

1 SENATE BILL 241

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 George K. Muñoz and Joseph Cervantes

5  
6  
7  
8  
9  
10 AN ACT

11 RELATING TO PUBLIC FINANCE; ENACTING THE PROSPERITY AND  
12 ECONOMIC RESILIENCY ACT; CREATING THE PROSPERITY AND ECONOMIC  
13 RESILIENCY COUNCIL; PROVIDING POWERS AND DUTIES; CREATING THE  
14 PROSPERITY AND ECONOMIC RESILIENCY PERMANENT FUND AND THE  
15 PROSPERITY AND ECONOMIC RESILIENCY PROGRAM FUND; PROVIDING FOR  
16 SUBACCOUNTS IN THE PROSPERITY AND ECONOMIC RESILIENCY PROGRAM  
17 FUND; PROVIDING FOR AN ANNUAL DISTRIBUTION FROM THE PROSPERITY  
18 AND ECONOMIC RESILIENCY PERMANENT FUND TO THE PROSPERITY AND  
19 ECONOMIC RESILIENCY PROGRAM FUND; PROVIDING LIMITATIONS; MAKING  
20 A TRANSFER AND APPROPRIATIONS; DECLARING AN EMERGENCY.

21  
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
24 cited as the "Prosperity and Economic Resiliency Act".

25 SECTION 2. [NEW MATERIAL] PROSPERITY AND ECONOMIC

.223306.4

underscored material = new  
[bracketed material] = delete

underscoring material = new  
~~[bracketed material] = delete~~

1 RESILIENCY--CATEGORIES OF NEED.--

2 A. The Prosperity and Economic Resiliency Act  
3 identifies broad-based categories of major statewide problems  
4 and needs that require significant commitments of effort and  
5 funding by the state or by the state in concert with federal  
6 and local governments to solve or rectify problems. The scope  
7 of these categorical problems facing the state requires:

8 (1) governmental, educational and private-  
9 sector programmatic and problem-solving innovation;

10 (2) systemic improvements at all levels of  
11 government and a shared sense of urgency and responsibility;

12 (3) the transformation of bureaucratic  
13 thinking based on the premise that decision making should be  
14 slow in order to maintain uniformity and control into dynamic  
15 organizations dedicated to solving New Mexico's impediments to  
16 prosperity and economic resiliency for all; and

17 (4) a fiscal commitment from the legislature  
18 and governor to provide the resources needed to see projects  
19 through to completion.

20 B. The Prosperity and Economic Resiliency Act  
21 creates nine broad, substantive categories of need, with the  
22 tenth category providing money for renovation or major repair  
23 and maintenance of existing state assets and funding for  
24 infrastructure planning and design for projects that may be  
25 funded by the prosperity and economic resiliency council or by

.223306.4

underscored material = new  
[bracketed material] = delete

1 other funding streams such as severance tax bonds and general  
2 obligation bonds. The categories of need are:

- 3 (1) water conservation and delivery;
- 4 (2) environmental, agricultural and climate  
5 resiliency;
- 6 (3) energy, science, technology and  
7 innovation;
- 8 (4) higher education and academic research;
- 9 (5) physical, mental and behavioral health  
10 access and services;
- 11 (6) rural economic development;
- 12 (7) tribal initiatives;
- 13 (8) cultural and creative economy;
- 14 (9) courts and public safety; and
- 15 (10) state assets and capital planning and  
16 design.

17 SECTION 3. [NEW MATERIAL] PROSPERITY AND ECONOMIC  
18 RESILIENCY COUNCIL CREATED--MEMBERSHIP--ADMINISTRATIVE  
19 ATTACHMENT--STAFF.--

20 A. The "prosperity and economic resiliency council"  
21 is created. The council consists of:

- 22 (1) the secretary of finance and  
23 administration or the secretary's designee;
- 24 (2) the directors of the permanent legislative  
25 committees or their designees;

.223306.4

underscored material = new  
~~[bracketed material] = delete~~

1 (3) the director of the administrative office  
2 of the courts;

3 (4) the chief executive officer for the New  
4 Mexico finance authority or the officer's designee;

5 (5) the executive director of the New Mexico  
6 municipal league or the executive director's designee;

7 (6) the executive director of the New Mexico  
8 association of counties or the executive director's designee;  
9 and

10 (7) nine ad hoc public members appointed as  
11 follows so that each member has expertise in one of the first  
12 nine categories of need specified in Section 2 of the  
13 Prosperity and Economic Resiliency Act:

14 (a) six members appointed by the New  
15 Mexico legislative council; and

16 (b) three members appointed by the  
17 governor.

