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FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/06
LAST UPDATED 2/07/06 **HB** 272/aHAFC

SPONSOR Martinez, K.

SHORT TITLE Transfer Money to Water Trust Fund **SB** _____

ANALYST Kehoe

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
(See Narrative)			See Narrative	General Fund
				Water Trust Fund (See Narrative)

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 132, House Bill 134, House Bill 296, Senate Bill 93, Senate Bill 194, Senate Bill 224, House Joint Resolution 6, House Joint Memorial 21, and the 2006 General Appropriation Act.

SOURCES OF INFORMATION

- LFC Files
- New Mexico Finance Authority (NMFA)
- New Mexico Environment Department (NMED)
- New Mexico Department of Agriculture (NMDA)

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment strikes the \$100 million appropriation transfer from the general fund to the water trust fund and inserts in lieu thereof “any amount” from the general fund shall be transferred to the water trust fund. The amendment further provides that if the water trust fund is not established as a “permanent fund” in the Constitution of New Mexico, the “any amount” in the water trust fund shall not revert to the general fund.

The 2006 General Appropriation Act passed by the House of Representatives, but not yet acted upon by the Senate, currently contains a \$40 million appropriation to the water trust fund in Section 12 of the bill.

Synopsis of Original Bill

House Bill 272 transfers \$100 million from the general fund to the water trust fund under certain conditions for distribution according to provisions of the Water Finance Act.

FISCAL IMPLICATIONS

House Bill 272 provides for the transfer of \$100 million from the general fund to the water trust fund upon the effective date of this provision in fiscal year 2006. However, no distribution or expenditure of the transferred general funds may be made until on or after January 1, 2007.

The bill requires that the voters adopt an amendment to the New Mexico Constitution establishing the water trust fund at the 2006 General Election. If establishment of the water trust fund is not ratified by the voters, the \$100 million must be transferred from the water trust fund back to the general fund. The \$100 million appropriation 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.

The Water Project Finance Act, Chapter 164, Laws of 2001, created a water trust fund program, a water project fund and a water trust board. The water trust fund is 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. To date, the water trust fund has never been capitalized to establish the permanent corpus of the fund.

According to the Act, the \$100 million appropriation to the water trust fund proposed in this bill 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, an 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

Eligible water projects funded from the water project fund 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.

Although the water trust fund was not funded, the water project fund is capitalized with 10 percent of the severance tax bonding capacity each year as provided by Laws of 2003, Chapter 134.

The 10 percent set-aside of severance tax bond capacity for FY06-07 is approximately \$28.5 million for allocation by the water trust board for eligible water projects authorized by the Legislature. 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.

According to NMFA, over \$2 billion in water-related needs have been identified throughout the state. The water trust board in FY05 received over \$129 million in requests for water-related projects. To date, the water trust board has recommended \$47 million of grant funding for 47 projects for 29 local entities statewide. The state has leveraged more than \$50 million of local and/or federal funding.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Joint Resolution 6 proposes an amendment to the New Mexico Constitutional amendment to establish a water trust fund in the 2006 General Election.

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

Senate Bill 194 duplicates the intent of House Bill 134, House Bill 296 and Senate Bill 93 providing 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 93 and House Bill 134 appropriate \$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.

Senate Bill 224 deletes a provision within the Water Project Finance Act which would allowed 10 percent of the total amount allocated to the water project fund to be used for water rights adjudication.

House Joint Memorial 21 requests the Legislative Council to appoint a task force to assess options for creating a permanent funding mechanism for the water trust fund.

LMK/mt