

LFC Requester: _____

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION
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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 1/28/2026 *Check all that apply:*
Bill Number: H180 Original Correction
 Amendment Substitute

Sponsor: Rep. Vincent _____
 Rep. Herrera _____
 Agency Name and Code Number: DFA-341
 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		

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

BILL SUMMARY

House Bill 180 (HB180) proposes to fundamentally change New Mexico process for responding to and funding natural disasters and non-natural disaster emergencies. HB180 changes the use of emergency funds and alters the Executive's authority to respond to disasters.

- Fund Changes:
 - General Fund Operating Reserve: HB180 alters the language establishing the "general fund operating reserve" within the general fund, removing references to numerous specific prior laws and consolidating its creation and function.
 - It specifies that the reserve may only be expended upon legislative authorization for a specific fiscal year in the case of insufficient general fund revenues and balances to meet appropriations.
 - Tax Stabilization Reserve: HB180 explicitly notes that appropriations from the tax stabilization reserve may only occur (removing the simple majority vote to create an exception):
 - By a two-thirds' vote of both legislative houses and following a governor's declaration that such appropriation is necessary for public peace, health, and safety.
 - By the Governor only if an appropriation is already made by a two-thirds' legislative vote and the governor declares it necessary for public peace, health, and safety.
 - HB180 tightens the rule on automatic transfers:
 - If the general fund operating reserve is less than 1% of aggregate appropriations at the end of the fiscal year, an amount is automatically transferred from the Tax Stabilization Reserve to bring the balance to 1%.
 - Transfer provisions prioritize this transfer only once per fiscal year.
 - HB180 renumbers sections and amends previous language for clarity.
 - Appropriation Contingency Fund: HB180 redefines the "appropriation contingency fund" structure and allowable uses:
 - Money in the fund may be spent by legislative authorization for a specific fiscal year, by application of § 20-1-6, NMSA 1978, or as authorized under

Section B for non-natural disasters.

- HB180 adds that, upon an executive order declaring a non-natural disaster, the Governor may authorize state agencies to provide necessary resources and services, with a direct appropriation from the Fund.
 - “Disaster that is not a natural disaster” is specifically defined, excluding natural events and enemy attacks.
- HB180 mandates biannual reporting to legislative committees concerning non-natural disaster declarations and related appropriations.
- Natural Disaster Revolving Fund: HB180 retains the structure of the natural disaster revolving fund established in the state treasury to provide loans to political subdivisions and electric cooperatives approved for FEMA aid.
 - HB180 clarifies fund administration procedures but removes prior requirements for reverting unexpended balances exceeding \$50 million to the appropriation contingency fund and for including unexpended balances in state reserve calculations.
 - Deletes specific language about repayments from certain recent legislative acts (HB 1 and SB 6 loan funds from 2023 and 2024).
- Executive Order for Disasters Fund: HB180 changes the name of "federal reimbursement revolving fund" to "executive order for disasters fund".
 - The fund's purpose and eligible revenues are similarly broadened to include any reimbursed federal claims, appropriations, distributions, and investment income.
 - HB180 specifies that upon a declaration of a natural disaster or state of martial law by executive order, the Governor may utilize the fund for necessary response and aid efforts.
 - HB180 imposes similar biannual reporting requirements to those described for non-natural disasters, but for natural disaster or martial law declarations.
 - Adds a statutory definition of "natural disaster" to mean an event from natural forces threatening public peace, health, safety, or lives or property.
- Expenses for Troops Called into Service: HB180 requires that all compensation and expenses for troops called into state service be paid from the executive order for disasters fund.
 - HB180 modifies reporting provisions; the Governor must file a written post-expenditure report with legislative leaders.

