlay**

According to the SBOF's most recent capacity estimates, it is likely there will be no available severance tax note capacity (i.e., unobligated cash) in FY27 and beyond to fund any additional commitments beyond existing earmarks, the capital development reserve fund, and minimum transfer to the severance tax permanent fund, as required under the Severance Tax Bonding Act.

- FY27 note capacity remaining after existing allocations (earmarks, reserve fund, permanent fund transfers) is zero. While capacity is updated annually prior to each legislative session, mechanisms within the Severance Tax Bonding Act are established to provide the majority, if not all, of excess note capacity to the recently created capital development reserve fund.
- This would functionally result in very low, if any, funding available to the proposed trust fund.

Should the allocation to the proposed trust fund be considered to supersede the capital development program fund and minimum transfers to the Severance Tax Permanent Fund, it could create significant funding shortfalls that would directly impact the distributions to the capital development reserve fund.

- This could signal a departure from recent fiscally responsible actions taken by the state in recent years, specifically as it relates to the bonding programs.
- As part of its recent upgrade of the state's bond rating, Moody's specifically called out the state's efforts in managing its long-term debt issuances and creating a reserve fund that could be utilized for capital in future years with lower revenues. "... the state's prudent financial management that ensures ongoing funding for policy priorities will allow it to navigate certain economic and environmental challenges." (Moody's Ratings Report, January 12, 2026)

### **Constitutional Considerations**

Article VIII, Section 2 of the New Mexico Constitution requires that severance tax revenues exceeding the amount reserved by statute for payment of debt service payments on severance tax bonds be transferred to the severance tax permanent fund and provides for the method of distributions from such fund. The provisions of HB 371 could be subject to challenge by creating, in essence, another "permanent fund" which permits distributions differing from what the constitution allows for the severance tax permanent fund. This concern is particularly acute given that the amounts held in the proposed trust fund are not subject to appropriation by the legislature, as written. This could result in some portion of severance tax bond proceeds to never be used for projects and instead be placed into the proposed trust fund and never reach the severance tax permanent fund. This may seem to be contrary to the intent of Article VIII, Section 2, that all bond proceeds be used for projects, and that all proceeds not needed for severance tax bond debt service be transferred to the severance tax permanent fund.

### **Administrative Issues**

- The Land Grant Council is administratively attached to the DFA/Local Government

Division, whereas the Interstate Stream Commission is attached to the Office of the State Engineer (OSE).

- OSE has developed guidelines for the Acequia and Community Ditch Infrastructure Fund (ACDIF) that are used to make recommendations to the Commission on the planning, engineering design, and construction of Acequia and community ditch projects under their Acequias Construction Programs.
- It is recommended that OSE consult with DFA and the Interstate Stream Commission to implement the Acequia infrastructure project fund.
- Under the proposed amendment to HB371, DFA would be required to promulgate rules to fund (through grants or loans) projects selected by the Land Grant Council and Interstate Stream Commission, without any oversight or involvement in the application process or vetting of projects to ensure compliance with bonding requirements.

## **PERFORMANCE IMPLICATIONS**

HB371 aims to enhance infrastructure, promote economic and community development, ensure sustainable funding, and improve transparency and accountability in the allocation of resources for land grant-merced and acequia projects.

- Under HB371, DFA is required to administer two funds in consultation with both the Land Grant Council and the Interstate Stream Commission. DFA will have to work in concert with the Council and the Commission to adopt rules governing the terms and conditions for qualified projects and to establish priorities for providing infrastructure assistance for each fund.
- Improved Infrastructure for Land Grants-Mercedes and Acequias: HB371 establishes the "Land Grant-Merced and Acequia Infrastructure Trust Fund," along with separate project funds for land grant-merced and acequia infrastructure projects.
  - This could lead to enhanced infrastructure development, including facilities, irrigation systems, and durable equipment, which may improve economic and community development, irrigation efficiency, and flood protection.
- Long-Term Financial Sustainability: The trust fund is structured as a non-reverting fund, with investment income credited back to the fund. This ensures a sustainable funding source for future projects, provided the fund's balance exceeds \$5 million.
- Accountability and Reporting: Annual reporting requirements for the council and commission ensure transparency and enable monitoring of expenditures, project progress, and recommendations for improvement.
- Severance Tax Bond Allocations: HB371 revises severance tax bonding allocations to prioritize funding for land grant-merced and acequia infrastructure projects. This could lead to negative consequences in the state's severance tax bonding program.

## ADMINISTRATIVE IMPLICATIONS

HB371 introduces new administrative responsibilities for the state board of finance, the land grant council, the interstate stream commission, and DFA. These include managing new funding allocations, certifying project needs, monitoring bond proceeds, and ensuring compliance with federal regulations, which may require additional resources and coordination.

- Revised Allocation of Bonding Capacity: HB371 mandates that a portion of the severance tax bonding capacity be allocated specifically for land grant-merced and acequia infrastructure projects.
  - Starting July 1, 2026, any remaining capacity for senior severance tax bonds with a duration shorter than one year must be allocated to the Land Grant-Merced and Acequia Infrastructure Trust Fund, provided the fund's balance is below \$175 million. This introduces a new priority for the use of severance tax notes, which may require adjustments to existing allocation processes.
  - DFA will be required to develop rules, an application process, evaluation procedures, qualifications, and a form agreement, in consultation with the Land Grant Council and the Interstate Stream Commission, for applicants and projects overseen under HB371. Additionally, DFA will have to develop internal controls for the origination, reimbursement, reporting, and monitoring of grant agreements for qualified projects.
    - The State Board of Finance will be required to deny funding to projects that do not meet strict IRS tax requirements for long-term bonds, including funding to existing earmark programs, projects otherwise approved by the Land Grant Council, or Interstate Stream Commission.
- Certification Requirements: The land grant council and the interstate stream commission are required to certify the need for issuance of bonds for land grant-merced and acequia infrastructure projects, respectively. This adds layer of administrative oversight and coordination between these entities and the state board of finance.
- Monitoring and Reversion of Unused Bond Proceeds: DFA is responsible for monitoring and ensuring proper reversions of unexpended bond proceeds for acequia and land grant-merced infrastructure projects. This increases the administrative workload for DFA and requires robust tracking and reporting mechanisms.
  - Compliance with Federal Regulations: The state board of finance must ensure compliance with the federal Internal Revenue Code of 1986, as amended, when issuing and selling severance tax bonds. This may require additional administrative efforts to meet federal requirements.
- Potential Impact on Other Programs: Allocating severance tax bonding capacity to land

grant-merced and acequia infrastructure projects may reduce funds available for other programs that also receive allocations from the severance tax bonding program.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

- HB 371 of the 2026 regular legislative session is related to HB330 introduced during the 2025 regular legislative session.
- HB 371 of the 2026 regular legislative session is related to Senate Bill 59 (SB59): Land Grant-Merced & Acequia Trust.
- HB 371 of the 2026 regular legislative session is related to House Bill 21(HB21): Land Grant-Merced & Acequia Trust.
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**TECHNICAL ISSUES**

N/A.

**OTHER SUBSTANTIVE ISSUES**

N/A.

**ALTERNATIVES**

N/A.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

N/A.

**AMENDMENTS**

N/A.