

LFC Requester:

Laird Graeser

AGENCY BILL ANALYSIS - 2025 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: 3/9/2025

Check all that apply:

Bill Number: HB330

Original Correction
Amendment X Substitute

Sponsor: Rep. Miguel P. Garcia, Sen.
Leo Jaramillo, Rep. Javier
Martinez

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

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Acequia Infrastructure

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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		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	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: HB330 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 expenditures from the project funds and progress of funded projects. Lastly, the amendment changes the bonding capacity for tribal infrastructure projects from four and one-half percent – the amount in existing law – to six and one-half percent. The Internal Revenue Code is cited “Internal Revenue Code of 1986, as amended” throughout.

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

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

Section 3 grants the NMLGC authority to (1) adopt rules governing “terms, conditions and priorities” for infrastructure assistance to land grants-mercedes, (2) provide infrastructure assistance to land grants-mercedes, and (3) fund qualified projects. This section lists projects that qualify for assistance.

Section 3 (A) of the amendment changes “adopt” to “promulgate.”

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 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). Subsection B and C provided formulas for the percentage of the trust fund to be distributed and requires that distributions pursuant to such formulas be divided equally between the two project funds.

Section 5 (A) of the amendment clarifies that annual distributions from the trust fund will begin “in fiscal year 2031.”

Section 5 (C) of the amendment clarifies that four and seven-tenths percent of the balance in trust shall be divided into equal distributions “on August 1 of that year.”

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 proceeds of severance tax bonds appropriated to the project fund (the allocation of estimated bonding capacity for severance tax bonds is allowed under Section 9 of the bill). This section also provides that balances in the project fund revert to the land grant-merced and acequia infrastructure trust fund, except for balances from severance tax bond proceeds required to revert to the severance tax bond fund. Lastly, 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.

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. 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 (D) of the amendment changes “authority” to “department.”

Section 8 requires that the DFA, for land grant-merced infrastructure projects, and the ISC, for acequia infrastructure projects, to 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 Land Grant-Merced and Acequia Infrastructure Act.

Section 9 adds new language to existing Subsection D and new subsections to existing law NMSA 1978, Section 7-27-10.1, a section from the Severance Tax Bonding Act, NMSA 1978, Sections 7-27-1 through 7-27-27. First, the amendment changes the bonding capacity for tribal infrastructure projects from four and one-half percent to six and one-half percent. New **Subsection E** requires the board of finance division of the DFA to allocate 1.1% of the estimated bonding capacity for severance tax bonds for qualified land grant-merced infrastructure projects. New **Subsection F** requires the board of finance division of the DFA to allocate 1.1% of the estimated bonding capacity for severance tax bonds for qualified acequia infrastructure projects. New **Subsections H and I** mirror existing Subsection E in authorizing the state board of finance to issue severance tax bonds in the amounts identified in new Subsections E and F for land grant-merced and acequia infrastructure projects, respectively. 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 or the acequia infrastructure project fund. **Subsection J** adds “acequia” to “tribal and land grant-merced infrastructure projects.” New **Subsection K**

defines an “acequia infrastructure project” and a “land grant-merced infrastructure project” pursuant to the Land Grant-Merced and Acequia Infrastructure Act as a qualified project approved by the ISC (for acequia projects) and the LGC (for land grant-merced projects).

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 will likely request legal assistance from the Division 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.

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

Same as Performance Implications.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflict: Although there is no direct conflict between the rulemaking authority between the agencies the bill grants administrative functions to, as mentioned above in Significant Issues, coordination between the multiple agencies may be critical in effective implementation.

Relationship: This bill relates to two other bills that amend existing statute related to funding for land grants-mercedes or acequias. HB 21 (Rep. McQueen/Sen. Stefanics) amends the Land Grant-Merced Assistance Fund statute (NMSA 1978, Section 49-11-6). Appropriations from that fund are intended primarily for land grant-merced operational expenses, e.g. to hire staff, though infrastructure projects are not excluded from eligible expenditures. SB 208 (Sen. Campos) amends the Acequia and Community Ditch Infrastructure Fund statute (NMSA 1978, Section 72-14-23) to increase the annual transfer to the fund from the Irrigation Works Construction Fund from \$2.5 million to \$5 million.

This bill also relates to HB 450 (authorizing the state board of finance to issue and sell severance tax bonds not to exceed the amounts authorized for the purposes set out in the bill); SB 162 (amending the Severance Tax Bonding Act to decrease the amount of the severance tax permanent fund that may be invested in private equity funds or New Mexico businesses); and SB 514 (amending the Severance Tax Bonding Act by creating a new section allocating equally the

remaining bonding capacity after the state board of finance has determined the year's estimated bonding capacity available for the authorization for issuance of severance tax bonds among the house of representatives, senate and governor).

This bill also relates to two existing statutes that created similar trust funds and project funds, namely, the "Tribal Infrastructure Act" (NMSA 1978, Sections 6-29-1 through -9) and the "Colonias Infrastructure Act" (NMSA 1978, Sections 6-30-1 through 6-30-8). This bill contains similar, but not identical provisions.

TECHNICAL ISSUES

Technical issues identified in the original bill have been addressed in the amendment.

OTHER SUBSTANTIVE ISSUES

There is no appropriation to the trust fund created by this bill.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A.