18 B. No more than five public members shall be from  
19 the same political party. Public members shall serve staggered  
20 six-year terms; provided that initial appointees shall draw  
21 lots to see who serves two-year, four-year or six-year terms.  
22 No public member may serve more than one term on the prosperity  
23 and economic resiliency council. Vacancies of public member  
24 positions shall be filled by appointment by the appointing  
25 entity for the remainder of the unexpired term; and vacancies

.223306.4

underscored material = new  
~~[bracketed material]~~ = delete

1 of ex-officio positions shall be filled by designees. Public  
2 members are entitled to receive per diem and mileage as  
3 provided for nonsalaried public officers in the Per Diem and  
4 Mileage Act and shall receive no other compensation, perquisite  
5 or allowance. Public members attending virtually shall not be  
6 eligible for mileage reimbursement.

7 C. The chair and vice chair of the council shall be  
8 elected by the board. The board shall meet at the call of the  
9 chair but not less often than three times each calendar year.  
10 Members may attend meetings virtually. A majority of members  
11 constitutes a quorum for the transaction of business, and the  
12 affirmative vote of a majority of the members present is  
13 necessary for an action taken by the board that is not a vote  
14 for project approval or for emergency transfers as provided in  
15 Section 4 of the Prosperity and Economic Resiliency Act, which  
16 actions require a two-thirds' majority vote by the ex-officio  
17 members.

18 D. The prosperity and economic resiliency council  
19 is administratively attached to the department of finance and  
20 administration. The federal grants bureau and the capital  
21 outlay bureau of the state budget division and the local  
22 government division, including the rural equity ombud, of the  
23 department of finance and administration and the facilities  
24 management division of the general service department shall  
25 serve as staff for the council.

.223306.4

underscored material = new  
[bracketed material] = delete

1           SECTION 4.   [NEW MATERIAL] PROSPERITY AND ECONOMIC  
2 RESILIENCY COUNCIL POWERS AND DUTIES--PROPOSALS--PRIORITIES--  
3 WORKING GROUPS--TRANSFERS FOR CERTAIN PURPOSES.--

4           A.   The prosperity and economic resiliency council  
5 may:

6                   (1)   request the assistance of any state  
7 agency, branch, institution, board, commission, bureau,  
8 committee, instrumentality or district of state government or  
9 any political subdivision of the state in carrying out its  
10 powers and duties; and

11                   (2)   on its own motion, request a state agency  
12 to submit an application or join another state agency's  
13 application for a proposed project.

14           B.   The council shall:

15                   (1)   act in the best interest of the state by  
16 solving problems of the state swiftly, efficiently and  
17 proactively and by responding to crises as they arise;

18                   (2)   adopt rules to implement the Prosperity  
19 and Economic Resiliency Act, which rules shall include terms  
20 and conditions for applications for funding and inter-fund  
21 transfers;

22                   (3)   investigate application proposals and  
23 their applicability to and efficacy in solving an identified  
24 problem relating to a category of need;

25                   (4)   prioritize projects and inter-fund

.223306.4

underscored material = new  
~~[bracketed material]~~ = delete

1 transfers and, except for crisis funding, certify the approved  
2 applications to the legislature;

3 (5) encourage applications that propose  
4 statewide or regional solutions for identified problems;

5 (6) require and assist development of  
6 comprehensive statewide planning for prevention and mitigation  
7 of natural disasters, including coordinated state and local  
8 response and coordination with federal agencies;

9 (7) assist in coordinated and sustained state  
10 planning for all state capital needs, regardless of eventual  
11 funding sources;

12 (8) make recommendations to the legislature  
13 for appropriations and transfers to existing programmatic  
14 funds; and

15 (9) make recommendations to the legislature of  
16 statutory funds that should be collapsed into the prosperity  
17 and economic resiliency program fund subaccounts to increase  
18 efficiency and to more effectively address the needs of the  
19 state.

