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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 109/aHAAWC

SHORT TITLE: Water Project Fund Changes

SPONSOR: Garratt/Herrera

LAST **ORIGINAL**
UPDATE: 2/4/26 **DATE:** 2/2/26 **ANALYST:** Carswell

REVENUE* (dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
		See "Fiscal Implications"				Nonrecurring	Water Project Fund

Parentheses indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to an appropriation in the General Appropriation Act

Relates to House Bills 63 and 247

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

New Mexico Finance Authority

Environment Department

Office of the State Engineer

SUMMARY

Synopsis of HAAWC Amendment to House Bill 109

The House Agriculture, Acequias and Water Resources Committee amendment to House Bill 109 strikes the provision requiring a two-thirds majority of the House and Senate to extend the date for suspending legislative authorization of Water Trust Board projects and changes the time period through which the New Mexico Finance Authority is authorized to fund water projects from the water projects fund without legislative authorization from December 31, 2028 to December 31, 2029.

Synopsis of Original House Bill 109

House Bill 109 (HB109) amends the Water Project Finance Act to temporarily allow the New Mexico Finance Authority to award funds to qualifying water projects without authorization from the Legislature for specific projects and revises the criteria the agency must apply to prioritize projects for funding. Legislative authorization of projects is suspended until December

31, 2028, under the bill; extending the suspension of legislative authorization beyond 2028 would require a two-thirds majority vote in both the House and Senate.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

The House Appropriations and Finance Committee substitute for House Bill 2, the 2026 General Appropriation Act (GAA), contains a \$100 million fund transfer to the water project fund in FY27 that is contingent on enactment of House Bill 109, meaning passage of HB109 would have a positive revenue impact on the fund.

The water project fund is administered by the New Mexico Finance Authority, with funding for projects recommended by the Water Trust Board, pursuant to the Water Project Finance Act. The water project fund receives recurring revenue from an earmark on senior severance tax bond capacity and from annual distributions from the water trust fund. Net revenue to the project fund from these sources is estimated to be \$182.5 million in FY26 and remain roughly flat in FY27, according to NMFA and the State Board of Finance. The contingent appropriation in the GAA would thus substantially increase the capacity for awards to qualifying projects.

SIGNIFICANT ISSUES

Revenues to the water project fund have increased substantially in recent years, both from recurring sources and large, nonrecurring appropriations from the Legislature. Even so, demand for Water Trust Board funding has far outpaced available funds in the last two cycles. The 113 projects included in House Bill 63, the 2026 legislative authorization bill for Water Trust Board projects, request funds totaling \$522.2 million.

The Legislature has prioritized nonrecurring funding to the Water Trust Board, in addition to its recurring funding, because the board has a demonstrated record of success in funding projects according to need and readiness and supporting project completion. Its process for funding projects has been identified by the Legislature as the preferred mechanism for addressing the state's substantial need for capital improvements to water systems.

The Water Trust Board is the only severance tax bond earmark program that is required to receive legislative authorization of the projects to which it may award funds. Neither the Colonias Infrastructure Board nor the Tribal Infrastructure Board are subject to such a requirement. Legislative authorization lengthens the time it takes for qualifying applicants to access funding from the board and limits the board's flexibility to tailor its processes to the needs of different systems or address emergent situations. According to NMFA, suspending legislative authorization would provide the board with flexibility to open applications at different times of the year and in a way better suited to the variety of applicant types it serves. The agency expects small systems would see particular benefit from a more tailored approach to their needs and capacities.

ADMINISTRATIVE IMPLICATIONS

The 2026 Water Trust Board application cycle opened in July 2025 and will conclude when the NMFA Board approves projects in May 2026. The application-to-award timeline is significantly longer than NMFA's other programs due to legislative authorization, according to the agency. The agency estimates that suspending legislative authorization could shorten the period between application and award by as much as six months. It would impact the FY27 and FY28 funding cycles.

TECHNICAL ISSUES

Analysis submitted by NMFA flagged potential constitutional issues with the two-thirds vote required by HB109 to extend the suspension of legislative authorization beyond 2028. The agency states this may violate Article IV, Section 17, which requires only a majority vote to pass legislation.

Among the criteria HB109 establishes for project prioritization, Section 1(C) directs the board to develop a weighted scoring system to rank applications. It specifies that a 10-point score increase shall be granted for emergency situations but lacks specificity on how any other criteria are to be weighed, making the significance of a 10-point increase ambiguous. Directing the board to provide an increased score for emergencies, without specifying by how many points, may be sufficient as a statutory requirement.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to House Bill 63, the 2026 legislative authorization bill for Water Trust Board Projects.

Relates to House Bill 2, the General Appropriation Act, which includes a \$100 million fund transfer to the water project fund, contingent on enactment of House Bill 109.

Relates to House Bill 247, LFC-endorsed legislation that proposes limitations on capital outlay appropriations and reauthorization. HB247 specifically limits individual, discretionary appropriations for certain water projects, building on the Legislature's recent work to incentivize communities to seek funding for these projects through other state programs such as the Water Trust Board before seeking capital outlay.

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