December 15, 2022

Major Nonrecurring Funding Update

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Major Nonrecurring Federal and State Appropriations

- As of early December 2022, state agencies committed a total of $478.1 million, or $52 million more than was reported expended for the October 2022 update. The pace of spending was relatively steady and in line with prior updates. The committed amount accounts for 23.6 percent of the $2 billion in major nonrecurring appropriations that are being tracked in this report.
    - This report records expenditures from the state treasury and not necessarily expended by grantees further downstream.

- About $206.6 million, or 69 percent, of the increased spending was attributable to activities related to post pandemic economic recovery. In this category, the Department of Transportation spent the most since October, by committing an additional $22.3 million for local road projects and $1.4 million on equipment purchases. However, since October, little to no spending occurred in the subcategories of economic development and quality of life improvements, these items include business space development, research and development at higher education institutions, venture capital program fund, and regional recreation centers.

- Between October and December, there were few expenditures in the post pandemic workforce development category. Of $390 million appropriated in this category, state agencies committed $62.5 million or about 16 percent. The Workforce Solutions Department has not begun spending its total of $10 million for adult reemployment and case management and youth reemployment and apprenticeships but says they have been working with the Public Education Department and higher education institutions to refine plans for pre-apprenticeship programs and career specialists.

- Of the $85 million appropriated for the film school, higher education work studies, teacher preparation affordability, and teacher loan repayments funds, there have been no expenditures. An additional $130 million for the lottery tuition fund and $63 million for the opportunity scholarships have not been transferred or expended.

- So far, in percentage terms, agencies with appropriations meant to respond to Covid-19 related costs and improve healthcare spent the most, at about 63 percent. However,

between October and December, only $130 thousand was expended and about 93 million remains unspent.

- Movement in other expenditures include $14 million on top of the $5 million already expended for criminal justice reform and police salaries, $4.5 million for the Santa Fe School for the Arts dormitories, and $908 thousand for higher education institution demolition funds.

- Additionally, because Department of Finance and Administration staff raised concerns that some of the Legislature's appropriation from the American Rescue Plan Act (ARPA) may not be an eligible use of the funds under federal rules, LFC staff included an analysis in the back of this packet on the eligibility of expenditures of federal funds for replacing revenue lost because of the pandemic. In all guidance documents and rules, the U.S. Department of Treasury noted that state fiscal recovery funds used for revenue replacement could subsequently be used to provide broad general government services, going so far in the final rule as to say that "*services provided by the recipient governments are ''government services'' under the interim final rule and final rule, unless Treasury has stated otherwise*."

Appendix A: Nonrecurring ARPA and General Fund Matched with STB and GOB

	Agency Name	Item	HB2 SS From ARPA State Relief	HB2 Regular Session GF Final	HB2 Regular Session GF/ACF Final	HB2 Regular Session OSF Final	2022 GOB/STB	Total Special Session and Regular Session	Total Encumbered, Expended, or Transferred	Comments
1	**Economic Recovery**									
2	Department of Transportation	Statewide Road Projects	$ 142,500.0	$ 247,500.0				**$ 390,000.0**	$ 68,598.7	The department allocated almost $200 million to specific projects. These projects are still in the planning stages and not encumbered. Recently, New Mexico received a competitive federal grant for the Santa Teresa road project, funded during the 2022 legislative session. Funding is authorized through FY25.
3	Department of Transportation	Local Road Projects (transportation project fund)		$ 60,000.0	$ -			**$ 60,000.0**	$ 60,000.0	The Transportation Commission awarded $106.7 million for FY23 (the fund receives other recurring revenue accounting for the difference).
4	Department of Transportation	I-10 and I-40 Planning		$ 25,000.0				**$ 25,000.0**	$ -	Funds were budgeted, no expenditures. NMDOT is working to identify projects. Funding is authorized through FY25.
5	Department of Finance and Administration	Santa Teresa Airport Improvements			$ 20,000.0			**$ 20,000.0**	$ -	DFA reports a grant agreement is being issued and has been sent for signature to Dona Ana as of October 13, 2022. The full amount is encumbered, however no funds have been distributed and project plans have not been received.
6	Department of Transportation	Rest Areas		$ 20,000.0	$ -			**$ 20,000.0**	$ -	Funds were budgeted, no expenditures. NMDOT allocated $1.5 million to each district, apart from district 2, which received $575 thousand. $10 million was allocated to the two Rattlesnake Draw Rest Areas on I-40 near Moriarty due to the need for major repairs to plumbing and septic systems. The remaining $3.6 million is reserved for contingencies. Funding is authorized through FY25.
7	Department of Transportation	Regional Airport Upgrades	$ 10,000.0	$ 5,000.0	$ -			**$ 15,000.0**	$ 13,350.0	The department awarded $12.5 million to 7 local governments for airport improvement.
8	Department of Transportation	E-Vehicle Charging Stations	$ 10,000.0	$ -	$ -			**$ 10,000.0**	$ 2,713.7	NMDOT budgeted $5 million for contracts and $5 million for other expenses. The expenses and encumbrances to date are in the other category for the purchase of electric vehicle charging stations, other materials, and labor.
9	Department of Transportation	Roadway Beautification	$ 10,000.0					**$ 10,000.0**	$ 3,180.7	The department contracted with five litter pickup, control, and graffiti removal providers. Funding is authorized through FY25.
10	Department of Transportation	DOT Equipment Purchases		$ 9,000.0	$ -			**$ 9,000.0**	$ 3,505.8	The department purchased a heavy truck, an excavator, and a 50 ton detachable trailer. NMDOT reports long lead time for ordering heavy equipment. Funding is authorized through FY25.
11	Department of Transportation	Essential Air Service		$ 5,000.0				**$ 5,000.0**	$ -	Funds were awarded to Gallup and Dona Ana county and air service from Gallup began August 1.
12	***Subtotal Transportation***		***$ 172,500.0***	***$ 371,500.0***	***$ 20,000.0***	***$ -***	***$ -***	***$ 564,000.0***	***$ 151,348.9***	
13	Economic Development Department	Business Space Development				$ 70,000.0		**$ 70,000.0**	$ -	No expenditures. The New Mexico Finance Authority and the Economic Development Department held a board meeting August 24th and heard proposals for how to administer the program, including what types of projects should be eligible. The board will consider loans, loan guarantees, or project based investment (such as state-owned development space), as well as loans to businesses that don't qualify for LEDA, such as childcare centers or non-profit organizations. The next meeting will be held early November.
14	Higher Education Department	Research and Development at Higher Education Institutions		$ 45,000.0	$ -			**$ 45,000.0**	$ -	The amount was budgeted in late March 2022 but not transferred to the fund. The rules governing awards from the fund were effective in late October.The awards committee can begin considering projects for funding awards now that the rule is final, but they have not done so yet.
15	Department of Finance and Administration	Venture Capital Program Fund		$ 35,000.0				**$ 35,000.0**	$ -	No expenditures. NMFA and EDD issued a RFP for an investment officer to manage fund-to-fund investments, and are discussing ways to leverage $54 million in existing federal grant funds at EDD. The board met to promulgate rules, which should be finalized and vetted through public hearings by January, 2023.