20 C. State agencies shall submit applications for  
21 project funding from the prosperity and economic resiliency  
22 program fund on forms provided by the prosperity and economic  
23 resiliency council, accompanied by supporting documentation.  
24 The council may request additional information from applicants.

25 D. Except as otherwise provided in this section,

.223306.4

1 the prosperity and economic resiliency council shall give  
2 priority to projects that:

3 (1) have been identified as being urgent or in  
4 response to a crisis;

5 (2) use the administrative and other resources  
6 of state agencies and instrumentalities and participating  
7 political subdivisions;

8 (3) have matching contributions from sources  
9 other than the state, including federal funding, grants and in-  
10 kind contributions available at the time of application or  
11 prospectively;

12 (4) have obtained all requisite state and  
13 federal permits and authorizations necessary to initiate the  
14 project;

15 (5) provide statewide or regional solutions;  
16 and

17 (6) address inflationary limitations faced by  
18 agencies.

19 E. In response to a crisis identified by the  
20 prosperity and economic resiliency council through a unanimous  
21 vote of ex-officio members that requires state response, the  
22 council shall certify approved applications to the governor and  
23 shall provide funding for those applications up to the limits  
24 of the applicable subaccount balance to the department of  
25 finance and administration for immediate distribution of funds

.223306.4



underscoring material = new  
~~[bracketed material] = delete~~

1 pursuant to Subsections J and K of this section. Operational  
2 and capital expenditures in response to a crisis or declared  
3 emergency are allowed and are subject to the provisions of  
4 Sections 12-11-23 through 12-11-25 and Sections 13-1-127 and  
5 13-1-128 NMSA 1978.

6 F. When possible, if federal funding subsequently  
7 becomes available to one or more beneficiaries for the same  
8 purpose for which funding from one or more subaccounts in the  
9 prosperity and economic resiliency program fund was made  
10 available to respond to a crisis or emergency, the appropriate  
11 subaccounts shall be reimbursed the amount of funding from  
12 those subaccounts by the beneficiaries up to the amount  
13 received from the federal government.

14 G. The prosperity and economic resiliency council  
15 shall create a "crisis planning and response team" of state,  
16 federal and local experts to plan and coordinate necessary and  
17 appropriate responses to statewide, regional or local  
18 emergencies. The crisis planning and response team shall  
19 provide after-event reports to the council and the legislature,  
20 including findings and recommendations.

21 H. The prosperity and economic resiliency council  
22 may appoint one or more working groups for each category of  
23 need. The working groups shall include at least one council  
24 member, if feasible. Other members of each working group shall  
25 include topical experts, including state and local government

.223306.4

1 personnel and experts from state universities, national  
2 laboratories, federal agencies and the private sector. With  
3 the approval of the council, a working group may include  
4 subgroups that are assigned one or more specific charges and  
5 make findings and recommendations to its working group.

6 I. Federal agencies and the national laboratories  
7 are invited and encouraged to participate in the work of the  
8 prosperity and economic resiliency council and its working  
9 groups.

10 J. Each year, the prosperity and economic  
11 resiliency council may distribute:

12 (1) to the department of finance and  
13 administration, up to two million dollars (\$2,000,000) from  
14 each applicable subaccount or twenty percent of each applicable  
15 subaccount's unencumbered balance, whichever is greater, to  
16 respond to state-declared disasters per fiscal year; provided  
17 that this distribution is in addition to money appropriated by  
18 the legislature for disasters; and provided further that if  
19 there is a question about a disaster project or expenditure  
20 from a subaccount, the department shall bring the issue to the  
21 council for resolution; and further provided that the funding  
22 goes to an approved application that responds to the disaster;

23 (2) to the department of finance and  
24 administration, up to eighty percent of the state assets and  
25 capital planning and design subaccount's unencumbered balance

.223306.4

underscored material = new  
~~[bracketed material] = delete~~

1 for planning and design for capital projects that will be  
2 funded by the general fund or severance tax or general  
3 obligation bonds of the state or a local government; and

4 (3) to the tribal infrastructure board, up to  
5 eighty percent of the tribal initiatives subaccount's  
6 unencumbered balance to assist tribal governments in meeting  
7 match requirements to leverage federal funding related to  
8 tribal infrastructure.