- Transfers:
 - HB180 amends the rules on transferring excess general fund revenues after appropriations:
 - Excess is transferred to the general fund operating reserve, but if that plus the reserve balance exceeds 8% of recurring appropriations, the surplus goes to the government results and opportunity expendable trust.
 - HB180 removes automatic transfer requirements from the tax stabilization reserve to the operating reserve if the operating reserve is below 1% of appropriations at the fiscal year's end.
 - HB180 transfers the balance of the former federal reimbursement revolving fund (now the executive order for disasters fund) into the newly named fund.
 - HB180 transfers the balance of the adjutant general emergency public defense certificates fund into the appropriation contingency fund.
 - HB180 introduces two potential appropriations, each of up to \$50 million (subject to available funds), from the appropriation contingency fund to the natural disaster revolving fund on August 1, 2026, and August 1, 2027.
- Repeals and Delayed Effects:
 - HB180 repeals Section 6-4-2.8 NMSA 1978; Provides for the repeal, effective January 1, 2027, of Sections 12-11-23 through 12-11-25 NMSA 1978; and sets effective dates: July 1, 2026, for fund transfers and repeal; January 1, 2027, for the remainder of HB180's provisions.

FISCAL IMPLICATIONS

While HB180 aims to improve the state's ability to respond to emergencies, as currently written, it poses several fiscal implications that underscore the need for careful implementation and oversight to ensure the intended outcomes are achieved without unintended consequences.

- Appropriations:
 - Up to \$50 million is authorized to be transferred from the Appropriation Contingency Fund to the Natural Disaster Revolving Fund on August 1, 2026, and on August 1, 2027, subject to the availability of funding.
 - Based on the other changes presented by HB180, funding for the Natural Disaster Revolving Fund will have to compete with funding for any non-natural disaster emergencies, as both will have to be drawn from the Appropriation Contingency Fund.
- Expenditure Authorizations:

- The General Fund Operating Reserve may be expended only upon specific legislative authorization for a specific fiscal year if general fund revenues and balances are insufficient to meet authorized appropriations.
 - In the event of a general fund deficit exceeding the legislative authorization, based on appropriations by the legislature during a given fiscal year, the state would be forced into a technical, unconstitutional deficit.
 - Please see the significant issues section for more details.
- Use of the Tax Stabilization Reserve will require a two-thirds majority vote of both legislative houses to appropriate and the governor's expenditure under specific conditions, such as a declaration of necessity for public peace, health, and safety.
 - In previous fiscal years, the legislature has appropriated funds from the Tax Stabilization Reserve using a simple majority to create an exemption from this general procedural requirement.
- Disaster Funding:
 - HB180 creates the Executive Order for Disasters Fund, which authorizes the governor to make expenditures for natural disasters or states of martial law, including resources such as lodging, shelter, healthcare, food, and transportation for affected individuals.
 - Under HB180, unlike §§ 12-11-23 through 12-11-25 of NMSA 1978, the Executive Order for the Disasters Fund does not have a dedicated funding source.
 - In the event of a natural disaster or a series of natural disasters depleting funding in the Executive Order for Disasters Fund, the State will be unable to respond to any additional natural disasters until or unless a special legislative session is called and funding is approved.
 - HB180 deletes specific language requiring repayments to the Natural Disaster Revolving Fund from certain recent legislative acts (HB 1 and SB 6 loan funds from 2023 and 2024).
 - This change will limit the funding available to sustain the Natural Disaster Revolving Fund. Specifically, HB180 does not require that funds repaid on loans issued under the Natural Disaster Revolving Fund be deposited into the fund.
 - As a result, based on the language in HB180, once funds are reimbursed or otherwise refunded to the state under § 6-4-2.7, NMSA, 1978, the Laws 2023, Chapter 2, Section 1, or the Laws 2024 (1st S.S.), Chapter 1, Section

2, will be deposited into the Executive Order for Disasters Fund or reverted to the general fund.

