

1 SENATE BILL 295

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Pete Campos

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7
8 FOR THE LEGISLATIVE FINANCE COMMITTEE

9
10 AN ACT

11 RELATING TO PUBLIC FUNDS; AMENDING, REPEALING AND ENACTING
12 SECTIONS OF THE NMSA 1978 RELATED TO DISASTER FUNDING; LIMITING
13 HOW MONEY IN CERTAIN FUNDS CAN BE USED; MAKING APPROPRIATIONS.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 6-3-23 NMSA 1978 (being Laws 1992,
17 Chapter 2, Section 1) is amended to read:

18 "6-3-23. BUDGET ADJUSTMENT DEFINED.--As used in Chapter
19 6, Article 3 NMSA 1978, "budget adjustment":

20 A. means:

21 [~~A.~~] (1) an increase or decrease in
22 expenditures from other state funds, internal service funds or
23 interagency transfer;

24 [~~B.~~] (2) a transfer of funds from one division
25 of an agency to other divisions of that agency;

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1 [~~E.~~] (3) a transfer of funds between budget
2 categories within an agency or a division; or

3 [~~D.~~] (4) an authorization to expend federal
4 funds; and

5 B. does not mean an allocation of disaster funds
6 appropriated pursuant to Section 6 of this 2021 act."

7 SECTION 2. Section 6-3-25 NMSA 1978 (being Laws 1992,
8 Chapter 2, Section 3, as amended) is amended to read:

9 "6-3-25. BUDGET ADJUSTMENT PROCEDURE.--

10 A. Except for federal funds, [~~disaster assistance~~
11 ~~funds and emergency response funds~~] any budget adjustment
12 request to transfer, decrease or increase funds shall be held
13 in abeyance for ten calendar days after the director of the
14 state budget division of the department of finance and
15 administration has approved the request and has filed the
16 request with the director of the legislative finance committee
17 or [~~his~~] the director's designee. The request shall be
18 accompanied by a statement, in writing, of the conditions under
19 which the budget adjustment request is approved, together with
20 justification for approval.

21 B. If, within ten days, the director of the
22 legislative finance committee or [~~his~~] the director's designee
23 objects to the request, the request shall not go into effect
24 until it is reviewed by the legislative finance committee at a
25 public hearing held within thirty-five calendar days of receipt

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1 of the proposed budget adjustment by the director of the
2 legislative finance committee or [~~his~~] the director's designee.
3 If the state fiscal year ends prior to the date scheduled for a
4 hearing, the request shall go into effect on the last day of
5 the fiscal year.

6 C. If, within ten days of receipt of a budget
7 adjustment request, the director of the legislative finance
8 committee or [~~his~~] the director's designee indicates that no
9 objection will be forthcoming, the proposed budget adjustment
10 request may be implemented immediately. If no public hearing
11 is held within the required thirty-five days, the request may
12 be implemented."

13 SECTION 3. Section 6-4-2.1 NMSA 1978 (being Laws 1987,
14 Chapter 184, Section 1) is amended to read:

15 "6-4-2.1. GENERAL FUND OPERATING RESERVE CREATED--
16 AUTHORIZING EXPENDITURES.--

17 A. There is hereby created within the general fund
18 the "general fund operating reserve". [~~Notwithstanding any~~
19 ~~other provision of law to the contrary, there shall be~~
20 ~~deposited to the general fund operating reserve cash balances~~
21 ~~in the fund existing pursuant to Laws 1966, Chapter 66, Section~~
22 ~~16; Laws 1968, Chapter 71, Section 13; Laws 1970, Chapter 89,~~
23 ~~Section 4; Laws 1971, Chapter 327, Section 6; Laws 1972,~~
24 ~~Chapter 98, Section 6; Laws 1973, Chapter 403, Section 6; Laws~~
25 ~~1974 (S.S.), Chapter 3, Section 6; Laws 1975 (S.S.), Chapter~~

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1 ~~17, Section 6; Laws 1976, Chapter 58, Section 7; Laws 1979,~~
2 ~~Chapter 404, Section 7; Laws 1981, Chapter 38, Section 7; Laws~~
3 ~~1983, Chapter 46, Section 8; Laws 1984 (S.S.), Chapter 7,~~
4 ~~Section 7; and Laws 1986, Chapter 116, Section 1.]~~

5 B. The general fund operating reserve may be
6 expended only:

7 (1) pursuant to Subsection D of Section 6 of
8 this 2021 act, Subsection B of Section 6-12-15 NMSA 1978 and
9 Section 22-18A-5 NMSA 1978; and

10 (2) upon specific authorization by the
11 legislature in an amount authorized by the legislature and only
12 in the event general fund revenues and balances, including all
13 other transfers to the general fund authorized by law, are
14 insufficient to meet the level of appropriations authorized."

