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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 12/7/21  
**LAST UPDATED** 12/14/21    **HB** 2/aHAFC/aSFC  
**SPONSOR** Lundstrom  
**SHORT TITLE** Relating to General Appropriations    **SB** \_\_\_\_\_  
**ANALYST** Sallee

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY22	FY23		
\$133,066.8		Nonrecurring	Federal Fund
\$345,435.0		Nonrecurring	Appropriation Contingency Fund in the General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY22	FY23	FY24		
\$ 1,069,175.0			Nonrecurring	Appropriation Contingency Fund in the General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files  
 Department of Transportation  
 Department of Information Technology  
 Energy, Minerals and Natural Resources Department  
 New Mexico Finance Authority

### SUMMARY

#### Synopsis of SFC Amendment

The Senate Finance Committee (SFC) amendment to HB2 strikes the transfer of \$2 million to the teacher preparation affordability scholarship fund and replaces it with a transfer to the teacher loan repayment fund, which would provide additional support to existing teachers with annual loan payments of \$6,000 per year for each year of service completed. The amendment also

removes the \$26 million appropriation to the Department of Information and Technology for broadband statewide, but keeps the remaining \$123 million of APRA capital fund appropriations for the same purpose with no change from the HAFC amendment. Finally, the amendment clarifies the purpose of the appropriation for orphan and inactive well planning to include identification and program implementation.

Synopsis of HAFC Amendment

The House Appropriation and Finance Committee (HAFC) amendment to HB2 provides for total appropriations of \$504.5 million from federal American Rescue Plan Act state relief fund and capital funds. The amendment includes technical adjustments to the bill, strikes or adjusts appropriations, and adds new appropriations. Technical adjustments clarify the transfer of federal ARPA state relief funding is to replace lost revenue, clarify administrative appropriations are to the Department of Finance and Administration as a whole without specifying a division, and to ensure the appropriations for major road projects are not re-matched with federal funds. The amendment removes appropriations for the water project fund and for land acquisitions by the Department of Game and Fish. The amendment splits appropriations for housing into one for \$10 million for housing the homeless and another for \$15 million for energy efficient affordable housing through the housing trust fund, for a net increase of \$5 million. The amendment consolidates appropriations from the ARPA capital fund into one, and allows DoIT to also use the funding for alternative or satellite broadband. The amendment adds new spending items to the bill, one to DFA for \$50 million to construct and equip an acute care hospital in a county with less than 100 thousand residents, and includes a fund transfer of \$2 million to the teacher preparation affordability scholarship fund.

Synopsis of Original Bill

House Bill 2 transfers the remaining balance of American Rescue Plan Act of 2021 state relief fund (ARPA state relief fund) of \$1.069 billion to the appropriation contingency fund (ACF) in the general fund.

HB2 appropriates and transfers over \$329.4 million to various agencies and funds for expenditure in FY22 through FY25.

HB2 also appropriates over \$133 million in federal ARPA capital projects funds made available to the state of New Mexico.

**FISCAL IMPLICATIONS**

See table below listing appropriations and purposes. HB2 transfers \$1.069 billion of federal ARPA state relief funds to the ACF in the general fund and then appropriates and transfers over \$329 million to various agencies and funds as listed below. Funds transfers to the outdoor equity grant program fund and the higher education program enhancement fund are available for spending as the fund balances are appropriated by statute. HB2 also appropriates over \$133 million of federal ARPA capital projects funds for broadband and alternative broadband, including by satellite, infrastructure statewide, and for building or upgrading tribal libraries to enhance access to broadband. The appropriations would be available for expenditure starting in the current fiscal year through the end of FY25, and any balances would revert to the ACF.