SIGNIFICANT ISSUES

- Minimum funding level for the Executive Order for Disasters Fund.
 - HB180 does not establish a minimum funding level for the Executive Order for Disasters Fund or a dedicated funding source to replenish the fund.
 - Natural disasters are inherently unpredictable events. It is difficult for the state to project or forecast how much will be required in a given fiscal year to respond to natural disasters.
 - As HB180 collapses both natural disasters and declarations of martial law into events funded by the fund. In the event of a natural disaster, or a series of natural disasters that deplete the fund balance, and sufficient federal reimbursements are not available, the State will be unable to respond to any additional natural disasters until a special legislative session is called and funding is approved.
 - The repeal of §§ 12-11-23 through 12-11-25 of NMSA 1978 will remove the Executive's ability to allocate unappropriated general fund amounts to respond to an emergency and place responsibility for allocating funding solely with the part-time legislature.
 - To address this issue, HB180 could be amended to add language requiring the fund to maintain at least a fixed percentage of aggregate general fund appropriations or a specified dollar amount at all times, with an automatically triggered appropriation as a back stop, consistent with requirements for the general fund operating reserve and other reserve funds. This would help ensure the fund is always prepared to respond to emergencies.
- Single Definition of Natural Disasters.
 - HB180 segregates natural and non-natural disasters, providing funding for defined “natural disasters” through the Executive Order for Disasters Fund, and funding for “non-natural disasters” through the Appropriation Contingency Fund.
 - Based on the changes in HB180, it appears the legislature is attempting to place additional conditions and reporting on the Executive’s use of the Appropriation Contingency Fund.
 - Assuming that is the intent, the segregation of “natural” and “non-natural” disasters may lead to severe unintended consequences.
 - Current definition: "Natural disaster" is defined as a disaster brought on by natural forces, such as a drought, a fire, a flood, severe weather, or an earthquake, that threatens the public peace, health, and safety, or the lives and property of the people of the state. A non-natural disaster is an event that threatens the public peace, health,

and safety or the lives and property of the people of the state, excluding natural disasters and enemy attacks.

- Based on this definition, an emergency caused by a man-made pandemic, biological attack, a cyber attack, or an industrial accident (i.e., a nuclear or oil spill) likely would not qualify for funding under the Executive Order for Disasters Fund.
- Additionally, under the current definitions of both “natural disaster” and “non-natural disaster”, a biological attack or cyber attack likely would not qualify for funding under the Appropriation Contingency Fund or Executive Order for Disasters Fund.
- Instead of segregating the definition of natural disaster from non-natural disasters and allocating different sources of funding, to ensure the Executive can respond to any emergency threatening public peace, health, safety, or the lives and property of people of the state, the legislature could remove the definitions and keep the requirements for expenditure from the Appropriation Contingency Fund.
 - Eliminating the separate bases for fund access and instead requiring the Governor apply under § 20-6-1, NSMA 1978, to utilize the appropriation contingency fund for all types of emergencies. This change unifies the process and ensures that all emergencies are handled consistently.
 - Suggested rewrite: "As used in this section, 'natural disaster' means an unforeseeable or uncontrollable event, including but not limited to those brought on by drought, fire, flood, severe weather, or earthquake, that threatens the public peace, health, safety, lives, or property of the people of the state."
- GF Deficiency calculations prior to the end of the fiscal year.
 - HB180 likely violates Article IV § 29 of the NM Constitution by authorizing indebtedness without a tax to pay it (i.e., general fund appropriations may exceed the cash available in a given fiscal year, with a transfer to cover the indebtedness only after the end of the fiscal year).
 - Because appropriations are made on a projected revenue basis (i.e., the CREG Forecast) and the legislature meets only once per fiscal year, waiting until the end of the fiscal year for transfers to meet the constitutional requirement could create a constitutional violation and a technical default on outstanding general obligation Bonds.
 - Even a technical default on tax-exempt general obligation bonds issued by the State of New Mexico would trigger severe legal and practical consequences for the state. Bondholders possess exceptionally strong enforcement remedies through mandamus proceedings that can compel state officials to levy taxes necessary for debt service payments.

- Practically, a technical default would result in immediate credit rating downgrades, severely restricted market access for future borrowing, and potential legal action forcing tax increases to cure the default.
- Allowing DFA to perform calculations to determine projected deficiencies in the general fund based on appropriations before the end of the fiscal year and authorizing the board of finance to approve such transfers (as is currently done) prevents the state from having a technical, unconstitutional deficit.
 - HB180 should be amended to explicitly authorize DFA to determine projected deficiencies in the general fund based on current-year appropriations prior to year-end and request a transfer from the General Fund Operating Reserve to cover any projected deficiency from the Board of Finance.

