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## FISCAL IMPACT REPORT

**SPONSOR** Armstrong, G/ Sweetser/Dow/Ramos      **ORIGINAL DATE** 02/06/19  
**LAST UPDATED** \_\_\_\_\_      **HB** 373

**SHORT TITLE** New Mexico Central Arizona Project Entity      **SB** \_\_\_\_\_

**ANALYST** Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Minimal			Recurring	Various

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Attorney General (NMAG)

Office of the State Engineer (OSE)

State Land Office (SLO)

### SUMMARY

#### Synopsis of Bill

House Bill 373 changes the status of the New Mexico CAP Entity (NM CAP Entity) to a political subdivision of the State with duties that include supplying Arizona Water Settlements Act water, providing water rights and developing water utilization projects to improve quality of life and to encourage economic development in southwestern New Mexico. Once a political subdivision of the State, the NM CAP Entity will have the power to own assets, manage its own contracting and finances, and raise revenues by assessing membership dues and user fees, applying for grants and matching funds, borrowing money, and issuing revenue and refunding bonds.

### FISCAL IMPLICATIONS

OSE noted administrative costs borne by the ISC to support the Entity would be reduced.

Under the current Amended JPA, the NM CAP Entity uses the services of two fiscal agents: ISC is the first and the City of Deming is the second. ISC currently approves the NM CAP Entity's annual budget out of the New Mexico Unit Fund, which includes the CAP Entity's operating expenses, administrative costs, and contractual services. Entity staff is employed by the City of

Deming. All contracts that the Entity enters into are through either the ISC or the City of Deming. The City of Deming prepares the financial documents that are required to request reimbursement from ISC. The City of Deming assesses an administrative fee for its services. The ISC does not.

The bill would eliminate the City of Deming's fees, release the ISC from some of its duties as first fiscal agent for the NM CAP Entity, and allow the NM CAP Entity to have direct contractual oversight of staff and contractors. Doing so would allow ISC staff to stop managing the Entity's requests for proposals and technical contracts, and reviewing and approving bills and expenses related to such contracts. However, the CAP Entity will need to continue to request a portion or all of its annual budget to be funded out of the NM Unit Fund for the foreseeable future, until it can fully fund its operating budget from other sources. Therefore, the ISC staff will still need to review the CAP Entity's budget request, prepare recommendations to the Commission, and include the approved budget transfer amounts in the agency budget request. The ISC would continue to be a non-voting member of the Entity and retain its Arizona Water Settlements Act responsibilities.

### **SIGNIFICANT ISSUES**

The functions and powers of the NM CAP Entity would become almost identical to those currently being provided for under an Amended Joint Powers Agreement (JPA) between the ISC and various subdivisions, NMAG and OSE noted. Under the bill, however, the various political subdivisions, which include irrigation associations, counties, villages, the city of Deming, and soil and water conservation districts, would become members of the Entity with each of them appointing representatives to serve on the new board, and ISC only being permitted a nonvoting member.

### **PERFORMANCE IMPLICATIONS**

Under the current arrangement, the NM CAP Entity must consult with ISC to select a project to divert water from the wild Gila River. Funding for the NM CAP Entity is from the New Mexico unit fund which will receive at least \$90 million under the federal Arizona Water Settlements Act to meet water demands in southwestern New Mexico. To date the state has received \$63.3 million with \$27 million more to come, and over \$13 million has already been expended on planning.

LFC is concerned about the large amount of project money spent planning and the failure of the NM CAP Entity to select a Gila River diversion project with significant public and environmental benefit. The LFC recommendation for the NM CAP Entity (provided in the OSE budget) required matching funding from non-state sources. The requirement for the Entity to pursue local funding was to assist in the long-term viability of the project once completed. At that time, the Entity would be responsible for the maintenance of the project which would require the ability to raise revenue.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Memorial 18 would express the House of Representatives' support for the NM CAP Entity.

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

The NM CAP Entity will continue to not be able to manage its own finances or assets.

AHO/sb