**House Bill 2 Appropriations and Transfers**  
(In thousands)

Agency	Converted ARPA State Relief to ACF/GF	ARPA Capital	Description
<b>Appropriations</b>			
Admin Office of the Courts	\$500.0		For pretrial services monitoring
DOIT		\$123,066.8	For broadband, including alternative broadband and satellite, statewide
EMNRD	\$20,000.0		For upgrades at state parks statewide
EMNRD	\$3,500.0		For orphan and inactive well planning, identification and program implementation
Economic Development Dept.	\$7,000.0		For outdoor recreation grants
Department of Environment	\$10,000.0		For surface water quality and river habitats statewide
Dept. of Finance & Admin	\$10,000.0		To provide housing assistance for homeless persons contingent on 100 percent local match
Dept. of Finance & Admin	\$15,000.0		For disbursement to NMMFA for expenditure on energy efficient affordable housing
Dept. of Finance & Admin	\$50,000.0		To construct and equip an acute care hospital in a county with less than 100,000 residents
Dept. of Finance & Admin	\$435.0		For grants administration
Dept. of Finance & Admin	\$500.0		For temporary assistance to local governments in advancing capital outlay and projects funded through ARPA
Tourism Dept.	\$15,000.0		For tourism marketing advertising
Human Services Dept.	\$5,000.0		For assistance for food banks
General Services Dept.	\$15,000.0		For COVID related costs for the group health benefits program
Dept. of Transportation	\$10,000.0		For electric vehicle charging stations statewide
Dept. of Transportation	\$10,000.0		For planning and upgrades to airports statewide
Dept. of Transportation	\$10,000.0		For clean up New Mexico roadway beautification program
Dept. of Transportation	\$142,500.0		For major statewide road projects
Public Education Dept.		\$10,000.0	For upgrades to deliver broadband for tribal libraries statewide
<b>Transfers</b>			
Economic Development Dept	\$3,000.0		For the outdoor equity grant program fund
Higher Ed Dept.	\$2,000.0		For the teacher loan repayment fund
Higher Ed Dept.	\$15,000.0		For higher education program development enhancement fund to expand nursing programs
<b>Other Appropriations</b>			
LCS	\$1,000.0		For a legislative processing system
Grand Total	\$345,435.0	\$133,066.8	Combined \$478,501.80

## SIGNIFICANT ISSUES

Since the Covid-19 pandemic began in March 2020, Congress has allocated stimulus funding to states, tribes, local governments, individuals, and businesses through six pieces of stimulus legislation.

1. Mar. 2020: The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020
2. Mar. 2020: The Families First Coronavirus Response Act
3. Mar. 2020: The Coronavirus Aid, Relief, and Economic Security (CARES) Act
4. Apr. 2020: Paycheck Protection Program and Health Care Enhancement Act
5. Dec. 2020: The Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021
6. Mar. 2021: American Rescue Plan (ARP) Act of 2021

Combined, these six bills infused \$22.4 billion worth of money and services into New Mexico in the form of direct payments to individuals, expanded unemployment benefits, Paycheck Protection Program loans and other business supports, increased federal share of Medicaid costs, payments to healthcare providers, and FEMA support.

### **American Rescue Plan Act (ARPA) Coronavirus State and Local Fiscal Recovery Funds.**

The March 2021 American Rescue Plan Act included \$350 billion in Covid-19 relief aid to states, tribes, and localities, of which New Mexico received \$1.75 billion that to be used through the end of 2024. The Act stipulated allowable uses of the relief funding that was generally broader than the CARES coronavirus relief fund including:

- to respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- to cover premium pay to workers performing essential tasks during the pandemic;
- to cover government revenue losses from the pandemic; or
- to make necessary investments in water, sewer, or broadband infrastructure.

ARPA also stipulated that the funds could not be used for state pensions, to offset a new tax cut, or to delay a tax increase.

Based on the ARPA language, the Legislature directed DFA to transfer the ARPA state fiscal recovery funds to the appropriation contingency fund of the state general fund for \$944.9 million of APRA-allowable expenditures in Section 11 of HB2 in the 2021 regular session, including \$600 million for unemployment insurance. The Legislature also appropriated \$200 million of the funds in Section 10 (fund transfers), and directed some general fund appropriations to be contingent on the state fiscal recovery funds being placed into the appropriation contingency fund. The governor vetoed the entirety of Section 11 and all other appropriations of the ARPA funds, noting in her veto message that she considered these appropriations an impermissible attempt by the Legislature to appropriate or control the allocation of federal funds to a New Mexico governmental entity.