15 SECTION 4. Section 6-4-2.3 NMSA 1978 (being Laws 1991,
16 Chapter 10, Section 7) is amended to read:

17 "6-4-2.3. APPROPRIATION CONTINGENCY FUND.--

18 A. There is created within the general fund the
19 "appropriation contingency fund".

20 ~~[A.]~~ B. The appropriation contingency fund may be
21 expended only:

22 (1) pursuant to Subsection C of Section 6 of
23 this 2021 act and Subsection B of Section 6-12-15 NMSA 1978;
24 and

25 (2) upon specific authorization by the

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1 legislature. [~~or as provided in Sections 6-7-1 through 6-7-3~~
2 ~~NMSA 1978 in the event there is no surplus of unappropriated~~
3 ~~money in the general fund and in the amount authorized by the~~
4 ~~legislature.~~

5 B. ~~Notwithstanding Section 6-4-4 NMSA 1978, for the~~
6 ~~seventy-ninth fiscal year, if the revenues of the general fund~~
7 ~~exceed the total appropriations from the general fund, the~~
8 ~~excess revenue shall be transferred to the appropriation~~
9 ~~contingency fund.~~

10 C. ~~Five million dollars (\$5,000,000) is transferred~~
11 ~~from the operating reserve fund to the public school state-~~
12 ~~support reserve fund in the eightieth fiscal year.~~

13 D. ~~If revenues and transfers to the general fund,~~
14 ~~excluding transfers to the operating reserve, appropriation~~
15 ~~contingency fund and public school state-support reserve, as of~~
16 ~~the end of the seventy-ninth fiscal year, are not sufficient to~~
17 ~~meet appropriations, the governor, with state board of finance~~
18 ~~approval, may transfer at the end of that year the amount~~
19 ~~necessary to meet the year's obligations from the unencumbered~~
20 ~~balance remaining in the general fund operating reserve in a~~
21 ~~total not to exceed sixty million dollars (\$60,000,000).]"~~

22 SECTION 5. A new section of Chapter 6, Article 7 NMSA
23 1978 is enacted to read:

24 "[NEW MATERIAL] DISASTER AND EMERGENCY FUNDING--POLICY AND
25 PURPOSE.--Because of the possibility of the occurrence of

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1 disasters and emergencies that may severely affect the quality
2 of government services and require the immediate expenditure of
3 money that is not within the available resources of a state
4 agency, political subdivision or Indian nation, tribe or pueblo
5 located in whole or in part in New Mexico, to protect the
6 peace, health and safety and to preserve the lives and property
7 of the people of the state, it is necessary to establish a
8 source of emergency disaster funds."

9 SECTION 6. A new section of Chapter 6, Article 7 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] DISASTER AND EMERGENCY FUNDING--
12 APPROPRIATIONS--REPORTING REQUIREMENTS.--

13 A. Prior to receiving funds appropriated to
14 remediate a disaster pursuant to this section:

15 (1) a disaster shall have occurred;

16 (2) a state agency or political subdivision
17 needing the funds shall submit a written request to the
18 governor for the funds, including a description of the disaster
19 and the amount of funding requested;

20 (3) the governor shall issue a declaration of
21 emergency due to the disaster; and

22 (4) the governor shall issue an executive
23 order ordering the intent to expend the funds.

24 B. No later than five days after issuance of the
25 executive order ordering the intent to expend the funds, the

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1 governor shall provide to the director of the legislative
2 council service and the director of the legislative finance
3 committee:

- 4 (1) a description of the disaster;
- 5 (2) the amount of relief needed to remediate
6 the disaster and an accounting of the expected expenses;
- 7 (3) the intended source of the funds and the
8 balance of the source; and
- 9 (4) for each recipient of and allocation of
10 the funds:
 - 11 (a) the name of the recipient;
 - 12 (b) the amount of the allocation;
 - 13 (c) the projected use of the allocation;
 - 14 (d) a time line for expending the
15 allocation;
 - 16 (e) projected reimbursement for
17 expenditure from the allocation;
 - 18 (f) projected federal matching funding
19 that is expected to be leveraged; and
 - 20 (g) a copy of the request for assistance
21 pursuant to Paragraph (2) of Subsection A of this section.

