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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/25/13

SPONSOR Cisneros LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Acequia & Community Ditch Act Purpose SB 111

ANALYST Roberts

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	\$150.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicate to House Bill 9

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Department of Agriculture (NMDA)

New Mexico Acequia Association

Department of Finance & Administration (DFA)

Higher Education Department (HED)

### SUMMARY

#### Synopsis of Bill

Senate Bill 111 appropriates \$150 thousand dollars from the general fund to the acequia and community ditch fund to carry out the purposes of the Acequia and Community Ditch Fund Act.

### FISCAL IMPLICATIONS

The appropriation of \$150 thousand dollars contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2014 shall not revert to the general fund.

### SIGNIFICANT ISSUES

The NMDA cites that this appropriation will help restore some funding to the acequia community ditch fund due to past fiscal years' budget cuts, but funding needs will continue to outstrip availability. Increasing the funds by \$150 thousand dollars will assist ACDF grant

recipients with their adjudication processes.

The New Mexico acequia association adds:

The purpose of the ACDF is to ensure that acequias have adequate legal representation and other resources for defending their water rights in the water right adjudication process. The ACDF is a recurring fund with an appropriation of \$500,000 in FY 2013.

Acequias and community ditches are a unique and vital part of New Mexico's culture and economy. Acequias are local units of government that have allocated irrigation water for centuries in New Mexico and they continue to manage a significant amount of surface water rights in the state. Their continued role in water management and agriculture and their special place in New Mexico's cultural heritage, make acequias a vital part of our state's future. The ACDF was created by statute in 1988 by the State Legislature to ensure that acequias and community ditches receive fair and equitable treatment in the adjudication process.

The ACDF funds are administered by the NMSU Department of Agriculture and are allocated through a competitive process to regional acequia associations in basis with active adjudications. A three member committee comprised of a representative from the Interstate Stream Commission, the New Mexico Acequia Commission, and the Department of Agriculture evaluate proposals and make funding recommendations. The Office of the State Engineer advises on the areas where adjudication is expected to be most active which in part determines which regional acequia associations will have the greatest need for funding in the upcoming year.

NMDA enters into agreements with regional acequia associations to provide defense of acequia-based water rights. Over a dozen regional acequia associations have received financial support for legal defense since 1988. Because of these resources, acequias have been active in some of New Mexico's most significant water litigation including the various water rights settlements in recent years such as Aamodt (Pojoaque), Abeyta (Taos), and Abousleman (Jemez). This has been instrumental to bringing greater certainty to the water rights of thousands of families in New Mexico and has contributed to sound water management in New Mexico for years to come.

#### **ADMINISTRATIVE IMPLICATIONS**

The board of regents of New Mexico State University would be responsible for administering the funds to the department of agriculture for the acequia and community ditch fund act.

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

The acequia association notes that with the ACDF funds, acequias have been able to identify and obtain correction of numerous errors in the initial offers of water rights by the office of the state engineer that would not otherwise have been corrected before the final water rights decree. Consequently, without the bill, chances would be higher that the water rights adjudicated to acequias and some of their members would have erroneous amounts, priority dates, etc., and those communities as a whole would have less in terms of water rights than what they would be entitled to.

**POSSIBLE QUESTIONS**

1. Recurring appropriations with unexpended and unobligated balances from the General Fund should revert back to the General Fund at the end of the fiscal year, what is unique about this appropriation is that it does not revert.

MIR/bm