

LFC Requester:

Ismael Torres

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 1/23/2026

Check all that apply:

Bill Number: SB 59

Original X Correction
Amendment Substitute

Sponsor: Sen. Leo Jaramillo; Rep. Miguel P. Garcia

Agency Name and Code Number: 305 - New Mexico Department of Justice

Short Title: Land Grant-Merced and Acequia Trust

Person Writing Analysis: Enrique Romero
Phone: 505-645-5980
Email: Fir.request@nmdoj.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Table with columns: Appropriation (FY26, FY27), Recurring or Nonrecurring, Fund Affected

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Table with columns: Estimated Revenue (FY26, FY27, FY28), Recurring or Nonrecurring, Fund Affected

(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 | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: SB 59 creates new sections of statute that (1) provide for the creation of a land grant-merced and acequia infrastructure trust fund and two related project funds, the land-grant merced infrastructure project fund and the acequia infrastructure project fund; (2) grant the New Mexico Land Grant Council (“NMLGC”) and the Interstate Stream Commission (“ISC”) the authority to administer, in conjunction with the New Mexico Department of Finance and Administration (“DFA”), various aspects of the infrastructure funding process; (3) 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 (4) require the NMLGC and the ISC to report to the appropriate legislative interim committee about the expenditures from the project funds and the progress of funded projects.

Section 1 of the bill provides that the act shall be cited as the Land Grant-Merced and Acequia Infrastructure Act (“Act”).

Section 2 provides definitions for several terms used in the Act.

Section 3 grants the NMLGC authority to (1) in consultation with DFA, adopt rules governing “terms, conditions and priorities” for infrastructure assistance to land grants-mercedes; (2) provide infrastructure assistance to land grants-mercedes for qualified projects; and (3) authorize funding for qualified projects. This section lists qualified projects.

Section 4 mirrors Section 3’s grant of authority to the NMLGC but instead grants such authority to the ISC for acequia infrastructure projects. While Section 3’s list of qualified land grant-merced projects is expansive and relates to various categories of infrastructure projects, the list of qualified acequia projects in this section includes only water-related projects.

Section 5 creates the Land Grant-Merced and Acequia Infrastructure Trust Fund (the “trust fund”) as a non-reverting fund and allows distributions from the trust fund to the land grant-merced infrastructure project fund (created in Section 6 of the bill) and the acequia infrastructure project fund (created in Section 7 of the bill). Subsections D and E provide formulas for the percentage of the trust fund to be distributed upon meeting certain conditions and require that distributions pursuant to such formulas be divided equally between the two project funds.

Section 6 creates the land grant-merced project fund in the state treasury and provides that the DFA shall administer the fund in consultation with the NMLGC. This section sets out the sources of the fund, including the distributions from the trust fund described in Section 5; payments of principal and interest on loans for qualified projects; and other money appropriated by the Legislature or distributed or otherwise allocated to the project fund (Section 10 of the bill provides for the allocation of estimated severance tax bonding capacity for land grant-merced and acequia infrastructure, and Section 9 provides for the appropriation of the proceeds of bond sales to the project fund). This section also provides that balances in the project fund revert to the trust fund, except balances from severance tax bond proceeds are required to revert to the severance tax bond fund. In addition, this section allows, but does not require, the DFA to adopt “procedures and rules” to administer the project fund; originate grants or loans for qualified projects; or govern the application process for financial assistance from the fund. The bill directs the DFA to consult with the NMLGC in the adoption of such procedures or rules. Lastly, this section provides certain requirements on a land grant-merced seeking legislative appropriations for a qualified project. Subsection F requires that a land grant-merced must first apply to the DFA for funding from the project fund prior to submitting a capital outlay request for the same qualified project. Subsection F further requires a land grant-merced seeking a legislative appropriation for a qualified project to demonstrate evidence of a funding need, including proof of the land grant-merced’s application to the DFA.

Section 7 mirrors the provisions of Section 6 but in the context of acequia infrastructure projects. For example, this section creates the acequia project fund and provides that the DFA shall administer the fund in consultation with the ISC. This section also provides for the same sources of the fund. Like Section 6, the DFA may adopt “procedures and rules” for the same purposes as those delineated in Section 6, but in consultation with the ISC. Section 7 imposes on acequias the same Section 6 requirements regarding requests for legislative appropriations—namely, the following: prior application for funding from the project fund, evidence of funding need, and proof of application for funding from the project fund.

Section 8 requires that the DFA (for land grant-merced infrastructure projects) and the ISC (for acequia infrastructure projects) report to the appropriate legislative interim committee regarding the total expenditures from the respective project funds for the previous fiscal year, the purposes for which expenditures were made, an analysis of the progress of the projects funded, and recommendations for improvement of the Act.

Section 9 adds new subsections to existing law NMSA 1978, Section 7-27.10.1, and a section from the Severance Tax Bonding Act, NMSA 1978, Sections 7-27-1 to -27. New Subsections E and F provide for the allocation of bonding capacity for land grant-merced and acequia infrastructure projects. These subsections require the board of finance division of the DFA to allocate one and one-tenth percent of the estimated bonding capacity for land grant-merced infrastructure projects and the same amount for acequia infrastructure projects prior to July 1, 2032.

