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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/25/13  
 SPONSOR Cisneros LAST UPDATED 02/25/13 HB \_\_\_\_\_

SHORT TITLE Water Trust Board Loan Pay Offs SB 257a/SCONC

ANALYST McCoy

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	\$16.4	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	\$16.4		Nonrecurring	Water Project Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Finance Authority (NMFA)

Office of the State Engineer/Interstate Stream Commission (OSE/ISC)

### SUMMARY

#### Synopsis of SCONC Amendment

The Senate Conservation Committee amendment to Senate Bill 257 (SB257) deletes “acequias Madre” on line 18 and leaves “acequia Monte del Rio Chiquito.” The amendment also strikes “water project fund” on line 17 and replaces it with “department of finance and administration”.

Synopsis of Original Bill

Senate Bill 257 (SB257) appropriates \$16.4 thousand from the general fund to the water project fund for expenditure in fiscal year 2014 to pay off loans from the water trust board to the acequias Madre and Monte del Rio Chiquito in Talpa and Ranchos de Taos in Taos county.

**FISCAL IMPLICATIONS**

The appropriation of \$16.4 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2014 shall revert to the general fund.

According to the New Mexico Finance Authority (NMFA), as this bill is drafted, the \$16.4 thousand appropriation would be deposited into the Water Project Fund and, therefore, subject to a 10 percent reduction as Section 72-4A-9(A) NMSA mandates that the Office of the State Engineer receive 10 percent of any funds deposited into the Water Project Fund for water rights adjudication. The NMFA notes, the provisions in Section 72-4A-9(A) NMSA would reduce the \$16.4 thousand appropriation from the general fund by \$1,640, and thus would not fully repay the entire loan component as secured by Acequia del Monte del Rio Chiquito.

**SIGNIFICANT ISSUES**

According to the NMFA, SB257 lists two separate loans, but there is only a loan to the Acequia del Monte del Rio Chiquito currently secured with the NMFA as permitted under the Water Project Finance Act. The loan to the Acequia Madre does not exist, nor has an application ever been submitted for the Water Trust Board’s consideration for recommendation to the NMFA for funding approval.

According to the OSE/ISC, the Acequia Monte del Rio Chiquito has registered by-laws and in good standing with the ISC. Section 2 of the Water Trust Board’s Water Project Fund Project Management Policies provides for hardship waivers for loan recipients that find it difficult to make a loan payment. The waiver provides for total forgiveness of an annual principal and interest payment (the 0.25% administrative fee is not forgiven). If acequia Monte del Rio Chiquito expects difficulty making a payment, they should petition the Water Trust Board for relief. The hardship waiver would negate the need to seek legislative remedies.

**ALTERNATIVES**

The NMFA notes one alternative is to redraft SB257 to permit the general appropriation be directed to Acequia del Monte del Rio Chiquito with the purpose of loan repayment, thus accomplishing the goal of additional financial support for the community and thereby not subject to a reduction for adjudication.

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

According to the NMFA, the Acequia del Monte del Rio Chiquito may have the following options in repaying the loan:

1. Secure financial assistance from another source to repay the loan in full.

2. Increase the membership fees collected from the parciantes.
3. Apply for the annual financial hardship waiver permitted within the NMFA's secured loan agreement documents.

The NMFA adds, a hardship waiver may be applied for on April 1st for year of the term agreement. The hardship waivers are reviewed by the New Mexico Department of Finance and Administration, and if there is a genuine financial hardship that does not permit the community to pay the annual zero percent interest loan repayment then the payment is forgiven.

### **AMENDMENTS**

Since the amended language deletes the reference to the Acequia Madre, but leaves its location on line 19, the Office of the State Engineer/Interstate Stream Commission (OSE/ISC) recommends striking the words "Talpa and" on line 19, page 1.

The Office of the State Engineer/Interstate Stream Commission (OSE/ISC) recommends changing the language on line 18 to read "off loans authorized by the water trust board and executed by the New Mexico Finance Authority to the acequias..."

MTM/blm