Appendix A: Nonrecurring ARPA and General Fund Matched with STB and GOB

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16	Department of Information Technology	Broadband and Cybersecurity		$ 20,000.0				**$ 20,000.0**	$ 2,458.5	Spending includes $205 thousand for digital equity contractors to support digital equity planning, $1.4 million to RiskSense for penetration testing and cybersecurity services, $64.6 thousand for broadband attorney services, $89 thousand to Deloitte for standing up the cybersecurity planning committtee, and $540.1 thousand for cyber risk management services with Carahsoft.
17	Department of Cultural Affairs	Rural Library Endowment Fund **(GOBs for state and tribal library resources and equipment)**		$ -	$ 10,000.0		$ 7,000.0	**$ 17,000.0**	$ 10,000.0	The Department of Cultural Affairs budgeted funds for rural library endowments but made no expenditures. The Department of Finance and Administration now plans to undo the transfer of the endowment, and request an additional $10 million for FY24, alleging the ARPA funds can not be used for investments. LFC staff has reviewed the federal guidelines and will produce documentation supporting the use of ARPA funds for this purpose.
18	Tourism Department	Tourism Marketing and Advertising	$ 15,000.0	$ -	$ -			**$ 15,000.0**	$ 14,950.0	Tourism spent a little over $10 million and encumbered the rest for a large winter marketing campaign.
19	Department of Cultural Affairs	Cultural Facility Improvements Outside Santa Fe. (**STBs for cultural projects in SF and outside SF)**		$ -	$ 5,000.0		$ 7,017.0	**$ 12,017.0**		The appropriation has been budgeted but no expenditures or encumbrances have been made. Agency notes it created a plan to expend the total appropriation, primarily on facility improvements rather than exhibits. The department plans to begin expending funds in December.
20	Tourism Department	Local Event Marketing and Advertising			$ 5,000.0			**$ 5,000.0**	$ 5,000.0	Fully expended for Spring marketing campaign
21	***Subtotal Economic Development***		***$ 15,000.0***	***$ 100,000.0***	***$ 20,000.0***	***$ 70,000.0***	***$ 14,017.0***	***$ 219,017.0***	***$ 32,408.5***	
22	State Engineer	Indian Water Rights Settlement **(STB for Indian Water Rights Settlement)**		$ 32,000.0	$ -		$ 10,600.0	**$ 42,600.0**	$ -	The appropriation has been budgeted but no expenditures or encumbrances have been made.
23	State Engineer	Drought Mitigation		$ -	$ 30,300.0			**$ 30,300.0**	$ -	The appropriation has been budgeted but no expenditures or encumbrances have been made.
24	Department of Environment	Eastern New Mexico Water Utility Authority **(STB for ENMWUA)**		$ 10,000.0			$ 20,000.0	**$ 30,000.0**	$ -	The appropriation has been budgeted but no expenditures or encumbrances have been made.
25	Energy, Minerals and Natural Resources Department	Forest Land Protection Revolving Fund		$ 20,000.0				**$ 20,000.0**	$ 376.2	The department encumbered $376.2 thousand to purchase and replace radio equipment in vehicles used for wildland firefighting.
26	State Engineer	Dam Rehabilitation **(STB to DGF for Bear Canyon Dam)**			$ 10,000.0		$ 7,000.0	**$ 17,000.0**	$ -	The appropriation is budgeted but no expenditures or encumbrances have been made.
27	Energy, Minerals and Natural Resources Department	Wildfire prevention and Firefighting Equipment (**STBs for watershed restoration)**			$ 5,000.0		$ 10,000.0	**$ 15,000.0**	$ 257.0	The department encumbered $257.1 thousand to purchase equipment
28	Department of Environment	Surface Water and River Habitat Improvements **(STB for river stewardship program)**	$ 10,000.0	$ -			$ 1,500.0	**$ 11,500.0**	$ -	The appropriation has been budgeted but no expenditures or encumbrances have been made.
29	Border Authority	Columbus Port of Entry Berm		$ -	$ 9,500.0			**$ 9,500.0**	$ 12.5	The Border Authority spent just under $12.5 thousand for the planning phase of the berm.
30	Department of Finance and Administration	Conservation of Species of Greatest Need			$ 5,000.0			**$ 5,000.0**	$ 5,000.0	The full expense was transferred to Game & Fish. This is the L Bar Ranch purchase.
31	Department of Finance and Administration	Taos Green Corridor			$ 5,000.0	$ -		**$ 5,000.0**	$ 4,000.0	As a part of the overall green corridor plan, expenditures include $1.5 million for erosion control on Route 150 near Valdez and $500 thousand for EV charging stations. Additional allocations of $1 million for wildfire risk reduction work, $750 to Village of Taos Ski Valley for water infrastructure repairs, $500 thousand to Taos Pueblo for watershed restoration, $500 thousand for acequia water quality monitoring, and $250 thousand for cutthroat trout protection work have been encumbered.
32	State Engineer	Acequia Improvements		$ 5,000.0	$ -			**$ 5,000.0**	$ -	Not yet budgeted.
33	New Mexico State University	Department of Agriculture for Various Projects		$ 3,000.0	$ 2,000.0			**$ 5,000.0**	$ 2,881.1	Amounts expended on chile labor and vineyard restoration.
34	Energy, Minerals and Natural Resources Department	Orphan Wells	$ 3,500.0	$ -				**$ 3,500.0**	$ 329.7	The department spent $283.2 thousand on plugging orphan wells and $23 thousand in the other category partially to purchase dell laptops.
35	Department of Transportation	Wildlife Corridors		$ 2,000.0				**$ 2,000.0**	$ -	NMDOT has produced a wildlife corridors plan identifying projects. Funds were budgeted, no expenditures.
36	***Subtotal Rural Jobs and Natural Resources***		***$ 13,500.0***	***$ 72,000.0***	***$ 66,800.0***	***$ -***	***$ 49,100.0***	***$ 201,400.0***	***$ 12,856.5***	

