

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
CREATING THE NEW MEXICO RECOVERY AND REINVESTMENT FUND IN
RESPONSE TO THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT
OF 2009; DECLARING AN EMERGENCY.

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

Section 1. A new section of Chapter 6, Article 4 NMSA
1978 is enacted to read:

"NEW MEXICO RECOVERY AND REINVESTMENT FUND.--

A. The legislature finds that:

(1) the state is not eligible for an
increase to the federal medical assistance percentage provided
in Subsection (b) or (c) of Section 5001 of the federal
American Recovery and Reinvestment Act of 2009 if any amounts
attributable, directly or indirectly, to the increase are
deposited or credited into any reserve or rainy day fund of
the state;

(2) in order to ensure compliance with this
requirement, it is desirable to set up a fund separate and
apart from the state's general fund to capture unexpended
fiscal year 2009 general fund appropriations attributable to
an increase to the federal medical assistance percentage
provided in Subsection (b) or (c) of Section 5001 of the
federal American Recovery and Reinvestment Act of 2009;

(3) the separate fund will also enable the state to clearly account to the federal government regarding earnings and expenditures on unexpended fiscal year 2009 general fund appropriations attributable to an increase to the federal medical assistance percentage provided in Subsection (b) or (c) of Section 5001 of the federal American Recovery and Reinvestment Act of 2009; and

(4) in the period of time during which the fund will be available for expenditure, the fund will be used to stabilize the state's budget in the event of revenue shortfalls and to fund the state's share of the medicaid program, thereby preserving jobs and minimizing reductions in essential services, both of which are stated purposes of the federal American Recovery and Reinvestment Act of 2009.

B. The "New Mexico recovery and reinvestment fund" is created in the state treasury. The fund shall consist of money that is credited to the fund pursuant to Subsection C of this section, reversions to the fund of the unexpended balances of appropriations from the fund, appropriations made to the fund and investment income credited to the fund. Money in the fund shall not revert to any other state fund at the end of any fiscal year and shall not be expended for any purpose except as provided in this section. Income from investment of the fund shall be credited to the fund.

C. Notwithstanding the reversion provisions of

general appropriation acts or other laws, at the end of fiscal year 2009, the unexpended balance of a general fund appropriation shall be credited to the New Mexico recovery and reinvestment fund if the secretary of finance and administration, in consultation with the director of the legislative finance committee, determines that the unexpended balance is attributable to an increase in the federal medical assistance percentage provided in Subsection (b) or (c) of Section 5001 of the federal American Recovery and Reinvestment Act of 2009.

D. If revenue and transfers to the general fund at the end of fiscal year 2009, 2010 or 2011 are not sufficient to meet general fund appropriations, the governor, with state board of finance approval, may transfer to the general fund from the unappropriated balance of the New Mexico recovery and reinvestment fund an amount up to the amount of the insufficiency.

E. Except as provided in Subsection D of this section, the New Mexico recovery and reinvestment fund may be appropriated by the legislature solely for medicaid expenses in fiscal year 2010, fiscal year 2011 and the first quarter of fiscal year 2012; provided that any balance of an appropriation from the fund not expended within the period provided in the appropriation shall revert to the fund.

F. The unexpended balance of the New Mexico

recovery and reinvestment fund as of September 30, 2011 shall be returned to the federal government, unless federal law or regulation provides for a different disposition."

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.
