

LFC Requester:

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION
WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 01/26/2026 *Check all that apply:*
Bill Number: SB 98 Original X Correction
 Amendment Substitute

Sponsor: A. Maestas/L. Lopez **Agency Name and Code** Cultural Affairs Department - 505
Short Title: EXEMPT JETTY JACK FROM CULTURAL PPROPERTY ACT **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NA	NA	NA	NA

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NA	NA	NA	NA	NA

(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	NA	NA	NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 98 exempts “jetty jacks” from the provisions of the Cultural Properties Act (CPA), [Section 18-6 NMSA 1978](#), and the Cultural Properties Protection Act (CPPA), [Section 18-6A NMSA 1978](#).

A “jetty jack,” also known as a “Kellner jack,” is used for riverbank stabilization and flood control. It is a tripod-like steel structure. An estimated 115,000 were installed along the Middle Rio Grande by the US Army Corps of Engineers (USACE) in the 1950s and 1960s.

The CPA requires a state agency to consult with the State Historic Preservation Officer (SHPO) when a proposed project may affect a cultural property listed on the State Register of Cultural Properties.

The CPPA encourages state agencies to consult with the SHPO to ensure that cultural properties are not inadvertently damaged or destroyed. Cultural properties are significant but not listed on the State Register of Cultural Properties.

The SHPO, within the Historic Preservation Division of the Cultural Affairs Department, is responsible for provisions of both the CPA and the CPPA.

FISCAL IMPLICATIONS

None identified.

SIGNIFICANT ISSUES

- 1) Most “jetty jacks” occur in the Middle Rio Grande, under the jurisdiction of the US Bureau of Reclamation (BOR) and USACE. Therefore, most “jetty jacks” are not subject to New Mexico’s CPPA, but rather to the federal National Historic Preservation Act (NHPA). Federal review under Section 106 of NHPA is triggered when the project uses Federal funds, requires a federal permit or licenses, or takes place on federal land.

Section 106 does not prohibit removal of “jetty jacks.” It requires review, consultation, and a mitigation process wherein affected stakeholders and Tribal governments are involved.

- 2) The CPA is not applicable to remaining “jetty jacks” outside of federal jurisdiction because they are not listed on the State Register of Cultural Properties.
- 3) Those “jetty jacks” not under federal jurisdiction could potentially be subject to the CPPA because they are more than 50 years old and are associated with irrigation and conservation districts, both of which may give them significance as cultural properties. The SHPO encourages consultation in cases where “jetty jacks” are considered significant cultural properties.

The CPPA does not prohibit removal of “jetty jacks.” It requires consultation and mitigation as appropriate.

In 2025, the SHPO received a single request for removal of “jetty jacks.” This request fell under the federal NHPA Section 106 process.

PERFORMANCE IMPLICATIONS

None identified.

ADMINISTRATIVE IMPLICATIONS

None identified.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

The proposed exemption is technically unnecessary as existing administrative pathways already facilitate the removal of “jetty jacks” without requiring legislative intervention. See “Alternatives” below.

OTHER SUBSTANTIVE ISSUES

None identified.

ALTERNATIVES

There are several active administrative pathways for facilitating the consultation, mitigation, and removal of “jetty jacks” that do not require legislative action.

The majority of “jetty jacks” in New Mexico are in the Middle Rio Grande and, therefore, fall under the jurisdiction of the Middle Rio Grande Conservancy District (MRGCD).

Most “jetty jacks” under the jurisdiction of MRGCD are subject to the federal NHPA Section 106 process. A programmatic agreement regarding the management of water control infrastructure in New Mexico was executed in September 2025. The agreement is between the MRGCD, SHPO, BOR, USACE, US Fish and Wildlife Service, US Bureau of Land Management, US Forest Service, and the Advisory Council on Historic Preservation. The agreement provides for streamlined measures for water control infrastructure, including “jetty jacks.” Part of this expedited mitigation process requires a contribution to Eastern New Mexico University (ENMU) for the development of public outreach. The BOR is negotiating the required agreement with ENMU. When this is in place, the streamlined process will be activated.

The few remaining “jetty jacks” under the jurisdiction of the MRGCD that could be subject to consultation under CPPA can be addressed under an existing Memorandum of Understanding (MOU) between MRGCD and SHPO. This MOU provides a process by which MRGCD does not consult with SHPO for routine operations and maintenance actions. A streamlined process for the removal of “jetty jacks” could be included in an amended MOU, which is currently being updated and revised.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Consultation and mitigation leading to the removal of “jetty jacks” will continue to flow through the existing federal and state processes, with differing types of agreements and MOUs streamlining the process.

AMENDMENTS

Existing administrative MOUs and programmatic agreements already provide established, efficient frameworks for achieving streamlined removal of “jetty jacks” without the necessity of permanent statutory changes. However, to ensure statutory consistency, technical amendments are suggested if this legislation proceeds.

Because “jetty jacks” are not currently subject to the provisions of the CPA and do not meet the criteria for listing on the State Register of Cultural Properties, the language on page 1, beginning on line 16 through page 2, line 14, should be struck to avoid statutory redundancy. Narrowing the bill’s focus exclusively on the CPPA would address the specific consultation requirements proponents seek to waive.