

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)**

*(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:** Feb 5, 2025 *Check all that apply:*  
**Bill Number:** SB 257 Original  Correction   
 Amendment  Substitute

**Sponsor:** Senators Thornton, Boone, Townsend, Spence Ezzell, Paul **Agency Name and Code** State Land Office - 539  
**Short Title:** CREATING THE BORDER SECURITY ACT **Number:** \_\_\_\_\_  
**Person Writing** Sunalei Stewart  
**Phone:** 505-827-5755 **Email** sstewart@nmslo.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	\$4,000,000	FY 2026-2029 (construction coordination)	General Fund
None	\$2,000,000	FY 2026-2029 (operational)	General Fund

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
No Impact	Indeterminate	Indeterminate	Recurring	Land Maintenance Fund

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	No Impact	No Impact	No Impact			

(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**

Synopsis: Establishes Office of Border Security with director appointed by Governor and staff subject to appropriations. Exercises power of eminent domain, enters into joint powers agreements with federal government. Coordinates efforts of federal and local governments for construction, security and maintenance of a border fence.

#### **FISCAL IMPLICATIONS**

The Commissioner of Public Lands is mandated by the New Mexico Enabling Act (Act of Congress of June 20, 1910, 36 Stat. 557, Ch. 310, § 10) to obtain “true value” for the public use of state trust land. See, *Lassen v. Arizona*, 385 U.S. 458 (1967).

Approximately 24 total miles of state trust land are adjacent to the Mexican border, and approximately three miles (3 sections) directly abut the border. To the extent that the Office of Border Security requests the use of, or access to, state trust land for border enforcement purposes, including rights of way for construction and maintenance, the Office of Border Security would be required to compensate the State Land Office should the agency approve any such requests.

#### **SIGNIFICANT ISSUES**

Separate from the issue of true value compensation, the Commissioner of Public Lands has the “direction, control, care and disposition of all public lands.” N.M. Const. Art. XIII, Sec. 2. The Commissioner has “complete dominion, which is to say complete control, over state lands,” *Burguete v. Del Curto*, 1945-NMSC-025, ¶ 11, 49 N.M. 292, and “very large discretion [and] almost unlimited power with respect to the public lands owned by the state,” *State ex rel. Otto v. Field*, 1925-NMSC-019, ¶ 69, 31 N. M. 120.

The bill provides for the exercise of the power of eminent domain to condemn private property, presumably for placement of border fence, but not public (i.e., state trust land) property. Consistent with the Enabling Act, the bill does not grant the Office of Border Security the power of eminent domain over state trust lands managed by the Commissioner of Public Lands. Therefore, the bill does not establish the ability of the Office of Border Security to place a border fence on state trust land, or to use state trust land in any way for the placement, maintenance or access to such a border fence.

#### **PERFORMANCE IMPLICATIONS**

#### **ADMINISTRATIVE IMPLICATIONS**

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

#### **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

A border fence may have negative impacts to wildlife, disruptions in wildlife corridors, migration and habitat, which could affect hunting value and over all ecological health such as soil health, alterations to watersheds and more.

A border fence may have adverse effects on at least 22 known cultural properties on state trust land, many eligible for the National Registry of Historic Places and the State Registry of Cultural Properties. It is likely that additional survey, documentation, site updates, and mitigation of adverse effects will be needed to be in compliance with state law and regulations for the area of potential effect for this proposed undertaking.

A border fence may limit economic development opportunities for the State Land Office. State trust lands located near the border including Santa Teresa have potential to support the movement of cargo and freight via air, rail, and truck providing opportunities for warehousing, distribution, transloading, and manufacturing.

## **ALTERNATIVES**

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

## **AMENDMENTS**