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FISCAL IMPACT REPORT

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| SPONSOR <u>Correa Hemphill</u> | LAST UPDATED <u>02/23/23</u> |
| | ORIGINAL DATE <u>01/25/23</u> |
| SHORT TITLE <u>NM Unit Fund Projects</u> | BILL NUMBER <u>Senate Bill 70</u> |
| | ANALYST <u>Hitzman/Sanchez</u> |

APPROPRIATION*
(dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|------------------|---------|---|---------------|
| FY23 | FY24 | | |
| No fiscal impact | \$600.0 | Nonrecurring/Recurring (See Fiscal Implications) | General Fund |

Sources of Information

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
Office of the State Engineer (OSI)

No Response Received

Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Senate Bill 70

Senate Bill 70 appropriates \$600 thousand to the Local Government Division of the Department of Finance and Administration between FY24 and FY27 for the southwest regional planning commission to provide water project proposal development, project implementation assistance, and application assistance to county, municipal, and special district governments that are eligible to apply for water project assistance from the New Mexico Unit fund.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023 (90 days after the Legislature adjourns) if signed.

FISCAL IMPLICATIONS

The appropriation of \$600 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY27 shall revert to the general fund. The bill does not specify the process for allocating funds to projects, so the

department may establish a new grant program using the funds. If so, although Senate Bill 70 does not specify future appropriations, establishing a new grant program could create an expectation the program will continue in future fiscal years; therefore, this cost is assumed to be recurring in future fiscal years.

In the Arizona Water Settlements Act of 2004 (AWSA), Congress provided New Mexico with \$66 million to be used for water supply projects in southwestern New Mexico (specifically in the counties of Catron, Grant, Hidalgo, and Luna). This funding resides in the New Mexico Unit fund at the State Treasury. The pace of progress in expending these funds has been slow, and Senate Bill 70 would assist the New Mexico Finance Authority and Southwest Council of Governments in expanding local capacity for water project proposal development and project implementation and would assist local governments in applying for water project funding from the NM Unit fund.

The House Appropriations and Finance Committee substitute for House Bill 2 (HB2/HAFCS) contains a \$652 thousand appropriation from the unit fund to the Interstate Stream Commission for implementation of the AWSA, which the agency uses to pay for administrative costs related to oversight of the fund, as well as litigation, public outreach, and technical vetting and studies. However, the appropriation in HB2/HAFCS is separate and distinct from the appropriation contained in Senate Bill 70.

SIGNIFICANT ISSUES

The Office of the State Engineer (OSE) expresses support for SB70 because it would provide general fund money to help water users and stakeholders in southwest New Mexico with applications to the Water Trust Board (WTB) and to support administration of the selected projects funded by the New Mexico Interstate Stream Commission (ISC) pursuant to the 2004 Arizona Water Settlements Act. According to the agency, “SB70 would help fill gaps in capability and capacity by locals in southwest New Mexico to propose projects to the WTB, to manage new projects, and potentially to help complete existing Non-NM Unit projects approved by the NMISC that are on hold.”

PERFORMANCE IMPLICATIONS

The approval and implementation of SB70, according to OSE, would help the ISC’s performance in administering non-New Mexico Unit projects in southwestern New Mexico by increasing local government capacity to plan, apply for, and oversee/manage approved projects.

ADMINISTRATIVE IMPLICATIONS

The bill allows the department to allocate funds to assist local governments in applying for funding from the New Mexico Unit fund, which will reduce the administrative burden of reviewing, vetting, and approving project requests. This will allow for a streamlined process for determining project allocations.

To distribute funding, the Local Government Division of the Department of Finance and Administration (DFA) would need to generate grant agreements for the eligible local governments based on criteria utilized by the Interstate Stream Commission who administers the

New Mexico Unit Fund. DFA reports administrative support in the form of additional staff resources are essential to support DFA's execution of the legislation, as well as oversight of these grants through fiscal year 2027. However, the agency did not specify what additional resources would be needed or the anticipated cost.

OTHER SUBSTANTIVE ISSUES

OSE provided the following:

HB200 was passed by the New Mexico Legislature and was signed into law by the Governor on April 6, 2021. HB200 declared that the [Water Trust Board] WTB shall be the successor to the Southwest NM Water Study Group. HB200 also tasked the WTB with evaluating projects proposed within the four-county region, including their environmental impacts, and recommend projects to the NMISC. The NMISC retains final decision-making authority over funding for the recommended projects.

The NMISC and the NMFA leaderships have been trying to establish a conjunctive process that will address the WTB obligations pursuant to HB200, as well as the obligations, requirements and needs of the NMISC pursuant to the AWSA. The NMISC and the NMFA (as the administrative arm of the WTB) have been discussing how to establish a HB200 vetting process that would adequately address both agencies' roles and needs and roles and needs in southwestern New Mexico. There are gaps identified to achieve this goal, including gaps in authorities, capacity, and resources. SB70 seeks to fill some of the identified gaps. If SB70 is not enacted, the gaps will remain and limit the ability to implement HB200 and support completion of approved Non-New Mexico Unit projects

JH/SS/al/hg/mg