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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/07  
 LAST UPDATED 3/13/07      HB 268/aHAFC/aSFC

SPONSOR Gonzales

SHORT TITLE NMFA Water Fund Projects      SB \_\_\_\_\_

ANALYST Kehoe

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
(\$32,700.0)	(\$28,750.0)	(\$26,935.0)	Recurring	Severance Tax Bond Capacity
\$32,700.0	\$28,750.0	\$26,935.0	Recurring	Water Project Fund
		(\$4,000.0)	Recurring	Water Trust Fund
		\$4,000.0	Recurring	Water Project Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates SB 100; relates to executive capital outlay proposal.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Finance Authority (NMFA)  
 Office of State Engineer (OSE)  
 New Mexico Department of Agriculture (NMDA)  
 New Mexico Environment Department (NMED)

### SUMMARY

#### Synopsis of SFC Amendment

The Senate Finance Committee amendment to House Bill 268 strikes the House Appropriations and Finance Committee amendment and authorizes the New Mexico Finance Authority to make a loan or grant from the water project fund to the City of Rio Rancho in Sandoval County for a water conveyance project and to Bernalillo County for a water conveyance project.

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to House Bill 268 authorizes the New Mexico Finance Authority to make a loan or grant from the water project fund to the City of Rio Rancho in Sandoval County for a water conveyance project.

Synopsis of Original Bill

House Bill 268, introduced for the New Mexico Finance Authority Oversight Committee, authorizes the New Mexico finance authority to make loans or grants from the water project fund for 30 qualifying projects on terms and conditions established by the water trust board (WTB) and the New Mexico Finance Authority (NMFA).

**FISCAL IMPLICATIONS**

Laws 2003 (Chapter 134) requires the Board of Finance to authorize and issue bonds for 10 percent of the severance tax bonding capacity each year for deposit in the water project fund. The 10 percent set-aside of severance tax bond capacity for FY07 will provide approximately \$32.7 million to the water project fund for eligible water projects. The forecast in future years for 10 percent of severance tax bond capacity will be approximately \$28,750.0 in FY08 and approximately \$26,935.0 million in FY09. Money from the severance tax bonds may not be used to pay indirect project costs, and any unexpended balance from proceeds of severance tax bonds issued for a water project shall revert to the severance tax bonding fund within six months of completion of the water project. The value of the 10 percent of severance tax bond capacity can change from year to year depending on oil and gas revenues. The NMFA is responsible for monitoring and ensuring proper reversions.

Laws 2006, Chapter 109, provided for the transfer of \$40 million from the general fund at the beginning of fiscal year 2007 to the water trust fund created by the Water Finance Act. According to the constitutional provision creating the water trust fund approved in November 2006, and in accordance with state law, on July 1, 2008 for FY09 and each fiscal year thereafter, an annual distribution shall be made from the water trust fund to the water project fund pursuant to state law, and that distribution shall then be appropriated by the legislature only for water projects consistent with a state water plan and as otherwise provided by law to support critically needed projects that preserve and protect New Mexico's water supply.

Section 72-4A-8 of the Water Finance Act provides that on July 1 of each fiscal year, annual distribution will be made from the water trust fund to the water project fund in the amount of \$4 million until the amount is less than an amount equal to 4.7 percent of the average of the year-end market values of the water trust fund for the immediate preceding five calendar years.

**SIGNIFICANT ISSUES**

The water project fund and water trust board were created by the Water Finance Act. According to the Act, once authorized by the Legislature, the water trust board reviews all projects and determines qualifying entities and projects for consideration of loans or grants from the water project fund.

Soon after the 2007 legislative session adjourns, the water trust board (WTB) will review all

projects authorized by the Legislature for funding from the 2007 distribution to the Water Project Fund. Eligible water projects pursuant to the Water Finance Act are defined as those involving: 1) the storage, conveyance or delivery of water to end-users; 2) the implementation of federal Endangered Species Act collaborative programs; 3) the restoration of watersheds; 4) flood prevention; 5) conservation; or 6) for recycling, treatment or reuse of water. Laws 2005 (Chapter 293) certifies 10 percent of all funds in the water project fund may be allocated to the Office of State Engineer (OSE) to be used for adjudication. Of the OSE 10 percent, 20 percent will go to the Administrative Office of the Courts for adjudication purposes.

According to NMFA, the Water Trust Board (WTB) received 94 letters of interest, requesting a total of \$175.5 million from the 2007 annual distribution to the Water Project Fund. After reviewing the letters, the WTB invited 32 qualified entities to complete applications, of which 29 are requesting legislative authorization for financial assistance. The total amount requested for the projects contained in this bill is \$58.8 million. The City of Deming is requesting a reauthorization of project scope for a water project rather than a re-use project that was previously authorized in the 2005 session. Funds awarded to the City of Deming remain at \$300,000 from FY05.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 100 duplicates House Bill 268 in its entirety.

The executive is proposing increasing the 10 percent allocation from severance tax bond capacity to the water project fund from 10 percent to 15 percent. The increase would generate approximately \$16.3 million more for deposit to the water project fund.

LMK/mt