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## FISCAL IMPACT REPORT

**BILL NUMBER:** House Bill 180

**SHORT TITLE:** Use of Emergency Funds & Disasters

**SPONSOR:** Vincent/Herrera

**LAST UPDATE:** \_\_\_\_\_ **ORIGINAL DATE:** 1/28/26 **ANALYST:** Davidson/Torres

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DFA/ Executive Orders	See Fiscal Implications				Recurring	Other state funds

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 2

### Sources of Information

LFC Files

#### Agency or Agencies Providing Analysis

Department of Military Affairs

Department of Homeland Security and Emergency Management

#### Agency or Agencies That Were Asked for Analysis but did not Respond

New Mexico Environment Department

Energy, Minerals and Natural Resources Department

Department of Transportation

Department of Finance and Administration

Governor

New Mexico Attorney General

## SUMMARY

### Synopsis of House Bill 180

House Bill 180 (HB180) revises New Mexico's statutory framework governing emergency reserves, disaster response funding, and state defense expenditures. The bill clarifies the use of the general fund operating reserve, the tax stabilization reserve, and the natural disaster revolving fund; specifies the use of the appropriation contingency fund (ACF) for disasters that are not environmental; and renames and repurposes the federal reimbursement revolving fund as the executive order for disasters fund.

The bill authorizes the governor, on issuance of an executive order declaring a natural disaster,

non-natural disaster, or state of martial law, to expend funds from one of two designated emergency funds (either the appropriation contingency fund or the executive order for disasters fund), subject to newly established reporting requirements. It eliminates the historic use of certificates of indebtedness to finance National Guard and state defense force operations and instead requires such costs be paid from a fund specified for executive orders.

The bill transfers existing balances between funds to align with the new structure, repeals obsolete statutes related to emergency financing, and includes delayed effective dates, with most substantive provisions effective January 1, 2027.

House Bill 180 is endorsed by the Legislative Finance Committee.

## **FISCAL IMPLICATIONS**

The bill does not create new revenues or funds but reorganizes and renames existing funds and their uses to clarify the process and sources of emergency order funding.

First, the bill specifies the appropriation contingency fund for use when the executive declares a disaster related to economic, public health, or security-related emergencies. Second, the bill renames and repurposes the federal reimbursement revolving fund into the executive order for disasters fund. The executive is currently using this fund, along with the appropriation contingency fund, and the operating reserve to fund all executive orders. This bill requires natural disaster-related emergency orders to utilize funding from the newly named executive order for disasters fund. This change centralizes federal reimbursements and other emergency-related revenues into a single fund that can be accessed with clarity and reported on regularly.

By eliminating certificates of indebtedness, the bill removes a mechanism that historically allowed the state to finance emergency defense expenditures outside of existing fund balances but is not used in practice. While this reduces long-term debt obligations, it also shifts costs onto the executive order for disaster fund or the appropriation contingency fund, increasing pressure on those funds.

The bill clarifies the interaction between the general fund operating reserve and the tax stabilization reserve to eliminate ambiguity regarding their use. Specifically, it affirms the tax stabilization reserve may serve as a backstop for low operating reserves only once, consistent with legislative intent, and clarifies that executive orders may not access these funds. The tax stabilization reserve is intended for legislative use to manage revenue volatility, support future spending decisions, and make current-year appropriations.

The Department of Homeland Security and Emergency Management predicts the agency and, thus, the state would receive \$229 million in federal reimbursements over the next calendar year (the remainder of FY26 and the first half of FY27).