This section also adds Subsections H and I that mirror existing Subsection E in authorizing the state board of finance to issue severance tax bonds in the amounts identified in Section 7-27-10.1 for land grant-merced and acequia infrastructure projects. The NMLGC certifies the need of the issuance of the bonds for land grant-merced projects and the ISC certifies such need for acequia projects. Proceeds from the sale of the bonds are appropriated to the newly created land grant-merced infrastructure project fund and the acequia infrastructure project fund. Lastly, the

bill adds new definitions to an existing subsection defining “acequia infrastructure project” and “land grant-merced infrastructure project.”

Section 10 sets July 1, 2026, as the effective date of the Act.

FISCAL IMPLICATIONS

There may be a fiscal impact on the New Mexico Department of Justice (“NMDOJ”) due to the bill’s requirement that the NMLGC adopt rules. The NMDOJ provides legal representation to the NMLGC. The NMLGC may request legal assistance from the NMDOJ in developing and adopting the rules contemplated by the bill and in implementing the bill.

SIGNIFICANT ISSUES

Given the potential overlap in administrative responsibilities between the NMLGC and the DFA for land grant-merced projects and between the ISC and the DFA for acequia projects, it may be critical for the agencies to coordinate closely with each other, especially when developing and adopting rules, procedures, and processes to avoid duplication of work or developing inconsistent or contradictory procedures or rules. This bill does not include language that addresses this potential overlap.

PERFORMANCE IMPLICATIONS

The bill requires the NMLGC to adopt rules “governing terms, conditions and priorities for providing infrastructure assistance to land grants-mercedes, including developing application and evaluation procedures and forms and qualifications for applicants and for projects.” The NMDOJ provides legal representation to the NMLGC. The NMLGC will likely request legal assistance from the NMDOJ in implementing the bill.

ADMINISTRATIVE IMPLICATIONS

See the above Performance Implications section.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Companionship: This bill is the senate companion to HB 21 and closely resembles it. However, a committee substitute for HB 21 has been submitted, so this bill will need to be reconciled with the submitted amendments to HB 21. See HRDLC1 HB21 233278.2.

TECHNICAL ISSUES

Subsection C of both Sections 3 and 4 list qualified projects, but neither section states whether such list is exhaustive. Because this type of statutory ambiguity often results in litigation, it may be helpful to state whether each of the lists of qualified projects is “including, without limitation” or “limited to the following.”

The last sentence of Section 5, Subsection A states the following: “Money in the trust fund shall be expended only as provided in this section.” The second sentence of Subsection C of the same section states the following: “Money in the trust fund shall not be expended for any purpose, but annual distributions from the trust fund shall be made to the land grant-merced infrastructure project fund and the acequia project fund pursuant to this section.” While the quoted sentences

from Subsections A and C are not technically in conflict, the last sentence of Subsection A suggests that the section allows some form of expenditure while the second sentence of Subsection C clearly prohibits expenditures and only allows distributions to the project funds. Deletion of the last sentence of Subsection A may reduce any confusion about whether money in the trust fund may be expended for any purpose.

Subsection A of Section 5 includes the following sentence: “Income from investment of the trust fund shall be credited to the trust fund.” Subsection C begins with the same sentence: “Income from investment of the trust fund shall be credited to the trust fund.” It is unclear why these sentences are duplicated within the same section; therefore, it may be prudent to consider eliminating one occurrence.

Subsection F of Section 6 provides that a land grant-merced first apply to the *department*, or DFA, for funding prior to requesting a legislative capital outlay appropriation. Whereas Subsection F of Section 7 provides that an acequia must first apply to the *commission*, or ISC, for funding prior to requesting a legislative capital outlay appropriation. If the intention is for these two subsections to mirror each other, consider replacing “department” in Subsection F with “council” (the NMLGC).

It is unclear whether there is a difference between a “legislative capital outlay appropriation” and “legislative appropriations” in Sections 6 and 7. The terms are used in consecutive sentences within the same paragraph (Section 6, Subsection F; Section 7, Subsection F) and may suggest two distinct types of appropriations. It may be prudent to consider clarifying whether the intent is to mention two distinct appropriations or whether the terms are synonymous. If the latter, it may be worth considering the use of one term only.

Subsections E and F in Section 9 require the board of finance division to allocate one and one-tenth percent of estimated bonding capacity for land grant-merced infrastructure projects and the same amount for acequia infrastructure projects prior to July 1, 2032. It is unclear whether the division is obligated to make that allocation on an annual basis or any other periodic basis prior to July 1, 2032. Existing Subsection D does not have the “*prior to*” language and similarly lacks any reference to an annual or other periodic allocation. Subsection C does require annual allocations. If the intent is to provide annual allocations for land grant-merced and acequia projects, it may be worth considering including language to that effect.

OTHER SUBSTANTIVE ISSUES

This bill creates a trust fund, but it does not include an appropriation to the trust fund.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A.