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37	Department of Finance and Administration	State Government Capital Outlay Project Cost Overruns. **(STBs for capital program fund for state agency projects)**			$ 8,000.0		$ 125,953.0	**$ 133,953.0**	$ -	DFA identified 8 projects totaling $3.8 million that are being considered for funding at this time and project costs are being validated. Responses are due back December 7 with final determinations planned for December 31.
38	Department of Finance and Administration	Regional Recreation Centers		$ 5,000.0	$ 40,000.0			**$ 45,000.0**	$ -	DFA received 147 requests, of which 132 are for eligible projects, totaling $218.9 million for its recreation/quality of life grant program. Of the project submitted, 128 were for rural areas. Although it was reported that awards were announced August 31, 2022. No funding has been distributed. No more than half of the appropriation is to be spent in a single fiscal year.
39	Energy, Minerals and Natural Resources Department	State Parks Improvements. **(STB for State Park wastewater)**	$ 20,000.0	$ -			$ 468.0	**$ 20,468.0**	$ 3,389.6	The department spent about $326 thousand on equipment such as a John Deer tractor, fleet vehicles, and camp fire rings. Another $3.3 million has been encumbered.
40	Economic Development Department	Outdoor Recreation Grants	$ 7,000.0	$ -				**$ 7,000.0**	$ 5,500.0	The Economic Development Department awarded $2.7 million in trail infrastructure awards in June 2022, and an additional $2.5 million in awards in September. Of the September grant awards, 64 percent were to rural areas. The department plans to expend the entirety of the Trails + grants by December 2022 and is accepting applicants on a rolling basis.
41	Economic Development Department	Outdoor Equity Grants	$ 3,000.0	$ -	$ -			**$ 3,000.0**	$ 1,100.0	The Economic Development Department administered a round of equity grants in the spring and a second round totaling $800 thousand in the fall. The awards went to 48 organizations statewide, getting approximately 12.3 thousand youth outside.
42	Department of Finance and Administration	Navajo Preparatory School Dorm Upgrades **(STB for Navajo Prep)**			$ 5,000.0		$ 1,000.0	**$ 6,000.0**	$ -	The amount has been budgeted but no spending or encumberances are reported. LFC staff asked for project plans but none have been provided.
43	***Subtotal Quality of Life and Other***		***$ 30,000.0***	***$ 5,000.0***	***$ 53,000.0***	***$ -***	***$ 127,421.0***	***$ 215,421.0***	***$ 9,989.6***	
44	**Economic Recovery**		**$ 231,000.0**	**$ 548,500.0**	**$ 159,800.0**	**$ 70,000.0**	**$ 190,538.0**	**$ 1,199,838.0**	**$ 206,603.5**	
45										
46	**Post Pandemic Workforce Development**									
47	Higher Education Department	Lottery Tuition Fund		$ -	$ 130,000.0			**$ 130,000.0**	$ -	Not transferred to the fund.
48	Higher Education Department	Opportunity Scholarship			$ 63,000.0			**$ 63,000.0**	$ -	The HED has received projected expense amounts from institutions but no expenditures have been made. The department did not provide a report of total estimated costs.
49	Higher Education Department	Endowed Faculty Teaching Positions in Social Work		$ -	$ 50,000.0			**$ 50,000.0**	$ 30,500.0	Responses to a request for award (RFA) have been received and preliminary award amounts granted. The award will support 14 new faculty and 200 new student slots. Of the $50 million total, notices of awards were made for $30.5 million.
50	Higher Education Department	Endowed Faculty Teaching Positions in Nursing and Program Expansion	$ 15,000.0		$ 30,000.0			**$ 45,000.0**	$ 30,000.0	Responses to a request for award (RFA) have been received and preliminary award amounts granted. The award will support 14.5 new faculty and 169 additional student slots. The $45 million includes $15 million in nonrecurring nurse expansion funding of which all has been allocated, but none transferred. $10 million of this nonrecurring revenue was allocated to recurring costs.
51	Economic Development Department	Film School **(STB for Film School)**			$ 20,000.0	$ -	$ 20,000.0	**$ 40,000.0**	$ -	The Department announced a Las Cruces satellite location, and issued a request for proposals for a contractor to manage the project, but has not spent any of the appropriation
52	Higher Education Department	Work Study		$ -	$ 20,000.0			**$ 20,000.0**	$ -	The appropriation was budgeted but no expenditures or encumbrances were made.
53	Higher Education Department	Teacher Preparation Affordability Scholarship Fund				$ 20,000.0		**$ 20,000.0**	$ -	The amount was budgeted but not transferred to the fund.