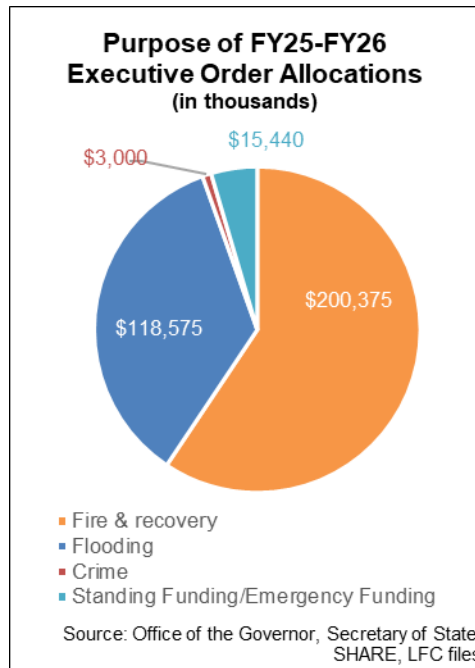
## **SIGNIFICANT ISSUES**

The current emergency funding system hinders the state's financial stability and impedes the legislative branch's appropriation authority by spending into general fund accounts without explicit authorization.

The primary statute authorizing the executive to allocate emergency funding has changed little in more than 70 years, despite the evolving nature of emergencies and the modern structure of state finances. During the Covid-19 pandemic, the executive allocated disaster funding well in excess of the statutory \$750 thousand limit and drew funds from sources not authorized for emergency use, without legislative notification or expenditure reporting. Prior legislative efforts to update the emergency funding framework—including changes to funding sources, appropriation limits, and reporting requirements—have not been enacted.

The current emergency funding framework did not anticipate allotments at the scale experienced in recent years. As ACF balances were exhausted by disaster allotments from FY19 through FY25—and are expected to be exhausted again in FY26—the executive began drawing from the general fund operating reserve to continue allotments. The authority to do so is unclear. Funds in the operating reserve are designated and therefore not “unappropriated,” and unlike the ACF, statute does not explicitly authorize executive withdrawals from the operating reserve for emergency purposes.

While statute does not universally require the governor to declare an emergency via executive order to allocate funding, it has been the executive’s longstanding practice to do so. A typical executive order describes the emergent situation, states that the situation is beyond local control and requires the resources of the state, declares an emergency to exist, references relevant statutory authority, and identifies the amount of funding to be allocated, the recipient agency, and the allowable uses of the funding. When funding is intended to be used by an agency for the benefit of specific local entities, the order will identify those entities, and it appears these are considered as the applicants for that funding. Executive orders allocating funding to the national guard under Section 20-1-6 NMSA 1978 sometimes do not declare an emergency because it is not required by that statute.



Currently, the term “disaster” is defined three times in the Disaster Acts, but none of these definitions explicitly apply to Sections 12-11-23 through 25 NMSA 1978, the statute that

codifies the governor's ability to issue executive orders for emergencies. All three definitions require an enemy attack and a state of martial law. The emergency funding statutes state an intention of establishing a source of emergency funding for natural disasters, but the closest definition to be found in these sections is the requirement the money "shall be expended for disaster relief."

Without a clear definition of disaster or emergency, the executive has interpreted executive order authority very broadly, including orders only mentioning the potential for an emergency disaster as a rationale for declaring an emergency and allocating funding. In this way, the orders have been used to provide future funding (this is sometimes referred to as "standing" funding). The 2006 evaluation recommended such funding be included in the normal budget process, but such a requirement has never been enacted.

Since 2020, the governor has issued hundreds of executive orders allocating hundreds of millions of dollars to handle emergencies. In FY25, the governor issued 359 executive orders (EOs) and authorized \$258 million in emergency spending. So far in FY26, the governor has issued 174 executive orders and authorized \$125.5 million in emergency funding. Of the total amount of funding the governor used for executive orders in FY25, \$194.4 million has come from the operating reserve, severely depleting the state's "checking account" without an appropriation, and severely inhibiting the Legislature's ability to appropriate in the current year. In addition to the draws on the operating reserve, \$63.7 million of executive order spending has come from the appropriation contingency fund in FY25. Because no centralized system exists to track executive order funding—its total amount, uses, or funding sources—it is difficult to determine how much FY26 emergency spending will be drawn from the appropriation contingency fund, the operating reserve, or the federal reimbursement revolving fund. This lack of transparency limits the Legislature's ability to manage state expenditures despite being the state's appropriative body.