PERFORMANCE IMPLICATIONS

HB180 aims to improve the state's ability to respond to emergencies, but it will have negative performance implications if not implemented carefully and monitored closely.

- **Dependence on Fund Availability:** Transfers to the Natural Disaster Revolving Fund and other expenditures are subject to the availability of funding. If the Appropriation Contingency Fund or other reserves are insufficient, the state may struggle to respond to emergencies effectively.
- **Complexity in Fund Management:** The creation and renaming of multiple funds, along with the transfer of balances between them, could lead to confusion or inefficiencies in fund management, especially during critical emergency situations.
- **Limited Scope for Non-Natural Disasters:** HB180 defines "disaster that is not a natural disaster" narrowly, potentially excluding certain emergencies that may not fit the definition but still require immediate state intervention.
- **Risk of Insufficient Reserves:** HB108 allows for transfers from the Tax Stabilization Reserve to the General Fund Operating Reserve if the latter falls below one percent of aggregate appropriations only once per fiscal year. This could lead to an unconstitutional deficit, leaving the state vulnerable to financial instability during economic downturns or revenue shortfalls.
- **Potential Delays in Fund Disbursement:** The requirement for legislative authorization of certain expenditures could delay fund allocation during emergencies, especially when the legislature is not in session or when lawmakers disagree.

ADMINISTRATIVE IMPLICATIONS

HB180 introduces additional administrative responsibilities and complexities that could strain state agencies, delay fund disbursement, and necessitate significant oversight to ensure proper

implementation and management.

- **Increased Reporting Requirements:** HB180 mandates biannual reports for each disaster declaration and annual reports to multiple legislative committees.
 - This creates additional administrative burdens for the DFA, DHSEM, and other state agencies, potentially diverting resources from direct disaster response and recovery efforts.
- **Complex Fund Management:** HB180 limits the type of funding that may be allocated to specific emergency declarations.
 - Managing the process of determining which funding can be allocated to which aspects of which emergency declaration, ensuring proper transfers, and tracking expenditures could increase the complexity of financial administration and require additional oversight mechanisms.
 - HB180 will require intense collaboration and coordination between various state agencies, including the governor's office, the DFA, and DHSEM, prior to the declaration of an emergency and the issuance of an executive order.
 - This could lead to delays or inefficiencies if inter-agency communication and coordination are not streamlined.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A.

TECHNICAL ISSUES

- **Budget and Expenditure Rules for Emergency Funds.**
 - HB180 delegates fund administration of the Executive Order for Disasters Fund to DFA and outlines the process for warrants and vouchers, but it does not expressly require rulemaking for budgeting and expenditure or reference the BAR system.
 - DFA recommends the inclusion of a provision giving DFA the authority to promulgate rules for the budgeting and expenditure of the Executive Order for Disasters Fund, with explicit language integrating the Budget Adjustment Request (BAR) system to incorporate appropriated funds into agency budgets. This would give the legislature the same oversight as for any other non-anticipated funds added to the budget.

OTHER SUBSTANTIVE ISSUES

N/A.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If HB180 is not enacted, the following consequences will follow:

- **Preservation of Current Fund Structures:** The existing fund structures, such as the "Federal Reimbursement Revolving Fund" and the "Adjutant General Emergency Public Defense Certificates Fund," would remain unchanged. This could prevent potential disruptions or confusion caused by renaming or transferring funds.
- **Retention of Reversion Clause:** The current provision requiring the money paid back under the Laws 2023, Chapter 2, Section 1, or the Laws 2024 (1st S.S.), Chapter 1, Section 2 would remain in the Natural Disaster Revolving Fund, providing future potential revenue to help local entities respond to natural disasters.
- **No Additional Transfers:** The proposed transfers of up to \$50 million from the Appropriation Contingency Fund to the Natural Disaster Revolving Fund in 2026 and 2027 would not occur. This could free up more funds in the Appropriation Contingency Fund for other uses.

AMENDMENTS