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54	Workforce Solutions Department	Reemployment Case Management			$ 5,000.0			**$ 5,000.0**	$ -	Budgeted but no expenditures. The Department says it has been working with the Public Education Department (PED) and convened a work group of businesses, trade unions, and PED representatives focused on work-based learning, and community college representatives to refine the plans for pre-apprenticeship programs, career specialists, and technological improvements with this appropriation and the next one, in addition to developing the plans for marketing trade careers through virtual reality experiential learning.
55	Workforce Solutions Department	Youth Reemployment and Apprenticeships		$ -	$ 5,000.0			**$ 5,000.0**	$ -	Budgeted but no expenditures see above.
56	University of New Mexico	For Endowed Teaching Positions in Native American Studies			$ 5,000.0			**$ 5,000.0**	$ -	Not budgeted.
57	Higher Education Department	Teacher Loan Repayment Fund				$ 5,000.0		**$ 5,000.0**	$ -	The amount was budgeted but not transferred to the fund.
58	Higher Education Department	Teacher Loan Repayment Fund	$ 2,000.0					**$ 2,000.0**	$ 1,973.6	About $1.9 million of the appropriation has been expended on repaying loans.
59	**Subtotal Post Pandemic Workforce Development**		**$ 17,000.0**	**$ -**	**$ 328,000.0**	**$ 25,000.0**	**$ 20,000.0**	**$ 390,000.0**	**$ 62,473.6**	
60										
61	**Respond to Covid-19 Related Costs and Improve Healthcare**									
62	Department of Finance and Administration	Acute Care Hospital	$ 50,000.0	$ -	$ -			**$ 50,000.0**	$ 50,000.0	Agreement in place, full amount committed to Valencia County. However, the agency has not yet established a contract with a vendor for constructing the hospital.
63	Department of Finance and Administration	Affordable Energy Efficient Housing (**STB for MFA Housing Trust Fund)**	$ 15,000.0		$ 10,000.0		$ 9,000.0	**$ 34,000.0**	$ -	The grant agreement for $15 million of fiscal recovery funding was executed 9/28/2022. The second grant agreement for the $10 million allocation is still under review at DFA. MFA reports state funding of $8 million will be used for the Down Payment Advantage program, launched on November 28, 2022, and $2 million will be used for neighborhood revitalization, which will launch in the next quarter.
64	Office of Superintendent of Insurance	Patients' Compensation Fund		$ 30,000.0	$ -			**$ 30,000.0**	$ 30,000.0	Funds have been transferred to the patient's compensation fund. A September actuarial report projects a fund deficit of $69 million despite the Legislative appropriation, which would have reduced the deficit by half according to last year's actuarial report. OSI is working with staff to address fund solvency through not only additional appropriations but restrictions on fund expenditures.
65	Human Services Department	Hospital and Nursing Home Labor Costs		$ 18,000.0		$ 10,000.0		**$ 28,000.0**	$ 28,000.0	HSD reports all the appropriation was expended in FY22. No remaining balance.
66	Department of Finance and Administration	Homeless Housing Assistance. **(STBs for supportive housing and homeless facility in Albuquerque)**	$ 10,000.0		$ 10,000.0		$ 689.2	**$ 20,689.2**	$ 1,494.0	The Casa Connection grant program, to be administered by the Governor's office in conjunction with DFA, had an informal application via email, with seven applications received so far totaling $12.5 million. One award is in final stages for Albuquerque totaling $2.9 million for 100 efficiency units of supportive housing. In addition, $247 thousand was spent for outstanding Local Government Division expenses, $247 thousand is encumbered for Luna County to provide housing in the Village of Columbus, including purchase and connection of eight RV trailers, and $1 million is encumbered for the Village of Ruidoso to create an enterprise housing fund to develop 17 manufactured housing units to be leased to the displaced families of the McBride fire.
67	Human Services Department	Behavioral Health Provider Startup Costs		$ -	$ 20,000.0			**$ 20,000.0**	$ -	CYFD and HSD provided an outline of a plan for the funding but may make revisions to include more evidence-based programming. No expenditures to date.
68	Public School Insurance Authority	Employee Covid-19 Costs		$ -	$ 15,000.0			**$ 15,000.0**	$ 15,000.0	Funds have been transferred to NMPSIA.
69	General Services Department	Employee Covid-19 Costs	$ 15,000.0	$ -				**$ 15,000.0**	$ 15,000.0	Fully expended

