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## FISCAL IMPACT REPORT

SPONSOR: Lujan DATE TYPED: 02/05/01 HB 157/aHAGC  
 SHORT TITLE: Acequia & Community Ditch Fund Appropriation SB \_\_\_\_\_  
 ANALYST: Dotson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 500.0			Non-Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Office of the State Engineer

### SUMMARY

#### Synopsis of HAGC Amendment

The House Agricultural and Water Resources Committee Amendment designates that any unencumbered balances remaining at the end of the fiscal year 2002 shall not revert to the general fund.

#### Synopsis of Original Bill

HB 157 makes an appropriation of \$500,000 from the general fund to the Acequia and Community Ditch Fund for the purpose of assisting acequia and community ditch associations involved in the adjudication process.

#### Significant Issues of HGAC Amendment

The change could effect the reversion amount available to the general fund in fiscal year 2003.

#### Significant Issues

According to the State Engineer, this level of funding for the participation of acequias or community ditches in ongoing water adjudication suits in Northern New Mexico may be excess of present needs. The 2000 legislature appropriated \$650,000 for the Acequia and Community Ditch Fund (ACDF). During the distribution of these funds to applicant acequias, it was reported by the staff of the New Mexico Department of Agriculture (the body who administers the fund) that 8 applicant acequias had a total balance of approximately \$380,000 from previous appropriations remaining in their accounts.

Much of these funds were not encumbered by the acequias who in some cases had no specific plans for their use. Actual litigation activity in ongoing water adjudication suits in Northern New Mexico is very uneven. While there is much work to be done, budgetary and manpower constraints within the Office of State Engineer limit the ability of the agency to advance these suits.

### **FISCAL IMPLICATIONS**

The appropriation of \$500,00 contained in this bill is a non-recurring expense to the general funds. Any unexpended or unencumbered balance remaining at the end of FY02 shall revert to the general fund.

According to the State Engineer, this bill has a limited impact, if any, on the Office of the State Engineer.

### **ADMINISTRATIVE IMPLICATIONS**

No more than 5% of the appropriation may be expended by the New Mexico Department of Agriculture for administrative costs.

According to the State Engineer, distribution of these funds is administered under the terms of the Acequia and Community Ditch Fund Act, NMSA 1978, Sections 73-2A-1 to 73-2A

### **CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP**

According to the State Engineer, separate appropriation of funds to community ditches to support the "Errors and Omissions" process of adjudication suits may duplicate the use of the funds in this bill. "E & O" expenses were cited as the major litigation or adjudication activity by a number of applicant ditches during presentations made to the ACDF Commission in 2000.

### **OTHER SUBSTANTIVE ISSUES**

According to the State Engineer, certain acequias in active ongoing water adjudication suits will have a limited ability to participate in those suits and to retain experts and consultants necessary for that participation. On the other hand, in areas where there litigation activity is minimal, the impact on those associations would be insubstantial.

PD/ar/njw