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## **ISSUES FOR HEARING**

Department of Finance and Administration  
Status of Federal CARES Act – State/Local Relief Fund

### **CARES ACT FUNDING**

- The federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act), signed into law on March 27, 2020, provided a stimulus package to governments, businesses, and individuals to battle the effects of the COVID-19 pandemic.
- New Mexico government entities received a total of \$2.58 billion in total CARES funding, including \$1.25 billion from the Coronavirus Relief Fund (CRF), of which \$182 million was directly sent to the City of Albuquerque and Bernalillo County. The CRF was not tied to any specific program and was designated for the State of New Mexico.
- The CARES Act stipulated that CRF funds are to be used for expenditures that 1) are necessary to respond to the COVID-19 public health emergency, 2) are not accounted for in the state budget most recently approved as of March 27, 2020, and 3) are incurred between March 1 and December 30, 2020.
- U.S. Treasury has been clear that CRF may not be used to fill shortfalls in state revenue. However, more recent federal guidance allows for more flexible uses of the fund, including for payroll costs of public health and safety employees, distance learning, and for payroll for employees performing differently due to the public health emergency.

### **ALLOCATION OF CARES RELIEF FUNDING**

- As of July 2, DFA had allocated \$230 million of the \$1.07 billion CRF to itself, the Department of Health (DOH), the Department of Homeland Security and Emergency Management (DHSEM), and the Department of Information Technology (DoIT). Of this allocation, agencies have encumbered or spent only approximately \$63.5 million, mostly on public health staff payroll, emergency medical facilities and equipment, COVID-19

testing supplies, personal protective equipment (PPE), and emergency food and water deliveries to communities.

- The June 2020 special session resulted in the Legislature allocating \$130 million of the CRF for public health emergency costs; \$150 million for formula allocation to cities and counties with populations less than 500 thousand, with an additional \$15 million for local governments in northwest New Mexico hardest hit at the time by the public health emergency; and \$23 million for tribal governments in House Bill 1. U.S. Treasury guidance included an expectation that states' provided local government aid from the amounts the state received, and to use a per capita population based formula.
- Citing an infringement on the executive's authority to receive federal grants, the Governor vetoed these appropriations totaling \$318 million and will instead make its own determination how to allocate this funding. As of July 9, DFA has not put forth a public plan for how this funding will be used, but discussions between DFA and LFC staff indicate DFA is examining a process to reimburse requests for aid by local governments on a case by case basis.
- HB 1 also transferred \$750 million to the general fund for public health emergency expenses not accounted for in the original budget for FY21. Despite the constitutional objection by the executive to the local aid allocation of CRF federal funding, the Governor left this transfer intact. HB 1 designated the transfer of federal funds to the general fund for unanticipated costs in state government, public schools and higher education to comply with public health orders, and secondary effects of the emergency; for public health and safety agencies; and to facilitate distance learning and lost learning time in public schools and higher education.

## **ESTIMATES OF COMPLIANT CARES RELIEF FUND SPENDING IN FY21**

- If the federal government denied the approach above, which included broad purposes to meet U.S. Treasury guidance for the use of funds, then HB 1 directed DFA to specifically account for its use in agency and school budgets. DFA has indicated it is preparing to do just that, especially in light of new federal reporting requirements that were issued after the special session.
- LFC staff have initiated an estimating project to pool large buckets of expenditures at agencies, public schools and higher education that fall in line with federal guidance and reporting requirements and found over \$1 billion of

eligible costs for July-December 2020. Details are provided in a memorandum for the next agenda item.

- To date, DFA has not developed a full estimate of planned spending on CRF compliant costs. Federal guidance, including responses to frequently asked questions, has been updated numerous times between passages of the CARES Act until now. Two patterns have emerged – first, states and local governments may not use the funding to broadly “backfill” lost revenue or to match federal Medicaid funds, and must use it on public health emergency related costs that were not accounted for in the original budget. Second, the guidance increasingly provided more flexibility on eligible costs, beyond normal public health and medical costs for protective equipment, health care, contact tracing and testing. The federal government will track spending in ten broad categories. For example, entire payroll costs for public health and safety agencies are by default considered eligible as those agencies are substantially considered to be dealing with the public health emergency, unless a chief executive officer determines otherwise.
- Another example includes distance learning costs necessary to comply with public health orders not already accounted for in the budget. The costs of reopening schools to deliver services in a substantially different way not accounted for in the previous budget and to comply with the public health order could consume the entire \$750 million just assuming instructional salaries alone.

## **POSSIBLE QUESTIONS**

- How much will DFA allocate to local governments in aggregate and will it follow U.S. Treasury guidance to use a per capita formula for distribution? HB 1 assumed \$165 million.
- What are DFAs expected aggregate direct costs for items like PPE, testing, contact tracing, and quarantines to respond to the public health emergency. HB 1 assumed \$130 million.
- Does the executive plan to use any of the CARES Relief fund on expenditures not outlined in HB 1? If so, what would the administration spend the money on and how much?
- How much of the \$750 million can DFA estimate will be expended on compliant costs in agency, school and higher education budgets?