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70	Human Services Department	Financial Assistance			$ 10,000.0			**$ 10,000.0**	$ 10,000.0	HSD reports the appropriation was paid to the Taxation and Revenue Department to provide assistance for low-income residents. No remaining balance.
71	University of New Mexico	School of Public Health			$ 10,000.0			**$ 10,000.0**	$ -	Not budgeted.
72	New Mexico State University	School of Public Health			$ 5,000.0			**$ 5,000.0**	$ 127.4	NMSU requested to use some of this appropriation to create an endowment fund. DFA has not yet given approval for fund creation.
73	New Mexico State Fair	For Lost Revenue			$ 5,000.0			**$ 5,000.0**	$ 5,000.0	The total amount was used to replace lost revenue.
74	Human Services Department	Food Bank Services	$ 5,000.0	$ -				**$ 5,000.0**	$ 2,253.3	HSD reports there is $2,746.6 million remaining for distribution.
75	Cumbres and Toltec Scenic Railroad Commission	For Lost Revenue and Railroad Repairs		$ 566.0	$ 2,434.0			**$ 3,000.0**	$ 200.0	The agency has expended approximately $200 thousand of the appropriation for operational costs in FY23. The agency has a plan for up to $750 thousand in additional expenditures and are actively working with State Budget Division to determine the best mechanism for expending the funds.
76	**Subtotal Respond to Covid-19 Related Costs and Improve Healthcare**		**$ 95,000.0**	**$ 48,566.0**	**$ 87,434.0**	**$ 10,000.0**	**$ 9,689.2**	**$ 250,689.2**	**$ 157,074.7**	
77										
78	**Other**									
79	General Services Department	Santa Fe Executive Office Building		$ 70,000.0	$ -			**$ 70,000.0**	$ -	GSD plans to go before the Santa Fe historic district in January and anticipates a decision by April 2023. Work might begin in late 2023.
80	Department of Finance and Administration	Criminal Justice Reform and Police Salaries		$ 67,000.0				**$ 67,000.0**	$ 20,725.0	The Department of Public Safety (DPS) sent out an optional survey to law enforcement agencies in July 2022 requesting information about law enforcement vacancies, with the intention that the survey would "assist in the development of guidelines" for these recruitment and retention efforts. The survey distributed by DPS did not state agencies' responses would be used to determine awards or as an application. However, on September 9, 2022, the Governor's Office announced the awarding of $41.5 million from the fund over three years to 29 law enforcement agencies for the purpose of hiring over 300 new officers. These awards were made without previously announced criteria or a clear application process. Total awards in FY23 total $20.7 million, including $5 million to Albuquerque, $5 million to Las Cruces, and nearly $2.9 million to Hobbs.
81	Administrative Office of the Courts	Judge Retirement Solvency		$ 20,000.0	$ -			**$ 20,000.0**	$ 20,000.0	All funds were transferred to the judicial retirement fund.
82	Higher Education Department	Higher Education Building Demolition **(STBs for 15 higher education projects)**			$ 3,500.0		$ 7,512.4	**$ 11,012.4**	$ 908.5	The appropriation has been budgeted and 26 percent of funds expended.
83	Public Education Department	School for the Arts Dormitories **(STB for SA Dorms)**		$ 4,557.3	$ -		$ 3,760.0	**$ 8,317.3**	$ 4,557.3	$4.57M was encumbered but not expended.
84	Secretary of State	Statewide Election Costs			$ 5,000.0			**$ 5,000.0**	$ 4,617.7	The agency has fully expended $4 million budgeted in the other costs category to provide election cost reimbursements to counties as well as $76.9 thousand for IT support. Of the other $1 million, $183 thousand is committed for a contract with Knowink LLC for ongoing IT support, $308.2 thousand is to Dominion Voting Systems for election ballot system support, $49 thousand for election audit support, and $25 thousand for general election test decks.
85	Legislative Council Service	Legislative Processing System	$ 1,000.0	$ -				**$ 1,000.0**	$ -	Funds are not budgeted.
86	Administrative Office of the Courts	Pretrial Services Monitoring	$ 500.0	$ 500.0	$ -			**$ 1,000.0**	$ 207.0	Of the two appropriations approximately $207 thousand has been expended.
87	Department of Finance and Administration	Accountability of Pandemic Relief	$ 935.0	$ -	$ -			**$ 935.0**	$ 714.8	DFA spent $597.9 thousand on personnel and employee benefits for grants management FTE, nearly $117.7 thousand for contractual and IT support, including contracts with Carahsoft for federal dashboard design and management.
88	Taxation and Revenue Department	Mail Processing Inserter		$ 275.0				**$ 275.0**	$ 212.7	The mail processing inserter was purchased for $212.7 thousand from Quadiant
89	**Subtotal Other**		**$ 2,435.0**	**$ 162,332.3**	**$ 8,500.0**	**$ -**	**$ 11,272.4**	**$ 184,539.7**	**$ 51,943.0**	
90										
97	**Grand Total Other Nonrecurring General Fund**		**$ 345,435.0**	**$ 759,398.3**	**$ 583,734.0**	**$ 105,000.0**	**$ 231,499.6**	**$ 2,025,066.9**	**$ 478,094.8**	

Memorandum

To: Representative Patricia Lundstrom, Chair, Legislative Finance Committee
Senator George Munoz, Vice Chair, Legislative Finance Committee

From: Micaela Fischer, Program Evaluation Manager, Legislative Finance Committee
Nathan Eckberg, Program Evaluator, Legislative Finance Committee

Thru: David Abbey, Director, Legislative Finance Committee

Date: December 7, 2022

Re: Uses of ARPA state fiscal recovery funds

Summary

The Department of Finance and Administration staff have recently raised concerns that some of the Legislature's appropriations of American Rescue Plan Act (ARPA) state fiscal recovery funds may not be eligible uses of the funds under federal rules. Specifically, DFA has voiced concern over a $10 million appropriation to the rural library endowment fund. This memo clarifies that federal rules only stipulate a few, narrow restrictions for the use of ARPA state fiscal recovery funds and that all other uses are allowable. Therefore, the Legislative appropriations of the funds are in line with the federally permissible uses of the funds.

