

LFC Requester:**C. Carswell**

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1/17/2024

Bill No: HB 29

Sponsor: <u>Joy Garratt, Nancy Rodriguez</u>	Agency Name and Code Number: <u>NMFA (385)</u>
Short Title: <u>Public Project Revolving Fund Appropriations</u>	Person Writing: <u>Michael Vonderheide</u>
	Phone: <u>505-992-9653</u> Email: <u>mvonderheide@nmfa.net</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
(\$13,000.00)		Nonrecurring	Public Project Revolving Fund
None	\$6,000.00	Nonrecurring	Drinking Water State Revolving Loan Fund
None	\$2,000.00	Nonrecurring	Local Government Planning Fund
None	\$5,000.00	Nonrecurring	Cultural Affairs Facilities Infrastructure Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

None	None	None	N/A	N/A
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(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Relates to: HB 28

SECTION III: NARRATIVE

BILL SUMMARY

HB 29 makes non-recurring appropriations in fiscal year 2025 from the Public Project Revolving Fund (“PPRF”) to the three identified funds for expenditure in FY 2025 and beyond:

\$6.0 million to the Drinking Water State Revolving Loan Fund (“DWSRLF”) held at the New Mexico Finance Authority (“NMFA”) which will serve as the State’s required 20% match for the federal fiscal year 2024 Environmental Protection Agency (“EPA”) base capitalization grant estimated to be \$5.0 million, and supplemental capitalization grant authorized by the federal Bipartisan Infrastructure Law (“BIL”) estimated to be \$25.0 million. These funds will be used primarily to make low-cost loans for water quality projects as provided by the DWSRLF Act, §§6-21A-1 *et seq.* NMSA 1978, as amended and supplemented from time to time.

\$2.0 million to the Local Government Planning Fund (“LGPF”) administered by NMFA pursuant to the provisions of Section 6-21-6.4, NMSA 1978 as amended, for the purpose of funding local government and other qualified entities’ planning documents for infrastructure, water and wastewater public project development, long term master plans, water conservation plans, and economic development plans.

\$5.0 million to the Cultural Affairs Facilities Infrastructure Fund for expenditure in fiscal year 2025 and subsequent fiscal years for the purpose of providing the Department of Cultural Affairs with funding to pay for planning, engineering, designing, constructing, renovating, repairing, equipping, and furnishing department facilities and exhibits.

FISCAL IMPLICATIONS

Drinking Water State Revolving Loan Fund

The NMFA will use the appropriation to the DWSRLF to fulfill the 20% state match requirement for the annual EPA base capitalization grant and supplemental capitalization grant authorized by the federal Bipartisan Infrastructure Law (“BIL”). Since the program’s establishment in 1997, the State has received \$296 million in base and supplemental federal awards, matched by \$52.1 million in state match. The DWSRLF is used to make low cost loans for critical drinking water projects. As of December 2023, NMFA has made 189 DWSRLF loans totaling \$338.1 million

and has approved another 9 loans totaling \$54.8 million.

Local Government Planning Fund

The NMFA will use the appropriation to the LGPF to make grants to eligible entities capped at \$50,000 per planning document and \$100,000 per entity in a two-year period. Grants to qualified entities are determined using a sliding scale which is primarily based on the applicants' median household income and relative rates charged for water and wastewater services. Since the inception of the program in 2002 through December 2023, the NMFA has closed 395 grants totaling \$16 million. At present, NMFA has approved an additional 40 grants totaling nearly \$2 million that are awaiting completion of the planning document prior to finalizing the grant agreement.

SIGNIFICANT ISSUES

The PPRF has achieved an AAA/Aa1 senior lien bond rating and an AAA/Aa1 subordinate lien bond rating by effectively structuring underlying PPRF loans and utilizing legislative and strategic credit enhancements. The key PPRF credit enhancement is the 75% share of GGRT received by the PPRF pursuant to Section 7-1-6.38(A) of the Tax Administration Act. Funded indentured reserve accounts in the form of the NMFA's Senior Lien Common Debt Service Reserve Fund ("CDSRF") and Subordinate Lien Supplemental Credit Reserve Fund ("SCRF") are the visible strategic credit enhancements.