9 K. Applications approved by the prosperity and  
10 economic resiliency council require the financial participation  
11 of the applicants of at least fifty percent of the approved  
12 project, except that the council by rule may provide a greater  
13 state share for critical projects if the state or a political  
14 subdivision shows that its available revenue and other  
15 available funding sources are not sufficient to provide the  
16 state's or political subdivision's fifty percent share of the  
17 project cost. The council may distribute to the department of  
18 finance and administration up to fifty percent of the  
19 unencumbered balances of applicable subaccounts to pay the  
20 state share of critical projects approved by the council.

21 L. The prosperity and economic resiliency council  
22 shall immediately notify the state treasurer and the state  
23 board of finance of the council's approval of distributions and  
24 projects provided in Subsections J and K of this section. The  
25 department of finance and administration shall keep a record of

.223306.4

underscoring material = new  
~~[bracketed material] = delete~~

1 expenditures made from distributions provided in accordance  
2 with those subsections and shall report the record to the  
3 council and the legislative finance committee. Upon request by  
4 the legislative finance committee, an agency that receives a  
5 distribution from the prosperity and economic resiliency  
6 program fund shall report to the committee the impact to the  
7 state of the distribution.

8 SECTION 5. [NEW MATERIAL] PROSPERITY AND ECONOMIC  
9 RESILIENCY PERMANENT FUND--CREATED--PURPOSES--DISTRIBUTIONS AND  
10 TRANSFERS.--

11 A. The "prosperity and economic resiliency  
12 permanent fund" is created as a nonreverting fund in the state  
13 treasury. The fund consists of income from investment of the  
14 fund, income from investment of the prosperity and economic  
15 resiliency program fund, appropriations, gifts, grants and  
16 donations to the fund.

17 B. The state investment office shall invest money  
18 in the prosperity and economic resiliency permanent fund as  
19 other permanent funds are invested.

20 C. The state investment officer shall report  
21 quarterly to the state investment council and the legislative  
22 finance committee on the investments made pursuant to this  
23 section. Annually, a report shall be submitted no later than  
24 October 1 of each year to the legislative finance committee,  
25 the revenue stabilization and tax policy committee and any

.223306.4

underscored material = new  
~~[bracketed material] = delete~~

1 other appropriate legislative interim committees.

2 D. If general fund revenues, including all  
3 transfers to the general fund authorized by law, are projected  
4 by the governor to be insufficient either to meet the level of  
5 appropriations authorized by law from the general fund for the  
6 current fiscal year or to meet the level of appropriations made  
7 in the general appropriation act for the next fiscal year, and  
8 if the balance of the tax stabilization reserve has been  
9 appropriated and there is still a projected insufficiency, then  
10 up to one billion dollars (\$1,000,000,000) of the prosperity  
11 and economic resiliency permanent fund may be appropriated by  
12 the legislature up to the amount of the projected insufficiency  
13 for either or both fiscal years.

14 E. On July 1 of 2024 and each year thereafter, a  
15 distribution from the prosperity and economic resiliency  
16 permanent fund shall be made to the prosperity and economic  
17 resiliency program fund of two hundred million dollars  
18 (\$200,000,000) or five percent of the prior three-year average  
19 of the prosperity and economic resiliency permanent fund,  
20 whichever is greater. The distribution to the prosperity and  
21 economic resiliency program fund shall be divided equally among  
22 its subaccounts for fiscal year 2024; thereafter, the  
23 legislature shall appropriate the amount in each subaccount  
24 that may be used by the prosperity and economic resiliency  
25 council in a fiscal year for the intended subaccount purpose.

.223306.4

1           SECTION 6.   ~~[NEW MATERIAL]~~ PROSPERITY AND ECONOMIC

2 RESILIENCY PROGRAM FUND--CREATED--SUBACCOUNTS.--

3           A.   The "prosperity and economic resiliency program  
4 fund" is created as a nonreverting fund in the state treasury.  
5 The fund consists of distributions from the prosperity and  
6 economic resiliency permanent fund, appropriations, gifts,  
7 grants and donations.   The prosperity and economic resiliency  
8 program fund shall be divided into subaccounts corresponding to  
9 each category of need.

