

**LFC Requester:****Cally Carswell****AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)****(Analysis must be uploaded as a PDF)****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** 1/30/2025*Check all that apply:***Bill Number:** HB 206Original  Correction Amendment  Substitute **Sponsor:** Susan K. Herrera, Patricia A. Lundstrom, Raymundo Lara, Kristina Ortez, Martin R. Zamora  
**Short Title:** NMFA Water Project Fund Projects**Agency Name and Code****Number:** NMFA (385)**Person Writing** Michael Vonderheide**Phone:** 505-992-9653 **Email** [mvonderheide@nmfa.net](mailto:mvonderheide@nmfa.net)**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
(\$153,878.0)	(\$154,858.0)	Recurring	Net Severance Tax Bond Capacity
\$153,878.0	\$154,858.0	Recurring	Water Project Fund
(\$3,920.0)	(\$3,920.0)	Recurring	Net Water Trust Fund
\$3,920.0	\$3,920.0	Recurring	Water Project Fund

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	None	None	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to:

House Bill 2 which transfers \$222 million from the general fund to the water project fund in fiscal year 2026 for projects authorized by the legislature in 2025 and 2026.

Senate Bill 29, which makes a \$222 million appropriation from the general fund to the water project fund.

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

HB 206, endorsed by the New Mexico Finance Authority Oversight Committee, authorizes 84 projects to be eligible for funding from the Water Project Fund pursuant to the Water Project Finance Act, §72-4A-1 to §72-4A-11, NMSA 1978. The New Mexico Finance Authority (“NMFA”) establishes the terms and conditions of the loans and grants awarded from the Water Project Fund as recommended by the Water Trust Board (“WTB”) and authorized by the Legislature. HB 206 contains an emergency clause.

#### **FISCAL IMPLICATIONS**

Assuming no direct appropriations are made from the Water Project Fund during the 2025 Regular Legislative Session, approximately \$157.798 million, net of adjudication, will be available for projects authorized by HB 206. The Water Project Fund receives an annual distribution of nine percent of the severance tax bonds issued by the State Board of Finance (“SBOF”). This sum is estimated to be \$161.1 million for FY 2025 based on December 2024 SBOF estimates. Also in FY 2025, the Water Project Fund is expected to receive a \$4 million distribution from the Water Trust Fund.

Historically, the Office of the State Engineer (“OSE”) receives 10% of the distributions deposited into the Water Project Fund annually for water rights adjudications, and 20% of the money dedicated to water rights adjudications is allocated to the Administrative Office of the Courts (“AOC”) for costs associated with water rights adjudications. House Bill 211 passed in the 2024 Regular Legislative Session, provided that from July 1, 2024, through June 30, 2029, the lesser of four million dollars (\$4,000,000) or eight percent of all water project funds shall be dedicated to the State Engineer for water rights adjudications and two percent of all water project funds shall be dedicated to the Administrative Office of the Courts for the costs associated with water rights adjudications. It is estimated the OSE will receive \$4 million and the AOC will receive \$3.302 million from the FY 2025 Severance Tax Bonds and FY 2025 Water Trust Fund distribution.

#### **SIGNIFICANT ISSUES**

The projects authorized in HB 206 were evaluated using criteria and policies established by the WTB which require applications to be accompanied by relevant planning documents, such as preliminary engineering reports, design analysis reports, or technical memoranda. WTB policies

also require that applicants timely expend prior awarded funds in order to be recommended for legislative authorization.

The WTB policies require that applicants match the awards with non-Severance Tax Bond funds. The amount of the local match is determined on a sliding scale based upon the median household income of the applicant, the size of the request and the type of project. In 2022 the WTB approved policy revisions which allow for waivers of the local match requirement for water systems when the applicant serves fewer than 250 connections and has previously secured WTB funding for the proposed project; or the system upgrade is to consolidate with another system; or the system upgrade/expansion is to incorporate previously unserved customers and is not for future development. To qualify for the local match waiver, the applicant must have implemented an Asset Management Plan for the current and future maintenance, replacements, and repair of the system.

Additionally, the policies provide that WTB financial assistance for projects supported by a rate-paying constituency may contain a loan component of between 10% and 40% of the total award, with the remainder delivered as a grant. The 2022 WTB policy revisions also allow NMFA to waive loan requirements for water projects when the applicant serves fewer than 500 connections and has previously secured WTB funding for the same project; or the project is to consolidate with another system. To qualify for the loan waiver, the applicant must have implemented an Asset Management Plan for the current and future maintenance, replacements, and repair of the system. The average award in FY 2024 was approximately 82% grant and 18% loan. The loans are for terms of up to 20 years and are made at a 0% interest rate.

## **ADMINISTRATIVE IMPLICATIONS**

The Water Project Fund was created by the Water Project Finance Act and is administered by the NMFA. The NMFA makes grants and loans for qualified projects recommended by the WTB and authorized by the Legislature. NMFA is reimbursed for costs of administration, including paying contractors for engineering and construction oversight, from annual loan repayments.

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

SB 29 contains a non-reverting \$222 million general fund appropriation to the Water Project Fund for expenditure in FY 2025 and FY 2026 which will help cover the identified gap in funding for projects listed on HB 206. NMFA believes SB 29's appropriation would be more beneficial if the expenditures were limited to projects authorized in FY 2025 and FY 2026 – rather than for expenditures that occur in FY 2025 and FY 2026 -- because NMFA expects unprecedented demand for Water Project Funds in the FY 2026 application cycle as wastewater projects become eligible for Water Project Fund awards for the first time. This inclusion of wastewater projects occurred in 2024 House Bill 211.

## **OTHER SUBSTANTIVE ISSUES**

The NMFA administers an annual application cycle on behalf of the WTB. From July 15 to September 16, 2024, the NMFA received 102 Notices of Intent to submit an application totaling approximately \$355.2 million. On September 16, 2024, 84 applications were filed. On October 29, 2024, the WTB approved for recommendation to the legislature all 84 applications totaling approximately \$256.4 million of requests. The 84 projects are included in HB 206.

There are significant gaps between the dollar amounts of Notices of Intent received, project

applications filed, and available funding for this cycle, as actual project needs may have been pared down to meet application requirements. Currently there is an approximate \$98.6 million funding gap between the \$256.4 million in WTB applications received and the \$157.798 million available to water project fund projects through severance tax bonds and the water trust fund in fiscal year 2025.

The projects listed on HB 206 were submitted by qualified entities for qualified projects that were fully evaluated by a technical team from seven agencies. The WTB prioritized the projects based upon recommendations from the technical team. Projects appearing on HB 206 will be required to demonstrate compliance with relevant regulations and laws, such as water rights, state drinking water regulations, and state audit rule requirements. Those projects with regulatory deficiencies will be by-passed by the WTB.

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

The 84 qualifying water projects listed in the bill will not be eligible for funding from the Water Project Fund in FY25.