The PPRF has a legal obligation to make all PPRF debt service payments when due in December and June of each year. During the course of each fiscal year, all PPRF loan revenues and all Governmental Gross Receipts Tax ("GGRT") disbursements are legally dedicated to bond debt service of PPRF bonds and held in a trust bank account until all bond debt service payments are made for the fiscal year, concluding on June 15th. After June 15th, any excess loan revenues and available GGRT funds are available to be designated for one of three purposes in ascending level of legal availability: (1) replenishing or enhancing to required levels the PPRF's two indentured reserve funds mentioned above, namely (i) the senior lien CDSRF, and (ii) the subordinate lien SCRF; (2) funding annual legislatively enacted mandates in an amount not to exceed 35% of the prior year's GGRT, pursuant to Section 6-21-6.1(A) of the NMFA Act; and (3) paying PPRF operating costs and providing the PPRF with ongoing liquidity and capacity enhancing new money. This mechanism ensures accountability of the use of PPRF funds for other than PPRF purposes and enables the NMFA to manage PPRF appropriations with rating agencies and investors in a manner that is deemed acceptable.

There are long-term consequences with regularly breaching the statutory framework that provides that no more than 35% of the GGRT be appropriated from the PPRF. NMFA uses the remaining 65% of GGRT to fund loans to disadvantaged communities at either a 0% or 2% interest rates depending on Median Household Income metrics.

PERFORMANCE IMPLICATIONS

The dedication by statute of GGRT to the PPRF is what has made the PPRF program what it is today. The PPRF has a reputation with national banking firms, investors, rating agencies and other knowledgeable parties as being among the most effective and best structured state infrastructure financing programs in the country. GGRT is a serious focus for both rating agencies and bondholders as they monitor GGRT very closely, both in terms of bond debt service coverage and in terms of subsequent PPRF program liquidity.

ADMINISTRATIVE IMPLICATIONS

Local Government Planning Fund

Costs of program administration are reimbursed to the NMFA including paying contractors for the technical review and acceptance of planning documents related to water and wastewater infrastructure; such costs associated with this technical support are also reimbursed.

Drinking Water State Revolving Loan Fund

Federal guidelines allow NMFA to use up to 4% of EPA capitalization grants for administrative costs associated with the program. NMFA uses these funds to pay contractors that assist NMFA in reviewing engineering documents, completing environmental reviews, and monitoring construction activity.

Federal guidelines also allow each state to use up to 27% of annual EPA capitalization grants to fund certain technical activities that carry out provisions of the State Drinking Water Act (“SDWA”), such as:

- Develop technical, managerial, and financial capacity for local water systems.
- Assist entities in qualifying for loans that allow water systems to improve infrastructure and meet SDWA requirements.
- Provide technical assistance targeted to systems serving 10,000 persons or less.

EPA capitalization grants, less the amount of technical set-asides utilized by the New Mexico Environment Department (“NMED”) and the administrative set-aside used by NMFA, are deposited in the DWSRLF along with the state match. The NMFA can then utilize funds in the DWSRLF to make loans to community water systems for eligible water system improvements as prioritized by NMED.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Unused GGRT flows through to the PPRF, which is used by the NMFA to make loans to qualified entities for qualified public projects authorized by the legislature. HB 28, the PPRF projects bill, currently contains 100 entities seeking legislative authorization for PPRF loans.

OTHER SUBSTANTIVE ISSUES

The appropriations identified in HB 29 total 36.6% of the FY 2023 GGRT, more than the 35% expenditure framework contained in the NMFA Act (Section 6-21-1 et seq). One of the appropriations contained in HB 29 serves as the state match for the Drinking Water State Revolving Loan Fund, administered by NMFA. Capitalization grants for this federal program are substantially larger than in past years. NMFA has concluded that this higher level of appropriations will not materially impact the PPRF for FY 2025. Additionally, the PPRF received \$35.5 million in GGRT in FY 2023 and GGRT receipts for FY 2024 are presently 7.58% higher than year-over-year collections for the same period in FY 2023. The appropriations contained in HB 29 would be made following the June 15th bond payment, replenishment of reserves and payment of administrative fees.

The appropriations contained in HB 29 do not impact PPRF bondholders.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Drinking Water State Revolving Loan Fund

If the funding required for the state match is not secured, the State will be unable to receive the annual EPA base capitalization grant and supplemental capitalization grant authorized by the federal Bipartisan Infrastructure Law (“BIL”). Not receiving these grants would negatively impact NMED’s ability to protect public health and safety throughout New Mexico as it would reduce funding for personnel that provide capacity development and technical assistance to water systems statewide and oversee Public Water Supply Supervision. Additionally, NMFA would lose funding it currently uses to pay for engineering and construction oversight services required for the federal program.

Local Government Planning Fund

Funds for planning documents will be limited in FY 2025.

Cultural Affairs Facilities Infrastructure Fund

The State would need to find alternative funds for the purpose of providing the Department of Cultural Affairs with funding to pay for planning, engineering, designing, constructing, renovating, repairing, equipping, and furnishing department facilities and exhibits.