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## FISCAL IMPACT REPORT

**SPONSOR** Herrera/Lundstrom/Lara/Ortez/Zamora      **LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 2/5/2025  
**SHORT TITLE** NMFA Water Project Fund Projects      **BILL** \_\_\_\_\_  
**NUMBER** House Bill 206/ec  
**ANALYST** Carswell

### APPROPRIATION\* (dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
\$153,878.0		Nonrecurring	Net Severance Tax Bond Distribution to Water Project Fund
\$3,920.0			Net Water Trust Fund Distribution to Water Project Fund

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

### REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
	(\$161,100.0)						Severance Tax Bonding Fund
	(\$4,000.0)						Water Trust Fund

Parentheses ( ) indicate revenue decreases.  
 \*Amounts reflect most recent analysis of this legislation.

Relates to the General Appropriation Act and Senate Bill 29

### Sources of Information

LFC Files

Agency Analysis Received From  
 New Mexico Finance Authority  
 Environment Department  
 Office of the State Engineer

## SUMMARY

### Synopsis of House Bill 206

House Bill 206 authorizes the New Mexico Finance Authority (NMFA) to make loans or grants from the water project fund to qualifying water projects identified in the bill pursuant to the

Water Project Finance Act. Eighty-four projects sought by 62 public entities are authorized for funding in the bill. Which projects are ultimately awarded funding, and at what amounts, will be determined by the Water Trust Board after legislative authorization.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

## **FISCAL IMPLICATIONS**

The water project fund receives a 9 percent annual earmark on senior severance tax bond capacity and an annual distribution from the water trust fund of the greater of \$4 million or 4.7 percent of the average year-end value of the trust fund over the previous five years. The Office of the State Engineer (OSE) has historically received 10 percent of the annual distributions to the water project fund for water rights adjudication, with a portion of the 10 percent allocated to the Administrative Office of the Courts (AOC). Legislation passed in 2024 temporarily reduced the distribution to OSE to the lesser of \$4 million or 8 percent of water project funds, with 2 percent of water project funds continuing to the flow to AOC.

Absent additional legislative appropriations, approximately \$158.8 million is expected to be available for award by the Water Trust Board to projects authorized by HB 206.

## **SIGNIFICANT ISSUES**

The water project fund is administered by the New Mexico Finance Authority, which makes grants and loans to water projects recommended for funding by the Water Trust Board and authorized by the Legislature. The projects recommended for funding in the bill were vetting following criteria and policies established by the Water Trust Board. The board requires applicants to have completed relevant planning studies, such as preliminary engineering reports, design analysis reports, or technical memoranda. The board also requires applicants to have met expenditure thresholds for any prior awards before seeking new funding and to provide some level of local match for funding provided from the water project fund. The level of local match as well as the amount of the award that is provided as a loan and as a grant is determined by financial analysis completed by NFMA and other criteria set by the board. Those criteria include consideration of system size.

According to NMFA, the board approved policy revisions in 2022 that allow for waivers of the local match for water systems serving fewer than 250 connections that have secured previous Water Trust Board funding for the project, for projects that would consolidate systems, or for projects to incorporate unserved customers that are not the result of future development. Loan components of Water Trust Board awards range from 10 percent to 40 percent and loans may be waived for systems serving fewer than 500 connections that have secured previous board funding for the same project or for projects to consolidate with another system.

In FY24, the average award was 82 percent grant and 18 percent loan. The loan terms run up to 20 years and are made at a 0 percent interest rate.

Strong state revenues have significantly increased annual distributions to earmarked funds, including the water project fund. Even so, demand for Water Trust Board funding has far

outpaced available funds the last two cycles. The 84 projects authorized in HB206 requested funds totaling \$256.4 million, leaving a roughly \$99 million funding gap for the projects authorized in the bill. A similar gap existed in 2024, when the Legislature appropriated an additional \$50 million to the water project fund and \$18 million to address cost-overruns for previously funded projects. The introduced version of the General Appropriation Act, under consideration by the Legislature, includes a \$222 million general fund transfer to the water project to address the funding gap in 2025 and an anticipated gap in 2026.

## **PERFORMANCE IMPLICATIONS**

LFC evaluations have found the Water Trust Board is more successful at fully funding and completing community water projects than capital outlay, where piecemeal funding and a lack of consistent vetting contributes to delayed spending and delayed project completion.

The Environment Department notes several projects authorized for water project fund awards in HB206 are eligible for low-interest loans and grants through the clean water state revolving fund, which has struggled to commit its available funds for years due to insufficient applications. The revolving fund is a federal program administered by NMED; competition from more attractive state-funded programs contributes to its underutilization. NMED anticipates the problem could worsen when wastewater projects become eligible for Water Trust Board awards in the 2026 cycle. The programs could coordinate co-funding projects; however, the requirement for legislative authorization of Water Trust Board projects results in a 10-month annual application cycle that makes that coordination difficult, according to NMED. The revolving fund accepts applications at any time and awards on a rolling basis.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB206 relates to the LFC recommended version of the General Appropriation Act, which includes a \$222 million special appropriation to address the gap between available funds and applications for funding in 2025. Any amount not used in 2025 would be available for water projects authorized by the Legislature in 2026.

HB206 relates to Senate Bill 29, which duplicates the \$222 million special appropriations with some differences in the authorizing language that would limit expenditure of the funds to FY25 and FY26 and for projects authorized by the Legislature in 2025.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The Water Trust Board would not be authorized to award available water project fund dollars to qualifying water projects in FY25.

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