Background

The American Rescue Plan Act (ARPA) state fiscal recovery funds were allocated to states for broad purposes that included replacing revenue lost as a result of the pandemic. The state of New Mexico received $1.75 billion in ARPA state fiscal recovery funds in early 2021. The Legislature began to appropriate the ARPA funding in the 2021 regular session General Appropriation Act, but the governor vetoed all ARPA appropriations, contending that the executive had authority over the funds. By summer 2021, the executive had allocated over $681 million of the ARPA state fiscal recovery funds, primarily to the unemployment trust fund and for other, smaller pandemic-related measures. In July 2021, LFC economists reported in a federal funds brief that was also shared with DFA that all of the remaining $1.069 billion of ARPA state fiscal recovery funds could be counted toward replacing lost revenue (see Appendix A for calculations). In November 2021, the state Supreme Court ruled that the Legislature had sole appropriation authority over the ARPA state fiscal recovery funds. In a subsequent December 2021 special session, the Legislature, accounting for the remaining funds as lost revenue, transferred the $1.069 billion balance of the state ARPA funds to the appropriation contingency fund in the general fund, and has since appropriated $929 million of the funds for various purposes.

Federal Rules

The U.S. Treasury released the final rule governing the use of ARPA state funds in January 2022, but Treasury had already released several guidance documents and interim rules starting with the distribution of the state funds in early 2021. In all guidance documents and rules, Treasury noted that state fiscal recovery funds used for revenue replacement could subsequently be used to provide broad general government services, going so far in the final rule as to say that *"services provided by the recipient governments are ''government services'' under the interim final rule and final rule, unless Treasury has stated otherwise.[i]"*

The only restrictions that ARPA and the final rule placed on the use of state fiscal recovery funds were that:

1) Extraordinary contributions to a pension fund are not allowed,
2) Debt service payments are not allowed,
3) Deposits into rainy day or reserve accounts are not allowed,
4) Payments for settlement agreements, judgments, consent decrees or judicially confirmed debt are not allowed,
5) Activity that conflicts with Covid-19 mitigation practices is not allowed, and
6) All state fiscal recovery funds, even those used to replace lost revenue, must be obligated by Dec. 31, 2024 and spent by Dec. 31, 2026.

No appropriations made by the Legislature were for these restricted purposes (see the December 2022 LFC federal funds brief for a list of Legislative appropriations of ARPA funds.)

Some agencies may be concerned about the Legislature's appropriation of some ARPA funds into trust funds, endowments, or other interest-bearing accounts due to the requirements of the federal Cash Management Improvement Act. That Act requires states and other recipients to remit any interest over $500 earned on a federal award. However, item 10.1 of the Treasury FAQ's guiding the use of the state fiscal recovery funds[ii] clearly states that state fiscal recovery fund payments *"are not subject to the requirements of the Cash Management Improvement Act and Treasury's implementing regulations."* The FAQ document further states that "*interest earned on state fiscal recovery funds is not subject to program restrictions."* Therefore, while the time restrictions for the funds still apply, there should be no concern with the appropriations of ARPA funds into interest-bearing accounts.

More recent reporting manuals from Treasury on the use of ARPA state fiscal recovery funds should further allay the fears of any emergent restrictions of those funds. LFC staff have long interpreted federal guidance for accounting for ARPA state fiscal recovery funds as defining replacement of lost revenue as a "use" in and of itself. In that case, so long as the revenue replacement money is not subsequently used for a restricted purpose, and is spent by the deadline of Dec. 31, 2026, then there should be little further accounting required of the use of the funds by the federal government. This seems now affirmed by Treasury in its most recent reporting manual,[iii] which requires minimal reporting by states of their subsequent use of the funds used to replace lost revenues. In that reporting manual, Treasury only asks that state governments provide a narrative explanation of how revenue replacement funds were allocated to government services, not an actual accounting of the use of those funds.

[i] Coronavirus State and Local Fiscal Recovery Funds, 87 Fed. Reg. 4,408 (Jan. 27, 2022) (to be codified at 31 CFR Part 35) https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf

[ii] U.S. Department of the Treasury. Coronavirus State and Local Fiscal Recovery Funds Final Rule: Frequently Asked Questions. Item 10.1, Page 45. https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf

[iii] U.S. Department of the Treasury. Project and Expenditure Report User Guide State and Local Fiscal Recovery Funds. Version 4. October 12, 2022. https://home.treasury.gov/system/files/136/Oct-2022-PE-Report-User-Guide.pdf

Appendix A

ARPA Revenue Replacement Calculator

Background Information

			Notes:
1)	Fiscal Year End	June	
	Base Year Revenue Period	6/30/2019	FY used for base year calculation
2)	Calculation Date	12/31/2020	
	Number of Months	18	Months between Base Year and Calculation Date

Estimate Revenue

3)	Base Year Revenue	$ 7,929	Use Worksheet to Calculate
4)	Growth Rate	13.0%	Use Worksheet to Calculate
	Counterfactual Revenue	$ 9,530	Estimated Revenue Without Pandemic
5)	Actual Revenue	$ 8,049	Use Worksheet to Calculate

