FISCAL IMPACT REPORT

SPONSOR	Sen. Campos/ Reps. Sanchez, Gonzales, and Vincent	**LAST UPDATED**	2/20/2025
		ORIGINAL DATE	2/17/25
SHORT TITLE	Zero-Interest Natural Disaster Loans	**BILL NUMBER**	Senate Bill 31/ec/aSTBTC
		ANALYST	Davidson/Torres

APPROPRIATION*
(dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
$150,000.0		Recurring	General Fund

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

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DFA	Indeterminate but minimal	Up to $266.0	Up to $266.0	Up to $532.0	Recurring	General Fund

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

Conflicts with Senate Bill 134

Sources of Information

LFC Files

Agency Analysis Received From
Department of Finance Administration (DFA)
New Mexico Municipal League (NMML)
Department of Homeland Security and Emergency Management (DHSEM)

SUMMARY

Synopsis of STBTC Amendment

The Senate Tax, Business, and Transportation Committee amendment to Senate Bill 31 increases the amount appropriated to the Department of Finance and Administration for management of the natural disaster loan program from $250 thousand to $400 thousand.

Synopsis of Senate Bill 31

Senate Bill 31 (SB31) establishes the natural disaster revolving fund to provide zero-interest loans to political subdivisions of the state and electric cooperatives that have been approved for Federal Emergency Management Agency (FEMA) public assistance funding following a federally declared natural disaster. The bill directs the Department of Finance and Administration (DFA) to administer the loan program in consultation with the Department of Homeland Security and Emergency Management (DHSEM) and requires loan recipients to enter into reimbursement contracts to repay the state once FEMA funds are received.

The bill also creates the federal reimbursement revolving fund, which states the purpose is to use federal reimbursements for state emergency response expenditures and ensure continued support for future disaster recovery efforts. The bill designates both funds as part of state reserves and establishes an annual transfer mechanism from the appropriation contingency fund to the natural disaster revolving fund to maintain a balance of up to $150 million in the natural disaster revolving fund.

A $150 million appropriation from the general fund is made to the natural disaster revolving fund with unexpended funds remaining available in future fiscal years.

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

FISCAL IMPLICATIONS

Earmarks and Reserves

This bill establishes a new fund and provides for continuing appropriations. LFC has concerns regarding the inclusion of earmarks for up to $150 million for the revolving fund and the continuing appropriation language included in the statutory provisions. These provisions limit the Legislature’s ability to set spending priorities and allocate resources based on emerging fiscal needs.

The appropriation of $150 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY26 shall not revert to the general fund. From FY25 through FY28, the bill directs an appropriation from the appropriation contingency fund (ACF) to maintain a balance of $150 million in the newly created natural disaster revolving fund. However, the bill also stipulates that any balance exceeding $150 million at the end of a fiscal year must revert to the ACF, while simultaneously requiring a transfer from the ACF to restore the revolving fund’s balance to $150 million. This conflicting language should be addressed to ensure clarity and consistency in fund management; see “Technical Issues” for further details.

Senate Bill 134 amends statutory definitions of state reserve funds, introducing a centralized classification where none previously existed. Currently, state statutes define reserves through individual fund statutes rather than a single, cohesive framework. This bill designates the government results and opportunity expendable trust and the newly created natural disaster revolving loan fund and federal reimbursement revolving fund as reserve funds.

Under existing law, the state will count the government results and opportunity expendable trust as a reserve fund only for FY25. This bill makes that designation permanent, increasing reported reserves by at least $500 million in FY26, depending on final revenues and spending decisions made in the 2025 and 2026 legislative sessions. This would increase the total reserve percentage by at least five percent. However, the fiscal impact of adding the natural disaster revolving loan fund to the reserve calculation is uncertain due to conflicting statutory provisions governing fund distributions. If the fund maintains a zero balance, its inclusion in the reserve calculation would be unnecessary and would not contribute to the state's bottom-line reserves.

Agency Fiscal Implications

The Department of Finance Administration (DFA) anticipates implementation of the bill would increase the agency's workload by 5,736 hours, which the agency estimates can be covered through three new full-time positions. DFA analysis also anticipates implementation of the bill would increase the workload of the agency's Administrative Services and Financial Controls Division by 630 hours, with 330 of the hours due to initial implementation and a recurring additional 300 hours of work each year.

The bill allows up to $400 thousand annually of the natural disaster revolving fund to be used by DFA for the implementation of the fund, provided the funds are used for that express purpose. DFA estimates that the bill would increase the agency's workload by 5,736 hours or roughly three additional positions, costing approximately $172 thousand each year.

SIGNIFICANT ISSUES

Federal Reimbursements

Current federal reimbursement practices do not provide the state with the flexibility and speed necessary to respond to natural disasters. Research done by Pew Charitable Trusts on the state's current budgeting and tracking of wildfire suppression and recovery notes gaps in accessibility and transparency of the data, data the state could utilize to plan and budget for disasters.

Pew's research recommended comparing actual spending versus expected spending, assessing threats for disasters, and implementing tools, like the federal reimbursement revolving fund, to enhance the state's ability to monitor and budget for disaster suppression and recovery. Further, Pew research notes this enhanced tracking will make spending data on disasters and federal reimbursements more accessible, transparent, and comprehensive.

