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## FISCAL IMPACT REPORT

SPONSOR: Lyons DATE TYPED: 02/20/01 HB \_\_\_\_\_  
 SHORT TITLE: Create Eagle Nest Fund SB 415  
 ANALYST: Valenzuela

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
\$ 17,000.0		\$ 2,200.0	\$ 251.7	Non-Recurring	General Fund
			\$ 577.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in SC 650, which requests \$15.0 million from the general fund for the purchase of Eagle Nest Lake.

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	\$ (17,000.0)		Non-Recurring	General Fund
	\$ 17,000.0		Non-Recurring	New Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files  
 State Land Office  
 Department of Game and Fish  
 Energy, Minerals and Natural Resources Department (EMNRD)  
 State Engineer's Office

**SUMMARY**

Synopsis of Bill

Senate Bill 415 establishes and appropriates \$17 million from the general fund to the “Eagle Nest fund” for the purchase of Eagle Nest Lake.

Section 1 (A). Classifies the fund as non-reverting. Designates that the Energy, Minerals and Natural Resources Department (EMNRD) will administer the fund and the State Investment Council will manage any investments. Requires the money in the fund be used solely for the purchase of Eagle Nest Lake.

Section 1 (B). Provides that the purchase of the lake may be a combination of land and cash. Gives the state fee simple title to the property purchased.

Section 2. Makes a \$17 million appropriation from the general fund into the newly created fund. Allows the administrator of the fund authority to expend the funds over a number of years to complete the purchase. Classifies the newly created Eagle NestFund as non-reverting.

Significant Issues

When the lease of the lake ended in April 2000, the CS Cattle Company (the owner) clearly stated its intention to sell the property, and provided the state with the first-purchase option. During the 2000 legislative session, \$4 million was appropriated from the Game Protection Fund for the lease and purchase of Eagle Nest Lake. At that time, the Department of Game and Fish (DGF) entered into a month-to-month lease while a purchase agreement was being negotiated. The legislation also authorized the State Game Commission to pursue acquisition on behalf of the state, which it did. A purchase agreement should be finalized within the next couple of months. The purchase price is \$20.0 million.

The \$20.0 million purchase price was based on an appraisal, jointly funded by the CS Cattle Company and the DGF, and an independent appraisal funded by the department. Aside from the price, the purchase agreement stipulates three key terms: (1) the agreement does not obligate the state; (2) the state would have eight years to consummate the purchase; and (3) the \$4 million (less monthly lease amounts) would be used for a non-refundable down payment.

Consequently, as in the current agreement, the purchase deal is outlined below:

Purchase Price	\$ 20,000.0
Less: Downpayment <sup>1</sup>	\$ (3,878.1)
Balance	<u>\$ 16,121.9</u>

As identified in Senate Bill 415, \$17.0 million has been appropriated from the general fund to cover the remaining balance.

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<sup>1</sup> Total downpayment reflects amount available as of July 1, 2001. The DGF leases the Lake for \$10,161.25/month and is expected to lease the Lake until the end of the fiscal year. As such, the lease payments minus the original \$4,000.0 leaves \$3.9 million available.

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Additional funding options are available to reduce the impact to the general fund. The substantial unobligated cash balance in the Game Protection Fund represents one option. The fund has had a cash balance of more than \$20 million for the past couple of years, and FY01 balances are more than a million dollars greater than the same month a year ago.

Based on the HAFC budget recommendation, the LFC staff projects a cash balance of \$19 million on June 30, 2001. This projection assumes a decrease in federal revenues despite the fact that, over time, federal revenues have been steadily increasing. In fact, for the past three years, actual revenues have surpassed budgeted revenues by more than \$2 million a year. The actual revenues for FY00 outpaced expenditures by \$2.4 million.

The table below shows the unobligated cash balance of more than \$9.0 million in the fund. The LFC staff estimates that there may be up to \$5.0 million from the Game Protection Fund available that could be used for the purchase of the Lake.

<i>Game Protection Fund</i>	<b>FY00</b>	<b>FY01 (est.)</b>
Beginning cash balance	\$ 20,456,706.00	\$ 22,871,072.00
Revenues	26,437,091.00	25,613,824.00
Expenditures	(20,313,104.00)	(22,175,304.00)
Other items impacting cash	(3,709,622.00)	(6,652,445.00)
End cash balance	\$ <b>22,871,072.00</b>	\$ <b>19,657,147.00</b>
Cash Restrictions and Obligations		(4,271,055.00)
Cash reserve requirement		(6,000,000.00)
Unobligated cash		\$ <b><u>9,386,092.00</u></b>

**FISCAL IMPLICATIONS**

The appropriation of \$17 million contained in this bill is a non-recurring expense to the general fund. The appropriation is to the newly created Eagle Nest Fund.

Enactment of Senate Bill 415 would have a substantial fiscal impact on a number of state agencies, as identified below.

State Parks Division. The intention of the administration is for the State Parks Division of the Energy, Minerals and Natural Resources Department (EMNRD) to develop New Mexico’s 32<sup>nd</sup> state park on some portion of the Eagle Nest Lake property. The State Parks Director has commented that enactment of Senate Bill 415 will require “substantial infrastructure and facility development” for a state park at the Lake and that “costs are estimated at \$2.2 million for these [capital improvement] projects”. Additionally, the Director has requested a recurring \$327.0 and a non-recurring \$251.7 appropriation from the general fund for operating costs of the new state park. The bill does not

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contain funding for an annual operating budget for the new state park, nor does the General Appropriations Act, House Bill 2.

Office of the State Engineer. The State Engineer has identified “known rehabilitation issues” with the dam at Eagle Nest Lake that the office would be required to address. However, the agency does not have adequate funding to handle these issues. The issues identified are “leaky outlet gates, the operating mechanism for the gates, the lack of power to the dam and access to the dam for repairs. . . OSHA violations in the outlet tower.” The only estimate provided the agency is that \$250.0 is needed to prepare design plans to renovate the outlet tower.”

As mentioned previously, the Game Protection Fund could be available to address some of the capital improvement issues identified by these agencies. A precedent does exist. The Department of Game and Fish transfers \$100.0 from the Game Protection Fund to the Office of the State Engineer for operating costs associated with Ute Dam.

### **ADMINISTRATIVE IMPLICATIONS**

Enactment of Senate Bill 415 will have an impact on the state agencies identified above. Because this bill will have an impact on multiple state agencies, a joint powers agreement should be developed to ensure a seamless transition and operation of the property. Other agencies impacted by the bill will be the General Service Department, the State Land Office and the Attorney General’s Office.

### **OTHER SUBSTANTIVE ISSUES**

Senate Bill 415 opens up the potential of a land swap as part of the purchase of the Lake. Consequently, state trust lands may be traded.

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