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FISCAL IMPACT REPORT

ORIGINAL DATE 2/10/2020

SPONSOR Martinez, R./Small **LAST UPDATED** _____ **HB** 357

SHORT TITLE Limit NM Unit Fund Uses **SB** _____

ANALYST Wan

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$425.0	\$425.0	\$850.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with SB243

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

SUMMARY

Synopsis of Bill

House Bill 357 would amend the New Mexico Unit Fund Act by adding two sections: one directing expenditures from the fund to finance specific categories of non-New Mexico Unit projects and another restricting the use of funds for administrative or operating expenses of a political subdivision of the state, an organization of political subdivisions of the state, or the New Mexico central Arizona project entity (CAP Entity).

The new Section D of HB357 directs the Interstate Stream Commission (ISC) of OSE to use the New Mexico unit fund for alternatives to a New Mexico Unit, allocate and expend at least \$72 million of the fund balance to implement non-New Mexico Unit alternatives, and prioritize funding for non-New Mexico Unit projects that were evaluated and approved by ISC but were not fully funded and infrastructure projects in the southwest planning region for public drinking water systems included in infrastructure capital improvement plans. The new Section H of the bill would disallow expenditures from the New Mexico unit fund for administrative or operating expenses of the CAP Entity and some existing non-New Mexico unit projects.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

OSE estimates 4 new FTE would be required to implement provisions of HB357 (see Administrative Implications). The estimated annual cost of 4 FTE is \$425 thousand.

SIGNIFICANT ISSUES

According to OSE, Section D of the bill would prevent funds from being used to pay the costs of the ongoing National Environmental Policy Act evaluation of the New Mexico Unit proposed by the CAP Entity.

The existing Section C of the New Mexico Unit Fund Act provides that “the purpose of money in the fund is to pay the costs of the New Mexico unit or other water utilization alternatives to meet water supply demands in the southwest water planning region of New Mexico, as determined by the interstate stream commission in consultation with the southwest New Mexico water study group or its successor.” The CAP Entity is the successor to the New Mexico water study group. OSE states, “If the [CAP] Entity is no longer funded from the New Mexico unit fund, the Entity may not have sufficient resources to meaningfully consult in accordance with the Arizona Water Settlements Act. Without a partner to consult, the ISC would not be able to fund additional water utilization alternatives out of the New Mexico unit fund.

OSE further explains:

“The ISC has already vetted, selected and allocated \$9.1 million to 16 water utilization projects (non-Unit projects) in the southwest region of New Mexico. Those projects were proposed by local political subdivisions of the state and, in some cases, New Mexico Unit funds are used by the political subdivisions for administrative and operational expenses necessary to conduct their non-New Mexico unit project(s). The new proposed Section H would preclude the ISC from disbursing additional New Mexico Unit funds to such political subdivisions for administrative or operating expenses. Currently, 9 out of 16 projects are still ongoing, with a total balance of \$3.5 million remaining unspent from the original ISC allocation. The bill’s restriction on the use of funds for administrative or operating expenses would likely have the effect of delaying or stopping progress on some of the projects, because the political subdivision implementing the project could no longer be funded from the New Mexico unit fund.”

PERFORMANCE IMPLICATIONS

OSE states that provisions of HB357 would negatively affect the ability of ISC to meet its obligations under the Arizona Water Settlements Act, which include providing funding to the CAP Entity or to non-New Mexico unit projects and their fiscal agents when the project proponents or fiscal agents are political subdivisions of the state.

OSE also says that the restrictions contained in HB357 would make it more difficult to use funds to implement projects. The agency states “allocating more funds to unspecified projects or delaying further funding for administrative or operating costs when the existing funds have not yet been fully utilized, could have a negative effect on completing existing projects.”

ADMINISTRATIVE IMPLICATIONS

According to OSE, Section D, Subsection 2, of HB357 “seeks to allocate and expend more money than the amount currently available in the New Mexico unit fund for non-New Mexico unit projects. Currently, the ISC does not have sufficient staff or funding to administer and oversee additional unit fund projects that would be funded by this bill. Funding would be needed for at least 4 FTE to administer, provide oversight and operating expenses to ensure that the funds are spent responsibly and the projects are completed and operable.” The bill also requires the ISC to assess the availability of federal matching funds and local funding capacity.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill would conflict with SB243, which seeks to make the CAP Entity a political subdivision of the state so that it can seek and obtain additional sources of funding.

CW/sb/rl