By eliminating the per-order cap on emergency expenditures, the bill aligns statute with current executive branch practice. At the same time, the bill adds reporting requirements to the Legislative Finance Committee and interim committees, improving coordination of funding needs and strengthening spending controls. The bill also limits emergency order expenditures to two designated funds—the appropriation contingency fund and the renamed executive order for disasters fund (formerly the federal reimbursement revolving fund). This clarification removes ambiguity that has previously been used to justify emergency spending from the operating reserve or other funding sources.

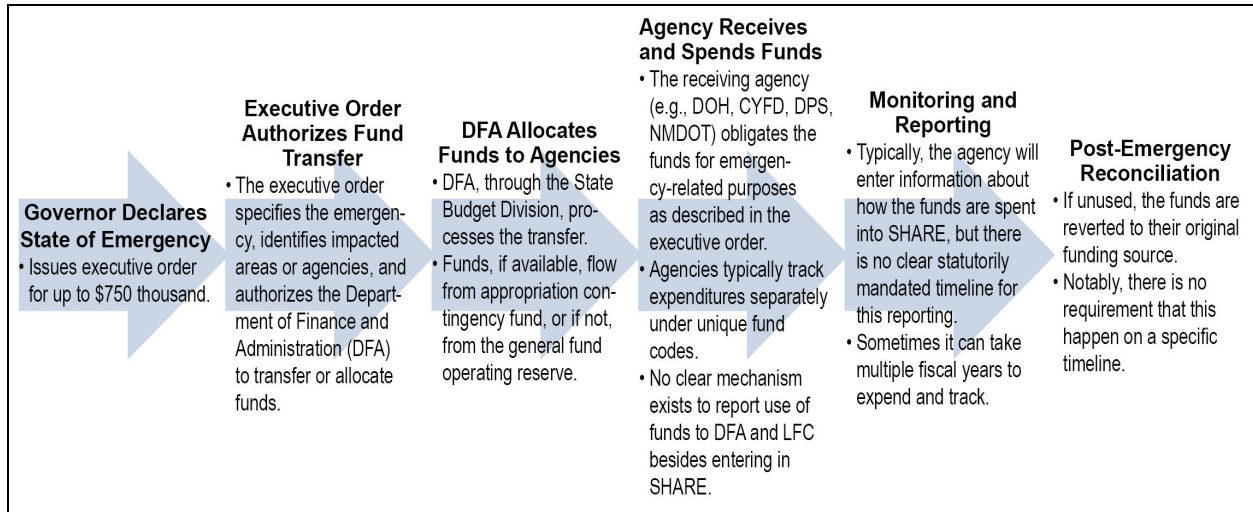
The bill defines a "disaster that is not a natural disaster" broadly to include any event that threatens public peace, health, or safety. While this definition provides flexibility to respond to a wide range of emergencies, it also raises concerns that ongoing or foreseeable issues could be addressed through emergency mechanisms rather than the regular appropriations process. This risk is mitigated by the requirement that funds used for this purpose must be refilled by appropriations made by the Legislature. Without this change, the risk remains much greater as emergency expenditures are currently made without limit or cap on total spending.

Finally, repurposing the federal reimbursement revolving fund into a standing disaster fund may improve continuity of emergency response and provides some recurring sources of funding through deposits of FEMA reimbursements.

The Department of Homeland Security and Emergency Management raises concerns about the

bill's repurposing of the federal reimbursement revolving fund, in particular changing the fund to include non-federally declared disasters. DHSEM is concerned about the potential for funds to be fully exhausted absent additional appropriations. Annual appropriations would prevent depletion of the funds and have historically been included in House Bill 2.

For more information on the current process of executive order spending, see below:



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