During the summer and fall of 2021 the executive spent about \$682.7 million of the ARPA state relief funding, with \$656.6 million going to replenish the Unemployment Insurance (U.I.) trust fund, almost \$10 million for vaccine incentives, \$5 million for a U.I. return to work incentive program, \$5 million for a chile picker worker wage supplement program through the Department of Agriculture, and the remainder on vaccine incentive related expenses. As of December 6,

2021 \$1.069 billion was the balance of remaining ARPA state relief funds according to the state's accounting system.

A New Mexico Supreme Court ruling and order in November required the administration to stop spending any of the ARPA state relief funding until the Legislature appropriated the money. HB2 would require the balance of ARPA state relief funding be transferred to the ACF in the general fund. Calculations by LFC economists confirm that all \$1.069 billion of remaining ARPA state fiscal recovery funds can be accounted for as lost revenue, in accordance with the federal Act and U.S. Treasury rules and guidelines. The replenished funding cannot be used to further match other federal funds and must be spent on government services, which HB2 does, as opposed to creating artificial surpluses for tax reductions. The analysis assumes the funding cannot be used to shore up state pensions as well. Treasury requirement for ARPA allows for obligating spending through the end of calendar year 2024, and fully expending funding by the end of 2026. ARPA allows for spending through the end of calendar year 2024, by converting the funding to lost revenue HB2 allows for spending through the end of FY25.

**Transportation.** Each year, NMDOT conducts a survey of the state's transportation network and assigns each stretch of road a pavement condition rating (PCR) score to measure condition. A score of 45 or less is a poor condition road. In 2020, the average PCR score for all state roads was 54.9, down from 57.4 the prior year. The reduction in overall road condition suggests that current funding is insufficient to maintain or improve New Mexico roadways.

The department estimates total unfunded construction and maintenance needs for FY21 at \$547 million, including \$311 million for routine maintenance and \$236 million for roadway reconstruction. The department also projects a funding shortfall of \$159 million for bridge maintenance, reconstruction, and replacement.

Due to funding constraints, DOT has lacked sufficient funding for major infrastructure spending on roads. HB2 appropriates \$142.5 million for major road projects around the state as named in the bill: (1) the interstate 40 corridor in McKinley and Cibola counties; (2) a new state road in Santa Teresa in Dona Ana county; (3) New Mexico highway 128 from Carlsbad to Jal in Eddy and Lea counties; (4) New Mexico highway 180 in Grant county; (5) Bobby Foster road to Mesa Del Sol in Bernalillo county; (6) interstate 25 from Montgomery boulevard to Comanche road in Bernalillo county; (7) Cerrillos road in Santa Fe county; (8) Pinon Hills boulevard in San Juan county; and (9) New Mexico highway 39 in Mosquero in Harding and San Miguel counties. DOT noted these projects are all included in the department's Statewide Transportation Improvement Program (STIP) plan and the department will be able to use the funding in a timely and appropriate manner.

Other transportation appropriations include \$30 million for planning, design, and implementation of projects for electric car charging stations and airport upgrades, and to clean up New Mexico roadways. The recently enacted federal Infrastructure Investment and Jobs Act includes additional federal funding for road upgrades and implementation of charging stations and airport upgrades, and the HB2 appropriations can be used in concert with federal funds and to advance projects more quickly.

**Other Infrastructure.** Limited bonding capacity for capital outlay exacerbates the perennial challenge of allocating funds to the significantly greater infrastructure requests, according to LFC analysis. As in past years, priority capital outlay requests from state and local entities for the 2022 legislative session are far greater than available funding, \$2.9 billion in requests

compared with \$1.3 billion in bonding capacity. As of December 2021, capital requests include \$286 million from higher education institutions and special schools, \$791.3 million from state agencies, and \$1.8 billion from local entities.

This year's state agencies' requests included land conservation and infrastructure development to existing programs for watershed restoration, soil and water districts, outdoor recreation, habitat management, and river stewardship. Additionally, requests to improve broadband access, including specific proposals for Tribal libraries, were prioritized by agencies.