Implementation of the federal reimbursement revolving fund, which will act as a clearinghouse for the state's federal reimbursements and clear up current administrative hurdles regarding access to and storage of reimbursement funds, has the potential to bolster the state's natural disaster recovery abilities.

The DHSEM notes the inclusion of electric cooperatives as eligible for zero-interest loans has the potential to enable infrastructure providers the ability to respond quickly and recover faster from disasters. Analysis from DHSEM notes the creation of a federal reimbursement revolving fund will enhance the state's ability to monitor federal funding for disasters with greater transparency while also providing a smoother outlet for the funds, which could speed up the distribution of them.

Reserves

The New Mexico Constitution mandates a balanced budget, requiring the state to maintain general fund reserves to offset potential shortfalls in revenue or unexpected expenditure increases. These reserves serve as a safeguard to ensure fiscal stability and continuity of government operations.

Best practices outlined by the Pew Charitable Trusts and the Volcker Alliance recommend reserve funds be highly liquid and subject to controlled obligations to ensure their effectiveness in mitigating fiscal risk. Most of the funds designated as reserves in this bill meet these criteria. However, the federal reimbursement revolving fund, the government results and opportunity expendable trust, and the natural disaster revolving loan fund do not adhere to these standards due to their significant distributions for programmatic uses and appropriations.

Because these funds experience large inflows and outflows, their balances could fluctuate substantially, leading to volatility in the state's reported reserves. This variability may create the appearance of financial instability, potentially affecting the state's creditworthiness as perceived by bond rating agencies, bond buyers, and the public. Given the unpredictability of fund balances and the absence of restrictions ensuring their availability solely for reserve purposes, these funds do not align with national best practices for state reserve management.

Timeliness

DHSEM notes that, currently, political subdivisions affected by natural disasters must wait for FEMA reimbursements, a process that can last months. Senate Bill 31 has the potential to act as a bridge between recovery and reimbursement. Due to the complex nature of disaster recovery, analysis from DHSEM notes timely access to funds is necessary to provide funding for actions, such as debris removal, infrastructure repair, and emergency services; while federal funding is typically available for actions like these, funding is often delayed or difficult to immediately spend.

Analysis from DHSEM for Senate Bill 134, a bill similar to SB31, notes the state's most recent natural disaster event required up to $70 million in the first five days. While this cost was distributed across multiple entities, the total alone shows how expensive natural disasters can be.

Potential Litigation

Analysis from the New Mexico Attorney General (NMAG) on Senate Bill 134 notes, while the bill allows for the Department of Finance Administration to work and consult DHSEM regarding loans, it does not require it. This issue is mirrored in SB31. This has the potential of requiring the courts to have to interpret the scope of DHSEM and its role regarding awarding loans.

Structural Considerations

Analysis from DFA notes the success of a loan program hinges on the timely repayment of loans by political subdivisions. If there are delays or failures in securing federal public assistance funding, repayment issues could occur and could impact the fund's sustainability and impact the state's financial exposure. DFA analysis recommends the fund be used as an available credit facility to minimize these risks:

> By obligating the funds as a facility rather than a traditional loan, the state will be allowed to keep the funds in the treasury unless and until the political subdivision creates a shovel ready project and submits adequate draw requests in accordance with the loan agreement.

DFA analysis notes due to the bill creating interest penalties for noncompliance on loan terms, the agency will be required to create rules, standard terms, and conditions to set an appropriate default interest rate and provide disincentives for arbitrage based on fluctuations in interest rates. DFA notes enforcement and determination of these new penalties could be complex and could lead to political subdivisions being under increased financial strain if they are unable to meet expenditure and repayment deadlines.

Analysis from DHSEM recommends the bill move the cap within the federal reimbursement revolving fund from $150 million to $500 million, due to how high the costs for disaster recovery can be.

Analysis from the New Mexico Municipal League notes the bill's current language has the potential to create a timing issue where a political subdivision has become eligible for reimbursement but has yet to receive anything for reimbursement, resulting in the subdivision being required to repay a loan when the amount is not yet available. Due to how long the Federal Emergency Management Administration process can be regarding reimbursement, this issue could occur frequently. Having language addressing this issue could aid in implementation of the bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB31 relates to Senate Bill 134, both creating a natural disaster revolving fund and amending sections of the state's appropriation contingency fund. Passage of both bills would conflict in distribution amounts and definitions of reserves.

TECHNICAL ISSUES

Section 2 subsection E states unexpended and unencumbered balances at the end of the fiscal year shall both revert to the appropriation contingency fund and be included in the calculation of state reserves. If the balance is transferred to the appropriation contingency fund, the balance will be zero and cannot be included in the calculation of reserves. Because there will be no balance and the appropriation contingency fund is a state reserve fund, the sentence "any unexpended or unencumbered balance remaining at the end of a fiscal year shall be included in the calculation of state reserves" should be deleted.

Section 3 requires a transfer from the appropriation contingency fund to the natural disaster revolving fund necessary to reach a balance of $100 million in the natural disaster revolving fund. Because the revolving fund reverts to the appropriation contingency fund, the funds may move back and forth with an unclear ending balance, depending on when the Department of

Finance and Administration makes each transfer. Clarifying which transfer occurs first would resolve this ambiguity.

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