22 C. If the requirements of Subsection A of this
23 section are met, there is appropriated from the appropriation
24 contingency fund the amount necessary to remediate the
25 disaster; provided that no more than five million dollars

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1 (\$5,000,000) may be appropriated for each executive order
2 issued by the governor pursuant to Paragraph (4) of Subsection
3 A of this section.

4 D. If the balance of the appropriation contingency
5 fund is insufficient to remediate a disaster pursuant to
6 Subsection C of this section, upon approval from the state
7 board of finance, the balance of the amount necessary to
8 remediate the disaster is appropriated from the general fund
9 operating reserve; provided that the total amount that may be
10 appropriated in each fiscal year for all disasters shall not
11 exceed twenty million dollars (\$20,000,000).

12 E. The money appropriated pursuant to Subsections C
13 and D of this section shall be expended to remediate a
14 disaster. The funds shall be expended by the governor or agent
15 or agency designated by the governor for those purposes, either
16 as a state project or for securing matching federal funds. The
17 money shall be paid upon warrants drawn by the secretary of
18 finance and administration upon vouchers approved by the
19 governor or agent or agency designated by the governor for that
20 purpose.

21 F. By January 1, March 1, July 1 and October 1 of
22 each year, the governor shall provide an accounting of expenses
23 made, recipients of the funds and the balance of funds
24 appropriated pursuant to Subsections C and D of this section.

25 G. If the state receives federal or other non-state

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1 funds to remediate the same disaster as identified in the
2 emergency declaration pursuant to Paragraph (3) of Subsection A
3 of this section, a corresponding amount of the funds
4 appropriated pursuant to Paragraph (4) of Subsection A of this
5 section shall revert to the fund or reserve from which the
6 funds originated. If the funds appropriated pursuant to
7 Paragraph (4) of Subsection A of this section have been
8 expended, the fund or reserve from which the funds originated
9 shall be reimbursed by a corresponding amount from the federal
10 or other non-state funds received, unless otherwise provided or
11 prohibited by law.

12 H. Unexpended and unencumbered funds appropriated
13 pursuant to this section remaining at the close of the fiscal
14 year subsequent to the fiscal year in which the relevant
15 declaration of emergency is issued shall revert to the fund or
16 reserve from which the funds originated.

17 I. As used in this section:

18 (1) "disaster" means an unforeseen occurrence
19 or circumstance of such severity as to require the assistance
20 of the state to save lives and protect property and public
21 health and safety and requiring the immediate expenditure of
22 money that is not within the available resources of a
23 requesting state agency, political subdivision or an Indian
24 nation, tribe or pueblo located in whole or in part in New
25 Mexico and, if such expenditure is subject to appropriation,

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1 cannot reasonably await appropriation by the next regular
2 session of the legislature; and

3 (2) "state project" means an expenditure by a
4 state agency to provide resources and services necessary to
5 avoid or minimize economic or physical harm caused by a
6 disaster until the disaster has been remediated. "State
7 project" includes expenditures on a temporary, emergency basis
8 for lodging, sheltering, health care, food or any
9 transportation or shipping necessary to protect lives or public
10 property."

11 SECTION 7. Section 15-3-24.1 NMSA 1978 (being Laws 1989,
12 Chapter 315, Section 1) is amended to read:

13 "15-3-24.1. CAPITAL PROJECTS FUND--CREATED.--~~[A.]~~ There
14 is created in the state treasury the "capital projects fund"
15 from which appropriations for specific projects and programs
16 shall be made. The state treasurer shall deposit in this fund
17 all amounts specifically appropriated to this fund and all
18 governmental grants designated to or authorized for deposit in
19 this fund.

20 ~~[B. Fifty-six million nine hundred forty-two~~
21 ~~thousand three hundred seventy-one dollars (\$56,942,371) is~~
22 ~~appropriated from the general fund to the capital projects fund~~
23 ~~created in Subsection A of this section for expenditure in the~~
24 ~~seventy-seventh through eightieth fiscal years. In the event~~
25 ~~that general fund revenues and balances, including all other~~

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1 ~~transfers to the general fund authorized by law, are~~
2 ~~insufficient to meet the level of this appropriation, an amount~~
3 ~~not to exceed this amount is authorized by the legislature to~~
4 ~~be expended from the general fund operating reserve pursuant to~~
5 ~~Section 6-4-2.1 NMSA 1978.]"~~

6 SECTION 8. REPEAL.--Sections 12-11-23 through 12-11-25
7 NMSA 1978 (being Laws 1955, Chapter 185, Sections 1 through 3,
8 as amended) are repealed.