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FISCAL IMPACT REPORT

ORIGINAL DATE 1/22/06

SPONSOR Nunez LAST UPDATED _____ HB 134

SHORT TITLE Water Trust Fund SB _____

ANALYST Kehoe, L.

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
\$100,000.0		Non-Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Senate Bill 93.

Relates to House Bill 132, Senate Bill 194, and Senate Bill 224.

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
\$100,000.0			Non-Recurring	Water Trust Fund (See Fiscal Implications)
	\$4,000.0		Recurring	Water Project Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Finance Authority (NMFA)

Office of the State Engineer (OSE)

Energy & Mineral Natural Resources Department (EMNRD)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Original Bill

House Bill 134 appropriates \$100 million from the general fund to the water trust fund for the purpose of carrying out the provisions of the Water Project Finance Act.

FISCAL IMPLICATIONS

The 2001 Legislature enacted the Water Project Finance Act establishing a water trust fund program, a water project fund and a water trust board. Creation of the water trust fund was intended to provide a permanent revenue source to provide grants and loans to political subdivisions and to provide for long-range planning and financing of regional and statewide water supply projects. The residual of the earnings from the water trust fund would be deposited in the water project fund for water projects, but at the same time leaving a corpus of the fund for future earnings and distributions to the water project fund for water projects.

The \$100 million appropriation to the water trust fund as proposed in House Bill 134 would be invested by the State Investment Officer in the same manner that the land grant permanent funds are invested. Earnings from the investment of the trust funds are to be credited to the water trust fund and shall be used only for an annual distribution to the water project fund. Section 72-4A-8 of the 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.

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 FY06-07 will provide approximately \$28.5 million to the water project fund for eligible water projects. 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. NMFA is responsible for monitoring and ensuring proper reversions.

Eligible water projects 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. In 2005, the Act was amended to add the category of “water rights adjudication” to provide automatic fund in an amount equal to 10 percent of the annual distribution to the water project fund. Following the 2005 Legislative Session, prior to the sale of severance tax bonds, it was determined the severance tax bonds could not be used for administrative purposes. Therefore, the Office of State Engineer and Administrative Office of the Courts did not receive money for adjudication purposes from the water project fund in 2005.

The appropriation of \$100 million contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

SIGNIFICANT ISSUES

The water trust board has adopted rules governing the terms and conditions of grants or loans recommended by the board for appropriation by the Legislature from the water project fund. Conforming with statutory obligations, the rules give priority to projects that have urgent needs, that have been identified for implementation of a completed regional water plan that is accepted by the Interstate Stream Commission, and that have matching contributions from federal or local sources. As per the Water Finance Act, NMFA provides staff support for the board, develops application procedures and forms for political subdivisions to apply for grants and loans from the water project fund, and make loans or grants for water projects authorized by the Legislature. Other actions taken by the water trust board have included adoption of bylaws, approval of an open meeting resolution, and a per diem and mileage policy.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 93 duplicates House Bill 134 in its entirety.

Senate Bill 194 duplicates the intent of House Bill 134, but provides that \$100 million of the nonrecurring revenue of the general fund remaining at the end of fiscal year 2006 be transferred to the water trust fund.

Senate Bill 224 proposes to allow 10 percent of the total amount allocated from the senior severance tax bond capacity to the water project fund be dedicated to the state engineer for water rights adjudications; and 20 percent of the money dedicated for water rights adjudications shall be allocated to the administrative office of the courts for the courts' costs associated with those adjudications.

House Bill 132 amends the Water Project Finance Act to provide that money in the water trust fund shall not revert at any time.

OTHER SUBSTANTIVE ISSUES

According to NMFA, over \$2 billion in water related needs have been identified statewide. During fiscal year 2005, the water trust board received over \$129 million in requests for funding water projects. Since its inception, the board has recommended projects totaling \$47 million for grant funding for 47 projects for 29 local entities statewide. The state funding has leveraged more than \$50 million of local and/or federal funding.

LMK/yr