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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Castellano</u> Public Project Revolving Fund <b>SHORT TITLE</b> <u>Appropriations</u>	<b>LAST UPDATED</b> <b>ORIGINAL DATE</b> <u>2/6/2023</u> <b>BILL NUMBER</b> <u>House Bill 298/aHAAWC</u> <b>ANALYST</b> <u>Carswell</u>
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### APPROPRIATION\* (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
	\$3,500.0	Nonrecurring	Drinking Water State Revolving Loan Fund
	\$3,700.0	Nonrecurring	Clean Water State Revolving Loan Fund
	\$5,000.0	Nonrecurring	Cultural Affairs Facilities Infrastructure Fund
	\$2,000.0	Nonrecurring	Local Government Planning Fund

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

### REVENUE\* (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
	(\$14,200.0)		Nonrecurring	Public Project Revolving Loan Fund
	\$18,266.0		Nonrecurring	Clean Water State Revolving Loan Fund – Federal Funds
	Up to \$33,000.0		Nonrecurring	Drinking Water State Revolving Loan Fund – Federal Funds

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

### Sources of Information

LFC Files

### Responses Received From

Department of Cultural Affairs (DCA)  
 New Mexico Finance Authority (NMFA)  
 New Mexico Environment Department (NMED)

## SUMMARY

### Synopsis of HAAWC Amendment to House Bill 298

The House Agriculture, Acequias and Water Resources Committee amendment to House Bill 298 makes a technical change to the name of one of the funds to which an appropriation is made. All references to the “water and wastewater project grant” are stricken and replaced with “wastewater facility construction loan.” The reason for the amendment is described in the technical issues section of this analysis.

### Synopsis of the Original Bill

House Bill 298 appropriates a total of \$14.2 million from the public project revolving loan fund for expenditure in FY24 and subsequent fiscal years. Appropriations are made to the following funds: \$3.5 million to the drinking water state revolving loan fund (DWSRF); \$3.7 million to the clean water state revolving loan fund (CWSRF); \$5 million to the cultural affairs facilities infrastructure fund; and \$2 million to the local government planning 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 into law.

## FISCAL IMPLICATIONS

The appropriations totaling \$14.2 million contained in this bill are nonrecurring expenses to the public project revolving loan fund. Any unexpended or unencumbered balance remaining at the end of FY24 shall not revert to the public project revolving loan fund.

At the end of each fiscal year, after all debt service and other obligations are satisfied, the New Mexico Finance Authority Act (Section 6-21-6.1(A), NMSA 1978) allows the Legislature to appropriate an amount not to exceed 35 percent of the prior year’s governmental gross receipts tax to seven identified funds. According to NMFA, the appropriations in HB298 total 38 percent of FY22 GGRT. However, NMFA has concluded the appropriations will not materially impact the PPRF for FY24 because the large amount of state and federal funds currently available for public project has decreased demand for PPRF loans. Additionally, the PPRF received \$37.4 million in GGRT in FY22 and GGRT receipts for FY23 are presently flat with FY22. The appropriation contained in HB 298 would be made following the June 15, 2023 bond payment, replenishment of reserves and payment of administrative fees.

The appropriations to the state revolving funds for drinking water, wastewater, and stormwater included in HB298 serve as state match for federal funds. Federal capitalization grants for the two federal programs are substantially larger than in past years. According to NMED, the \$3.7 million appropriation to the Clean Water State Revolving Fund will be used as state match to leverage an estimated \$18.3 million in federal funds and the \$3.5 million appropriation to the Drinking Water State Revolving Fund will be used to leverage up to \$33 million in federal funds. NMED states the funds will help pay for regulatory oversight and assistance activities to ensure Safe Drinking Water Act compliance and for training and technical assistance to nearly 1,100 public water systems in New Mexico.

The appropriations contained in HB 298 do not impact PPRF bondholders.