10           B.   Except for emergency disbursements and  
11 distributions pursuant to Subsections J and K of Section 4 of  
12 the Prosperity and Economic Resiliency Act, money in each  
13 subaccount of the prosperity and economic resiliency program  
14 fund is subject to appropriation by the legislature and may be  
15 appropriated to state agencies and statutory funds as provided  
16 in this section.

17           C.   Beginning June 30, 2025 and each succeeding June  
18 30, if the unexpended or unencumbered balance remaining in a  
19 subaccount exceeds one hundred million dollars (\$100,000,000),  
20 the surplus shall be transferred to the prosperity and economic  
21 resiliency permanent fund.

22           D.   The "water conservation and delivery subaccount"  
23 is created to:

24                   (1) fund innovations in water conservation,  
25 delivery and reuse and protection and preservation of ground,

.223306.4

1 surface and drinking water resources;

2 (2) improve the quantity or quality of  
3 agricultural, industrial or domestic water;

4 (3) improve and maintain public infrastructure  
5 related to water, wastewater, nonfederal dams and reservoirs  
6 and acequias and community ditches;

7 (4) fund state water rights litigation and  
8 settlements; and

9 (5) provide support for other related water  
10 purposes, including addressing statewide, regional and local  
11 water-related shortages or crises.

12 E. The "environmental, agricultural and climate  
13 resiliency subaccount" is created to:

14 (1) protect human life, public infrastructure,  
15 utilities, wild lands and wildlife from the consequences of  
16 drought or other extreme weather events or epidemics;

17 (2) plan for and respond to public health  
18 emergencies as a result of extreme weather events;

19 (3) invest in fire prevention and mitigation  
20 strategies and measures to protect the state from the effects  
21 of climate change;

22 (4) mitigate environmental damage from natural  
23 or human causes;

24 (5) address agricultural sustainability and  
25 innovations;

.223306.4

- 1 (6) improve public infrastructure;
- 2 (7) fund environmental improvements;
- 3 (8) enable the state to adapt to climate
- 4 change; and

- 5 (9) provide support for other related
- 6 environmental, agricultural and climate resiliency purposes.

7 F. The "energy, science, technology and innovation

8 subaccount" is created to:

- 9 (1) invest in initiatives that develop or
- 10 strengthen innovation ecosystems, including university research
- 11 parks, small business development centers and business
- 12 incubators;

- 13 (2) invest in sustainable and clean energy
- 14 initiatives, including carbon capture technologies, water
- 15 savings and reduced energy use initiatives;

- 16 (3) invest in scientific and technological
- 17 research and development, including aerospace, bioscience,
- 18 medicine, energy, sustainable food systems and agriculture,
- 19 intelligent manufacturing, microelectronics, robotics,
- 20 cybersecurity and digital and industrial technologies;

- 21 (4) support applied research and facilitate
- 22 knowledge and technology transfers; and

- 23 (5) provide support for other related clean
- 24 energy, science, technology and innovation purposes.

25 G. The "higher education and academic research

.223306.4



1 subaccount" is created to:

- 2 (1) fund higher education endowments and  
3 other special statutory higher education funds;  
4 (2) support academic research;  
5 (3) provide higher education undergraduate  
6 and graduate scholarships;  
7 (4) support high-skill workforce development;  
8 and  
9 (5) support other related higher education  
10 and academic research purposes.

11 H. The "physical, mental and behavioral health  
12 access and services subaccount" is created to:

- 13 (1) develop and expand the statewide  
14 physical, mental and behavioral health delivery system and fund  
15 public capital and programmatic infrastructure to enable the  
16 success of that system;  
17 (2) invest in the educational and career  
18 development pipeline for physical, mental and behavioral health  
19 providers;  
20 (3) provide services and supports that assist  
21 children and adults with intellectual and development  
22 disabilities, including funding developmental disabilities  
23 waivers; and  
24 (4) provide support for other related  
25 physical, mental and behavioral health access and services

.223306.4

underscored material = new  
~~[bracketed material] = delete~~

1 purposes.

