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FISCAL IMPACT REPORT

ORIGINAL DATE 01/23/10

SPONSOR Lundstrom LAST UPDATED _____ HB 40

SHORT TITLE Water Infrastructure Project Agency Change SB _____

ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation			Recurring or Non-Rec	Fund Affected
FY10	FY11			
(\$5,885,865.0)	NFI		Non-Recurring	Water Project Fund
\$5,885,865.0	NFI		Non-Recurring	Severance Tax Bond Proceeds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Finance Authority (NMFA)

New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

House Bill 40 requires the Board of Finance of the Department of Finance and Administration to void the authorization of severance tax bond capacity of approximately \$5.9 million previously appropriated to the water project fund administered by the New Mexico Finance Authority. The bill further proposes the severance tax proceeds in the same amount be appropriated to the New Mexico Environment Department (NMED) and authorizes NMED to make a grant in the same amount to the City of Gallup for a water project in McKinley County.

The bill contains an emergency clause.

FISCAL IMPLICATIONS

While the change of agency and transferring of funds in this bill does not create a fiscal impact to the water project fund or severance tax bond capacity, NMED and NMFA both express concerns the change of administering agencies proposed in this bill could delay the timelines established for the project and could potentially create a fiscal impact to the City of Gallup if the process of

securing funds is delayed by a change of agency. The change of agency will require a review and approval by the Board of Finance for both the change of agency and transfer of funds which may not occur until June 2010.

According to NMED, the project in McKinley County referred to in this bill is another phase of the larger regional water project known as the Navajo-Gallup Pipeline Project and is currently on track. NMFA indicates two grant agreements for the project are currently under review by legal counsel and it is anticipated the closing of the agreements between NMFA and the City of Gallup will occur in March 2010. In addition to the 2008 funds addressed in this bill, in 2009 the Water Trust Board awarded additional funds to the City of Gallup for this project for a total award of over \$1.6 million. The dollars awarded to the Navajo-Gallup Pipeline support a larger system that creates a reliable source of drinking water for the people within the region. The City of Gallup has already committed various forms of support for leveraging water project funds for constructing phases of the regional project.

Money from the severance tax bond capacity may not be used to pay indirect project costs. All unexpended balances from the 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 funds referenced in this bill will revert to the severance tax bond fund at the end of fiscal year 2014.

SIGNIFICANT ISSUES

The Navajo-Gallup Pipeline will bring potable drinking water to numerous homes in the Eastern Navajo Agency, where many still travel long distances for drinking and utility water for animals and farming. The lack of water limits economic development and prevents permanent housing and medical and public safety services from being located in the communities.

OTHER SUBSTANTIVE ISSUES

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 is intended to provide financial assistance to eligible water projects. 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 is transferred to the Administrative Office of the Courts for adjudication purposes.

The water project fund and water trust board were created by the Water Finance Act. The Act requires projects funded from the water project fund be 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. NMFA is responsible for administering the water project fund, including monitoring and ensuring proper reversions.