## SIGNIFICANT ISSUES

***Drinking Water State Revolving Loan Fund.*** NMFA will use the appropriation to the DWSRLF to fulfill the state match requirements for the annual EPA capitalization grant and the supplemental Drinking Water grant authorized by the federal Bipartisan Infrastructure Law (“BIL”). Since the program’s establishment in 1997, the state has received \$267 million in federal awards, which has been matched by \$48.6 million in state match. Of this amount, \$184.7 million of the federal funds and all of the state match have been deposited into the DWSRLF, which is used to make low cost loans for critical drinking water projects. As of December 2022, NMFA has made 177 DWSRLF loans totaling \$270.6 million and has approved another 9 loans totaling \$66.4 million.

***Local Government Planning Fund:*** 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 2022, the NMFA has closed 379 grants totaling \$15.3 million. At present, NMFA has approved an additional 20 grants totaling nearly \$1 million that are awaiting completion of the planning document prior to finalizing the grant agreement.

***Clean Water State Revolving Loan Fund.*** Funds deposited into the CWSRF are available for (1) loans and (2) combination grant/loan funding packages for eligible community infrastructure projects. Of the estimated \$18.3 million in federal funds, NMED states approximately \$8.25 million are expected to be available for grant subsidies, with the exact amount available for grants based on federal allotments. Eligible projects under the CWSRF include wastewater facility projects, nonpoint source water pollution control projects, and watershed projects that meet the criteria of the Clean Water Act.

***Cultural Affairs Facilities Infrastructure Fund:*** According to DCA, the department maintains 191 structures, including museums, historic sites, and support facilities, with 1.3 million square feet, over 1,000 acres, and over 100 structures listed on the state or national historic registries. Historic structures require more specialized and costly repairs. DCA facilities are uniquely equipped to maintain art, artifacts, exhibits and collections with specialized climate-controlled facilities to ensure the preservation of irreplaceable collections. The cultural affairs facilities infrastructure fund was created in 2020 to provide stable revenue to DCA for maintenance and improvements to its facilities. The appropriation to the fund in HB298 will allow DCA to plan and complete vital infrastructure repairs to maintain facilities and protect the exhibits, collections, and historic sites in accordance with its statutory mandates.

## PERFORMANCE IMPLICATIONS

DCA states enhanced visitor experience through facility improvements is expected to result in increased attendance, on-site education, children served on-site, admissions revenue, and rental income.

According to NMED, passage of HB298 is essential for the agency to continue to meet its performance measures by reaching out to communities, mutual domestic water consumer associations, state agencies, special districts, and other eligible entities around the state to finance eligible water and wastewater projects. The funding will also support higher compliance rates from public drinking water systems.

## **ADMINISTRATIVE IMPLICATIONS**

Federal guidelines allow NMFA to use up to 4 percent of the annual federal capitalization grant for administrative costs associated with the drinking water state revolving loan fund. NMFA uses these funds to pay contractors, including the NMED Construction Programs Bureau, that assist NMFA in reviewing engineering documents and monitoring construction activity.

Costs of program administration for the local government planning fund are reimbursed to NMFA. NMFA currently contracts with NMED’s Construction Programs Bureau for the technical review and approval of planning documents related to water and wastewater infrastructure; such costs associated with this technical support are also reimbursed.

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

Related to Senate Bill 332, which authorizes NMFA to make loans to 37 qualified entities from the public project revolving fund.

## **TECHNICAL ISSUES**

NMED and NMFA concur on the following: “The language in HB298 appropriates \$3.7 million to the “water and wastewater project grant fund.” This is the incorrect fund, which used to exist at the New Mexico Finance Authority but has not been used for many years. The language should appropriate the funds to the “Wastewater Facility Construction Loan Fund,” also known as the Clean Water State Revolving Loan Fund (CWSRF) for expenditure in fiscal year 2024 and subsequent fiscal years to provide matching funds for clean water state revolving fund projects that meet the eligibility requirements of the Federal Water Pollution Control Act.”

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

According to NMED, if the state match for the federal programs is not secured, the state will not receive federal funds totaling an estimated \$33 million for the drinking water projects state revolving \$18.3 million for clean water projects. If the appropriation to the local government planning fund is not authorized, funding for local governments to complete planning documents will be limited in FY24. Not enacting HB298 would negatively impact DCA’s ability to proactively manage facility maintenance and repair.