Reduction in Revenue

Fiscal Year Ended *12/31/2020*

Revenue Reduction	**$ 1,481**
Revenue Reduction %	**-15.5%**

Base Year Revenue Worksheet

	Fiscal Year Ended	6/30/2019

Revenue Source	Base Revenue (Y/N)		Amount
Taxes	Amount of tax collections for all taxes imposed by the government.		
Property Tax			
Property Tax	Y	$	-
Sales and Gross Receipts Tax			
General Sales and Use Tax	Y	$	2,738
Selective Sales Tax			
Alcoholic Beverage	Y	$	48
Amusements Sales Tax	Y	$	65
Motor Fuels Sales Tax	Y	$	283
Parimutuels Tax	Y	$	-
Public Utilities Sales Tax	Y	$	-
Tobacco Products Tax	Y	$	88
Other Sales Tax	Y	$	225
Licensing and Permit Taxes			
Alcoholic Beverage Licensing and Permits	Y		
Building/Construction Permits	Y		
Amusements Licensing and Permits	Y		
Motor Vehicles Licensing and Permits	Y		
Public Utilities Licensing and Permits	Y		
Occupation and Business Licensing and Permits	Y		
Other Licensing and Permits	Y	$	55
Income Tax			
Individual Income Tax	Y	$	1,672
Corporate Income Tax	Y	$	123
License and Permit Tax			
Alcoholic Beverage	Y	$	-
Amusements	Y	$	-
Motor Vehicles	Y	$	159
Public Utilities	Y	$	-
Occupational and Business Licenses	Y	$	-
Other Selective Sales	Y	$	-
Other Taxes			
Death and Gift Tax	Y	$	-
Documentary and Stock Transfer Tax	Y	$	-
Severance Tax	Y	$	1,239
Other	Y	$	-
Intergovernmental Revenue	Amount of revenue in form of grants, share of taxes imposed by others, PILOTs, or reimbursement for		
Intergovernmental Revenue			
From Other Local Governments	Y	$	78
From the State	Y	$	-

From the Federal Government	N	$	1,147
From the State and Financed from Federal Grants	N	$	-
Other Revenue	Amount of other revenue excluding any refunds or transfers between funds		
Utility Sales Revenue			
Water Supply System	N	$	-
Electric Power System	N	$	-
Gas Supply System	N	$	15
Transit or Bus System	N	$	-
User Charges and Fees			
Sewerage Charges	Y	$	-
Refuse Collection, Disposal, and Recycling Charges	Y	$	-
Parks and Recreation Charges	Y	$	-
Airports	Y	$	-
Hospital Charges	Y	$	-
Parking Facilities	Y	$	-
Housing Project Rentals	Y	$	-
Highways and Other Roads	Y	$	-
Sea and Inland Port Facilities	Y	$	-
Miscellaneous Commercial Activities Operated	Y	$	-
Other	Y	$	-
Other Revenue			
Special Assessments	Y	$	-
Receipts from Sale of Property and Other Capital Assets	Y	$	-
Proceeds from Issuance of Debt	N	$	-
Interest Earnings	Y	$	87
Fines and Forfeitures	Y		
Rents	Y	$	132
Royalties	Y	$	883
Private Donations	Y	$	-
Sale of Retail or Wholesale Liquor	N	$	-
Trust Revenue	N	$	-
Refunds and Other Correcting Transactions	N	$	-
Miscellaneous Other Revenue	Y	$	54
Total		**$**	**9,091**
Total Included in Base Revenue		**$**	**7,929**

Growth Rate Calculation

NOTE: This form is only required if annual revenue growth prior to the pandemic exceeds 4.1%. If not, 4.1% rate of growth will be used

Revenue Source	Base Revenue (Y/N)	FY Ended 6/30/2016	FY Ended 6/30/2017	FY Ended 6/30/2018	FY Ended 6/30/2019
Taxes	Amount of tax collections for all taxes imposed by the government.				
Property Tax					
Property Tax	Y	$ -	$ -	$ -	$ -
Sales and Gross Receipts Tax					
General Sales and Use Tax	Y	$ 2,022	$ 2,062	$ 2,437	$ 2,738
Selective Sales Tax					
Alcoholic Beverage	Y	$ 46	$ 48	$ 44	$ 48
Amusements Sales Tax	Y	$ 63	$ 60	$ 62	$ 65
Motor Fuels Sales Tax	Y	$ 258	$ 263	$ 275	$ 283
Parimutuels Tax	Y				$ -
Public Utilities Sales Tax	Y				$ -
Tobacco Products Tax	Y	$ 93	$ 91	$ 91	$ 88
Other Sales Tax	Y	$ 208	$ 227	$ 188	$ 225
Licensing and Permit Taxes					
Alcoholic Beverage Licensing and Permits	Y				$ -
Building/Construction Permits	Y				$ -
Amusements Licensing and Permits	Y				$ -
Motor Vehicles Licensing and Permits	Y				$ -
Public Utilities Licensing and Permits	Y				$ -
Occupation and Business Licensing and Permits	Y				$ -
Other Licensing and Permits	Y	$ 55	$ 53	$ 61	$ 55
Income Tax					
Individual Income Tax	Y	$ 1,327	$ 1,381	$ 1,519	$ 1,672
Corporate Income Tax	Y	$ 119	$ 70	$ 107	$ 123
License and Permit Tax					