2 I. The "rural economic development subaccount" is  
3 created to:

4 (1) fund state initiatives to help rural and  
5 frontier communities attract and retain small businesses and  
6 agricultural, commercial and industrial sectors;

7 (2) support initiatives that reduce poverty  
8 and hunger in rural and frontier communities;

9 (3) assist counties to prepare for and  
10 respond to human-caused and natural crises in rural and  
11 frontier communities; and

12 (4) support other related rural economic  
13 development purposes.

14 J. The "tribal initiatives subaccount" is created  
15 to:

16 (1) assist tribal governments in meeting  
17 federal match requirements for tribal projects and initiatives  
18 wholly within New Mexico and approved by state agencies or by  
19 the tribal infrastructure board;

20 (2) fund tribal capital projects approved by  
21 the legislature or the tribal infrastructure board;

22 (3) assist Indian nations, tribes and pueblos  
23 to prepare for and respond to manmade and natural crises; and

24 (4) support other related tribal initiatives  
25 purposes.

.223306.4

underscored material = new  
~~[bracketed material] = delete~~

1                   K. The "cultural and creative economy subaccount"  
2 is created to:

3                   (1) improve and maintain state cultural  
4 assets, including museums and monuments;

5                   (2) expand recreational opportunities  
6 statewide;

7                   (3) support culture-related tourism and  
8 economic development initiatives;

9                   (4) invest in the educational and career  
10 development pipeline for the creative industries, including  
11 film and television, publishing, fine arts, computer-generated  
12 imagery and other digital arts programming and arts trades; and

13                   (5) support other related cultural and  
14 creative economy purposes.

15                   L. The "courts and public safety subaccount" is  
16 created to:

17                   (1) improve and expand court and public  
18 safety services;

19                   (2) fund court initiatives such as specialty  
20 courts and other strategies to improve criminal justice  
21 outcomes and reduce recidivism and to reduce docket backlogs in  
22 all courts;

23                   (3) fund public safety communications  
24 technology;

25                   (4) support evidence-based, data-driven

.223306.4

underscored material = new  
~~[bracketed material] = delete~~

1 projects or initiatives that address the complex factors that  
2 drive crime and recidivism; and

3 (5) support other related courts and public  
4 safety purposes.

5 M. The "state assets and capital planning and  
6 design subaccount" is created to:

7 (1) improve, maintain and replace state  
8 assets;

9 (2) fund planning and design components of  
10 capital outlay projects proposed for funding with severance tax  
11 or other bonds or funds for capital projects approved through  
12 the four-year program of major state capital improvement  
13 projects approved by the secretary of general services and the  
14 secretary of finance and administration, or by projects  
15 approved by the governing bodies of local governments through  
16 the local-government-approved infrastructure capital  
17 improvement plans submitted to the local government division of  
18 the department of finance and administration; and

19 (3) support other related state assets and  
20 capital planning and design purposes.

21 **SECTION 7. TRANSFER--APPROPRIATIONS.--**

22 A. Eight hundred million dollars (\$800,000,000) is  
23 transferred from the general fund to the prosperity and  
24 economic resiliency permanent fund on July 1, 2023.

25 B. Two hundred million dollars (\$200,000,000) is

.223306.4

underscoring material = new  
~~[bracketed material] = delete~~

1 appropriated from the general fund to the prosperity and  
2 economic resiliency program fund for expenditure in fiscal year  
3 2024 and subsequent fiscal years to carry out the purposes of  
4 the Prosperity and Economic Resiliency Act. Money in the  
5 prosperity and economic resiliency program fund shall not  
6 revert to the general fund.

7 C. One million dollars (\$1,000,000) is  
8 appropriated from the general fund to the department of finance  
9 and administration for expenditure in fiscal year 2023 and  
10 subsequent fiscal years to cover expenses and contracts to  
11 carry out the provisions of the Prosperity and Economic  
12 Resiliency Act. Any unexpended or unencumbered balance  
13 remaining at the end of a fiscal year shall not revert to the  
14 general fund.

15 SECTION 8. EMERGENCY--It is necessary for the public  
16 peace, health and safety that this act take effect immediately.