

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/29/26

Check all that apply:

Bill Number: HB 180

Original x Correction
Amendment Substitute

Sponsor: Reps. Harlan Vincent and Susan K. Herrera

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: USE OF EMERGENCY FUNDS & DISASTERS

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: The legislation amends, clarifies, and enacts new legislative authorities relating to State emergency funds, i.e. the general fund operating reserve, tax stabilization reserve, appropriation contingency fund, a new natural disaster revolving fund, and a new executive order for disasters fund (encompassing National Guard funding).

Section 1 of the bill amends Section 6-4-2.1(A) to the general fund operating reserve fiscal year.

Section 2 of the bill amends Section 6-4-2.2, regarding the tax stabilization reserve, to move the language in Section 6-4-4(B) into a new Section 6-4-2.2(E), and to add language clarifying that, “[i]f a transfer pursuant to this subsection is made for a fiscal year, no further transfers pursuant to this subsection shall be made for that fiscal year.” Section 2 also updates Subsection (D) to incorporate this moved language.

Section 3 of the bill amends Section 6-4-2.3, regarding the appropriation contingency fund, to provide clarifying authorizing language for disaster funding that would repeal and replace the language at Section 12-11-23 to -25 (*see also* Section 11, *infra*). Under the new language, upon an executive order that declares “a disaster that is not a natural disaster”—defined as “an event that threatens the public peace, health and safety or the lives and property of the people of the state but does not include a disaster brought on by natural forces, such as drought, fire, flood, severe weather or earthquake, and does not include an enemy attack”—“the governor may authorize a state agency to provide resources and services necessary to avoid or minimize physical or economic harm...” The Governor would have authority to appropriate from the fund “so much as the governor may designate to provide those resources and services,” subject to the availability of funds. The legislation provides further for reporting by the secretary of finance and administration and by the executive officer of the agency or other entity receiving the funds.

Section 4 of the bill amends Section 6-4-2.7 to clarify that the natural disaster revolving fund is a “nonreverting fund,” and to delete provisions that, inter alia, provided that unexpended or unencumbered funds over \$50 million would revert to the appropriation contingency fund. Section 4 also makes technical revision to cite to Section 6-4-2.6, rather than “Section 1 of this 2025 act.”

Section 5 of the bill amends Section 6-4-2.9 to replace the “federal reimbursement revolving

fund” with the “executive order for disasters fund.” Under the new language, upon an executive order that declares a “state of martial law” or “natural disaster,” “the governor may authorize a state agency to provide resources and services necessary to avoid or minimize physical or economic harm...” The Governor would have authority to appropriate from the fund “so much as the governor may designate to provide those resources and services,” subject to the availability of funds. Section 5 also describes from where the money in the fund derives and provides further for reporting by the secretary of finance and administration and by the executive officer of the agency or other entity receiving the funds.

Section 6 of the bill amends Section 6-4-4 to reflect the moving of the language in Section 6-4-4(B) into a new Section 6-4-2.2(E) (*see* Section 2, *supra*).

Section 7 of the bill amends Section 20-1-6 to clarify that National Guard operations shall be paid for by the state out of the executive order for disasters fund, and removes prior legislative provisions regarding requirements for funding mechanisms, including Attorney General approval for certificates of indebtedness ordered by the Governor.

Section 8(A) transfers the balance of the federal reimbursement revolving fund to the executive order for disasters fund. Section 8(B) transfers balance of the adjutant general emergency public defense certificates fund to the appropriation contingency fund.

Section 9(A) provides that subject to availability of funding, on August 1, 2026, up to \$50,000,000 is transferred from the appropriation contingency fund to the natural disaster revolving fund. Section 9(B) provides that subject to availability of funding, on August 1, 2027, up to \$50,000,000 is transferred from the appropriation contingency fund to the natural disaster revolving fund.

Section 10 repeals Section 6-4-2.8.

Section 11 repeals Sections 12-11-23 to -25, effective January 1, 2027.

Section 12 provides that the effective date of Sections 1 through 8 is January 1, 2027, while the effective date of Sections 9 and 10 is July 1, 2026.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

The most significant issue identified is a potential constitutional one regarding the separation of powers. Article 4, Section 30 of the New Mexico Constitution provides that “[e]xcept interest or other payments on the public debt, money shall be paid out of the treasury only upon appropriations made by the legislature.” N.M. Const. art. 4, § 30. Sections 3 and 5 of HB 180, which relate to the appropriation contingency fund and the Executive Order For Disasters Fund, respectively, provide that “[s]ubject to the availability of funds, there is appropriated from the fund so much as the governor may designate to provide . . . [the] resources and services” outlined by each section. By allowing the Governor to determine the appropriated amounts, there may be a risk of transferring the “power of the purse” the Constitution reserves to the Legislature to the Governor’s office.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

As noted, Section 7 removes prior legislative provisions regarding requirements for funding mechanisms, including Attorney General approval for certificates of indebtedness ordered by the Governor, *see* NMSA 20-1-6.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

The language used in Sections 3 and 5 may present some internal inconsistency. By definition, an appropriation establishes the “availability of funds,” so it cannot simultaneously establish funding and make that funding “subject to the availability of funds.” Perhaps the bill intends that the Governor is *authorized* to expend such amounts as are necessary to carry out the purposes of these sections, “subject to the availability of funds.”

A potentially unintended consequence exists as well: the preamble to HB 180 notes that one of its purposes is “RENAMING THE ‘FEDERAL REIMBURSEMENT REVOLVING FUND’ AS THE ‘EXECUTIVE ORDER FOR DISASTERS FUND.’” The fund created by Section 5 of HB 180, however, does not include language that it is “nonreverting.” This may be intentional, but the consequence of such change is that the fund may be “swept” at the end of the fiscal year.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.