Alcoholic Beverage	Y				$	-
Amusements	Y				$	-
Motor Vehicles	Y	$ 150	$ 145	$ 153	$	159
Public Utilities	Y				$	-
Occupational and Business Licenses	Y				$	-
Other Selective Sales	Y				$	-
Other Taxes						
Death and Gift Tax	Y				$	-
Documentary and Stock Transfer Tax	Y				$	-
Severance Tax	Y	$ 588	$ 663	$ 972	$	1,239
Other	Y				$	-
Intergovernmental Revenue	Amount of revenue in form of grants, share of taxes imposed by others, PILOTs, or reimbursement for services					
Intergovernmental Revenue						
From Other Local Governments	Y	$ 64	$ 63	$ 68	$	78
From the State	Y				$	-
From the Federal Government	N	$ 390	$ 436	$ 564	$	1,147
From the State and Financed from Federal Grants	N				$	-
Other Revenue	Amount of other revenue excluding any refunds or transfers between funds					
Utility Sales Revenue						
Water Supply System	N				$	-
Electric Power System	N				$	-
Gas Supply System	N	$ 20	$ 10	$ 11	$	15
Transit or Bus System	N				$	-
User Charges and Fees						
Sewerage Charges	Y				$	-
Refuse Collection, Disposal, and Recycling Charges	Y				$	-
Parks and Recreation Charges	Y				$	-
Airports	Y				$	-
Hospital Charges	Y				$	-
Parking Facilities	Y				$	-
Housing Project Rentals	Y				$	-
Highways and Other Roads	Y				$	-

Sea and Inland Port Facilities	Y								$	-
Miscellaneous Commercial Activities Operated	Y								$	-
Other	Y								$	-
Other Revenue										
Special Assessments	Y								$	-
Receipts from Sale of Property and Other Capital Assets	Y								$	-
Proceeds from Issuance of Debt	N								$	-
Interest Earnings	Y	$	22	$	(3)	$	6	$		87
Fines and Forfeitures	Y								$	-
Rents	Y	$	48	$	71	$	112	$		132
Royalties	Y	$	414	$	444	$	595	$		883
Private Donations	Y								$	-
Sale of Retail or Wholesale Liquor	N								$	-
Trust Revenue	N								$	-
Refunds and Other Correcting Transactions	N								$	-
Miscellaneous Other Revenue	Y	$	48	$	49	$	47	$		54
Total		**$**	**5,934**	**$**	**6,133**	**$**	**7,311**	**$**		**9,091**
Total Included in Base Revenue		**$**	**5,523**	**$**	**5,687**	**$**	**6,736**	**$**		**7,929**

Growth Rate	3.0%	18.4%	17.7%

Average Growth Rate	**13.0%**

Growth Rate Used for Calculation	**13.0%**

Summary

Actual Revenue Worksheet

12 Months Period Prior to **12/31/2020**

Revenue Source	Base Revenue (Y/N)		Amount
Taxes	Amount of tax collections for all taxes imposed by the government.		
Property Tax			
Property Tax	Y	$	-
Sales and Gross Receipts Tax			
General Sales and Use Tax	Y	$	2,875
Selective Sales Tax			
Alcoholic Beverage	Y	$	49
Amusements Sales Tax	Y	$	14
Motor Fuels Sales Tax	Y	$	282
Parimutuels Tax	Y	$	-
Public Utilities Sales Tax	Y	$	-
Tobacco Products Tax	Y	$	102
Other Sales Tax	Y	$	311
Licensing and Permit Taxes			
Alcoholic Beverage Licensing and Permits	Y	$	-
Building/Construction Permits	Y	$	-
Amusements Licensing and Permits	Y	$	-
Motor Vehicles Licensing and Permits	Y	$	-
Public Utilities Licensing and Permits	Y	$	-
Occupation and Business Licensing and Permits	Y	$	-
Other Licensing and Permits	Y	$	24
Income Tax			
Individual Income Tax	Y	$	1,864
Corporate Income Tax	Y	$	150
License and Permit Tax			
Alcoholic Beverage	Y	$	-
Amusements	Y	$	-
Motor Vehicles	Y	$	199
Public Utilities	Y	$	-
Occupational and Business Licenses	Y	$	-
Other Selective Sales	Y	$	-
Other Taxes			
Death and Gift Tax	Y	$	-
Documentary and Stock Transfer Tax	Y	$	-
Severance Tax	Y	$	1,057
Other	Y	$	-
Intergovernmental Revenue	Amount of revenue in form of grants, share of taxes imposed by others, PILOTs, or reimbursement for		
Intergovernmental Revenue			
From Other Local Governments	Y	$	40
From the State	Y	$	-
From the Federal Government	N	$	660
From the State and Financed from Federal Grants	N	$	-
Other Revenue	Amount of other revenue excluding any refunds or transfers between funds		
Utility Sales Revenue			
Water Supply System	N	$	-

Electric Power System	N	$	-
Gas Supply System	N	$	12
Transit or Bus System	N	$	-
User Charges and Fees			
Sewerage Charges	Y	$	-
Refuse Collection, Disposal, and Recycling Charges	Y	$	-
Parks and Recreation Charges	Y	$	-
Airports	Y	$	-
Hospital Charges	Y	$	-
Parking Facilities	Y	$	-
Housing Project Rentals	Y	$	-
Highways and Other Roads	Y	$	-
Sea and Inland Port Facilities	Y	$	-
Miscellaneous Commercial Activities Operated	Y	$	-
Other	Y	$	-
Other Revenue			
Special Assessments	Y	$	-
Receipts from Sale of Property and Other Capital Assets	Y	$	-
Proceeds from Issuance of Debt	N	$	-
Interest Earnings	Y	$	68
Fines and Forfeitures	Y	$	-
Rents	Y	$	50
Royalties	Y	$	917
Private Donations	Y	$	-
Sale of Retail or Wholesale Liquor	N	$	-
Trust Revenue	N	$	-
Refunds and Other Correcting Transactions	N	$	-
Miscellaneous Other Revenue	Y	$	45
Total		$	8,722
Total Actual Base Revenue		$	8,049