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## FISCAL IMPACT REPORT

**SPONSOR** Hemphill **LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 1/31/2023  
**BILL**  
**SHORT TITLE** Rural Infrastructure Crisis Response Act **NUMBER** Senate Bill 27  
**ANALYST** Carswell

### APPROPRIATION\* (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
\$1,600.0		Nonrecurring/Recurring (See Fiscal Implications)	General 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		
	\$35,969.0	\$34,189.0	Recurring	Rural Infrastructure Crisis Response Fund
	(\$35,969.0)	(\$34,189.0)	Recurring	Senior STB Capital Projects

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

Relates to Senate Bills 197, 25, 86, and 6.

### Sources of Information

LFC Files

#### Responses Received From

New Mexico Finance Authority (NMFA)  
 Indian Affairs Department (IAD)  
 Department of Information Technology (DoIT)  
 Department of Finance and Administration (DFA)  
 Department of Homeland Security and Emergency Management (DHSEM)  
 State Treasurer (STO)

## SUMMARY

### Synopsis of Senate Bill 27

Senate Bill 27 (SB27) amends the Severance Tax Bonding Act to earmark 2.25 percent of the annual severance tax bond (STB) capacity for the rural infrastructure crisis response fund (RICRF), created by the bill.

SB27 also creates the Bureau of Rural Infrastructure Crisis Response within the Local Government Division of the Department of Finance and Administration (DFA) and sets eligibility criteria for projects receiving funding from the RICRF. Eligible projects include those to repair or replace critical infrastructure damaged by an unforeseen weather or other crisis event, where the damage endangers public health, safety, or welfare and the local authority lacks resources to repair the infrastructure. Staff within the Bureau of Rural Infrastructure Crisis Response shall provide technical and financial evaluations of relief requests within 30 days of receipt and the DFA secretary shall make formal determinations of eligibility within 15 days of receiving the findings of those evaluations. The secretary shall not award more than \$1 million within a single county in a calendar year.

SB27 amends the Tribal Infrastructure Act to make the Tribal Infrastructure Board the fiscal agent for assistance from the rural infrastructure crisis response fund for projects owned and operated by Indian nations, tribes, and pueblos.

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 appropriation of \$1.6 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY26 shall revert to the fund. Although this bill does not specify future appropriations, multiyear appropriations, particularly if used to fund services, create an expectation the program will continue in future fiscal years. An annual cost of at least \$400 thousand is likely to become recurring after the funding period for the operations of the Bureau of Rural Infrastructure Crisis Response. SB27 specifies that no more than \$400 thousand of the appropriation is to be expended in a single fiscal year for contractual services for the engineering and financial evaluations the act requires to be completed for relief requests.

SB27 creates a new 2.25 percent earmark on annual STB capacity. The earmark will create recurring revenue for the RICRF and is offset by an equal reduction in funding available from senior severance tax bonds for appropriation to new capital projects. LFC has concerns with statutory earmarks for newly created funds because earmarking reduces the ability of the Legislature to establish spending priorities.

The estimated revenue impacts in this fiscal analysis are based on January 2023 severance tax bond capacity estimates from the Board of Finance.

## **SIGNIFICANT ISSUES**

SB27 addresses a need for dedicated funding for the impacts of unforeseen events on public infrastructure, including crises outside of declared disasters. DFA notes that, while disaster funding from the Federal Emergency Management Agency (FEMA) is critical for state and local entities, declared disasters are not the only emergencies local entities confront. In the last two years, the State Board of Finance reports it has seen a significant increase in the number of public entities seeking emergency funding from its annual emergency operating and emergency water funds, with the need increasing two-fold in two years. Crises include local entities running out of water due to wells drying up or failing, wastewater systems failing, and emergency response services halted due to a lack of funding.

DFA raises concern that, by creating a standalone fund, the state may lose out on federal dollars for similar purposes. The agency estimates the federal funding available at \$194.7 million, though it is unclear what time period the estimate covers. Many FEMA grants require state matching funds, and according to DFA, “By separating the criteria for award from the existing FEMA programs and making this a standalone fund, there is no increase in accessibility for the much higher dollar figure federal programs.”

If SB27 were enacted, starting in FY24 there would be five statutory earmarks on annual STB capacity. The other four earmarks are 9 percent for water projects, 4.5 percent for colonias projects, 4.5 percent for tribal projects, and 2.5 percent for affordable housing. The affordable housing earmark was created by the Legislature in 2022 and goes into effect in FY24. DFA notes the bill appropriately includes language providing the Board of Finance authority to ensure it complies with federal IRS requirements when issuing bonds. Earmarks are nearly always funded via taxable sponge note issuances because the programs often require more flexibility in funding than a tax-exempt issuance might provide. Should the proposed legislation be enacted, the earmark would be funded with senior sponge notes unless cash restricted the Board of Finance from issuing taxable notes for earmarks.

## **ADMINISTRATIVE IMPLICATIONS**

SB27 expands the duties of the Tribal Infrastructure Board by making it the fiscal agent for tribal entities receiving assistance from the RICRF. The Indian Affairs Department notes it may need an FTE to support these additional duties.

SB27 creates a new bureau within DFA that would require staffing and an operating budget. Additionally, the bill will require BOF to establish processes for reviewing funding awards after the issuance of bonds. The board currently reviews projects at the time of bond sales. Staff do not believe this will have a significant impact on the division.

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

SB27 relates to SB197 to establish the Infrastructure Planning and Development Office to coordinate funding for public infrastructure and support project planning, development, and completion.

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SB27 relates to SB25, which appropriates \$100 million to a new federal infrastructure matching fund for tribal infrastructure projects.

SB27 relates to SB86 to create the Rural and Tribal Development Institute at New Mexico State University.

SB27 relates to SB6, which appropriates \$100 million to DFA to provide loans to local entities to repair infrastructure damaged by the Hermit's Peak-Calf Canyon Fire.

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