HB2 appropriates \$133.1 million for implementation and access to broadband infrastructure, including building out broadband, access to broadband through tribal libraries or other alternative ways to access high-speed internet such as satellite. APRA provides \$10 billion for payments to eligible governments to carry out critical capital projects that directly enable work, education, and health monitoring, including remote options, in response to the public health emergency. U.S. Treasury prioritizes access to high-speed broadband. The bill would appropriate New Mexico's expected share of this funding—almost \$133.1 million—for broadband and broadband and tribal libraries. Similar to the ARPA state relief fund, this federal revenue is general to the State of New Mexico and not specifically allocated to a federal program, and Congress did not designate the fund for state Governors specifically. As such, the Legislature will need to appropriate the funding.

The Department of Information Technology (DoIT) received \$500 thousand in SB377 in the 2021 regular session to create a broadband office, and the department reported that it anticipates the need for \$2.5 million in funding each year FY22 to FY24 to support the office in using the new HB2 broadband appropriations. Guidance from the U.S. Treasury for broadband infrastructure projects encourages, but does not require, projects to be able to meet or exceed symmetrical download and upload speeds of 100 Mbps. The guidance states that if it would be impracticable because of geography, topography, or excessive cost, projects may be just designed to be scaled to those speeds. The guidance also encourages, but does not require, broadband projects to be fiber-optic. Both of these flexibilities from the Treasury give New Mexico opportunities to invest in alternative, non-fiber, broadband projects, especially in remote or sparsely populated areas where fiber would be impractical.

HB2 appropriates \$55.5 million for other natural resource and water projects, including upgrades to state parks statewide, outdoor recreation projects that would also use local matching funds, to acquire property for the Department of Game and Fish, improve river habitat, and planning and implementation of plugging of orphan and inactive oil and gas wells, which will be augmented with new federal funding as well. The bill includes a \$3 million transfer for spending on outdoor equity grants for youth.

The Energy, Minerals, and Natural Resource Department reported that the funding would significantly aid the department in addressing an approximate \$30 million backlog of deferred maintenance, renovation, and infrastructure projects across state parks. The department also estimates the state's liability for well plugging and remediation to be in excess of \$300 million. For the orphan well appropriations, the department reported the \$3.5 million appropriation would allow them to hire staff to better leverage the orphan and inactive well grants provided under the federal Infrastructure Investment and Jobs Act, ensuring more successful applications for and use of those funds.

**Effects of COVID-19.** The public health emergency due to COVID-19 has negatively impacted New Mexico's economy, individuals, and entities and exposed shortages. HB2 appropriates funding to remedy some of the effects, including funding for advertising New Mexico for tourism, a key industry in the state. The Tourism Department reported that the \$15 million appropriation in HB2 will support a national campaign supporting holiday travel, ski season, winter events like Red Rock Balloon Rally, and other New Mexico winter promotions. HB2 also appropriates or transfers funding for assistance for food banks, housing projects for people experiencing homelessness and affordable housing projects with local matching funds.

HB2 appropriates funding to pay for COVID-19 health care and testing costs for public employee health plan run by the General Services Department. The department projects a shortfall of \$24.9 million that was requested in both a deficiency (\$17.3 million) and supplemental (\$7.6 million) appropriation.

According to the 2021 New Mexico Health Care Workforce Committee Report prepared by the University of New Mexico, there is a current shortage of 6,223 registered nurses in New Mexico. HB2 appropriates funding to expand nursing programs in higher education to help address these long-term workforce shortages.

HB2 appropriates funding for pretrial detentions services to the Administrative Office of the Court (AOC). AOC reported that the funding in HB2 would provide up to eight new pretrial officers at the court level to expand or develop local pretrial supervision programs. Crime increases, including changes in pretrial detention practices, starting before the pandemic but exacerbated during the public health emergency resulted in requests for additional supervision of individuals prior to trial. The AOC requested to expand pretrial supervision statewide by \$2.9 million and district courts requested an additional \$1 million in related costs for FY23 as well.

**Other.** The Department of Finance and Administration (DFA) has additional administrative costs associated with the influx of federal formula funds, and New Mexico will need to compete for a significant increase in competitive federal grant opportunities in the future. States may set aside funding for administrative costs from the ARPA state relief funds, which DFA had planned for before the court ruling. HB2 appropriates funding for grants administration and for DFA local government program to work with other political subdivisions to ensure communities know about and can access newly available federal funding. The bill also appropriates funding for the Legislative Council Service to upgrade its legislative processing system.