

HOUSE BILL 247

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Derrick J. Lente

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO CAPITAL EXPENDITURES; PROVIDING LIMITATIONS AND REQUIREMENTS FOR CERTAIN CAPITAL OUTLAY PROJECTS, REAUTHORIZATIONS AND APPROPRIATIONS; AMENDING SECTIONS OF LAWS 2022 THROUGH 2025 TO REQUIRE CERTAIN UNEXPENDED GENERAL FUND CAPITAL OUTLAY APPROPRIATIONS TO REVERT TO THE CAPITAL DEVELOPMENT AND RESERVE FUND OR THE TRIBAL INFRASTRUCTURE PROJECT FUND.

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

.232379.4AIC February 12, 2026 (4:12pm)

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SECTION 1. [NEW MATERIAL] CAPITAL OUTLAY PROJECTS--

REAUTHORIZATIONS AND APPROPRIATIONS--LIMITATIONS.--

A. A capital outlay project shall not be reauthorized or reappropriated:

- (1) more than once;
- (2) for a time period greater than two years;

and

(3) unless at least ten percent of the initial appropriation has been encumbered by January 1 of that year, as determined by the department of finance and administration.

B. A capital outlay project may be reauthorized or reappropriated to make a technical change, but a reauthorization or reappropriation shall not alter the original purpose of the capital outlay project. A capital outlay project that is reauthorized or reappropriated to make a technical change is not subject to the encumbrance requirement provided in Paragraph (3) of Subsection A of this section.

C. Capital outlay authorizations and appropriations of one hundred thousand dollars (\$100,000) or more shall not be made for a project unless the project is included on an infrastructure capital improvement plan.

D. Capital outlay appropriations made from the general fund shall revert to the capital development and reserve fund, except for tribal projects that shall revert to the tribal infrastructure project fund.

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~~SFC→HTRC→E. If severance tax bonds have been issued and no amount of the proceeds have been encumbered or expended for a capital outlay project for which bonds were issued by January 1 of the fiscal year in which unexpended balances will revert, the board of finance division of the department of finance and administration shall freeze the account, and any encumbrances after that date shall be considered invalid. If no amount has been encumbered or expended for a capital outlay appropriation from the general fund or other state funds by January 1 of the fiscal year in which the unexpended balance will revert, the department shall freeze the account, and any encumbrances after that date shall be considered invalid. An expenditure does not include a lawful, automatic deduction from the total proceeds or appropriation.~~

~~F. The department of finance and administration shall provide an annual report to the legislature by January 15 on the capital outlay projects that have been frozen. The balances of frozen accounts shall be available for authorization or appropriation in that fiscal year for other purposes, subject to any applicable rules and state board of finance oversight of severance tax bonds.←HTRC←SFC~~

SFC→E. If severance tax bonds have been issued and no amount of the proceeds have been encumbered or expended for a capital outlay project for which bonds were issued by January

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l of the fiscal year in which unexpended balances will revert, the board of finance division of the department of finance and administration shall freeze the account, and any encumbrances after that date shall be considered invalid. If no amount has been encumbered or expended for a capital outlay appropriation from the general fund or other state funds by January 1 of the fiscal year in which the unexpended balance will revert, the department shall freeze the account, and any encumbrances after that date shall be considered invalid. An expenditure does not include a lawful, automatic deduction from the total proceeds or appropriation.

F. The department of finance and administration shall provide an annual report to the legislature by January 15 on the capital outlay projects that have been frozen. The balances of frozen accounts shall be available for authorization or appropriation in that fiscal year for other purposes, subject to any applicable rules and state board of finance oversight of severance tax bonds, including, as applicable, requirements of federal tax laws relating to tax-exempt bonds. Should the proposed authorization or appropriation of a capital outlay project initially funded with proceeds of tax-exempt bonds pursuant to this subsection extend the time for expenditure of such proceeds beyond the date which is three years from the date of original issuance of the associated tax-exempt bonds, such authorization or

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appropriation shall be permitted only if it has been demonstrated to the satisfaction of the state board of finance that the reasons for the failure to expend proceeds within such time period were unanticipated at the time of the related tax-exempt bond issue, that such proceeds are to be expended as promptly as possible, and that the investment and expenditure of such proceeds will comply with applicable requirements of federal tax laws governing the associated tax-exempt bond issue. ←SFC

HTRC→~~E.~~←HTRC HTRC→G.←HTRC As used in this

section:

(1) "encumbrance" includes only direct project costs and excludes administrative fees charged by a fiscal agent;

(2) "purpose" includes the functionality, use or primary objective of a project or the type of project or asset; and

(3) "technical change" means a minor correction or an adjustment that does not alter the original purpose of the capital outlay project and includes correcting a drafting error, changing the administering agency, changing the fiscal agent or expanding the eligible uses of an appropriation within the same project.

HTRC→~~SECTION 2. [NEW MATERIAL] CAPITAL OUTLAY--WATER PROJECTS--LIMITATIONS.--~~

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~~A. A political subdivision of the state shall not request a drinking water, wastewater, storm water or dam capital project through the legislature's capital outlay process. Political subdivisions shall submit requests for funding for those projects to state agencies and instrumentalities that administer grant and loan programs for drinking water, wastewater, storm water or dam capital projects. The state agencies and instrumentalities may request supplemental capital outlay funding for their programs as needed through an infrastructure capital improvement plan.~~

~~B. As used in this section, "state agency" means the state or any of its branches, agencies, departments, boards, institutions or instrumentalities.~~ ←HTRC

SECTION HTRC→3. ←HTRC HTRC→2. ←HTRC Laws 2022, Chapter 53, Section 2 is amended to read:

"SECTION 2. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--

A. Except as provided in Subsection D of this section and as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:

(1) no later than September 30 following:

(a) the end of fiscal year 2023 if the project for which an appropriation was made has less than five percent of the project's total appropriation amount subject to

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a binding written agreement with a third party on that date;

(b) the end of fiscal year 2024 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or

(c) the end of fiscal year 2026 for a project for which an appropriation was made related to an inclusive construction or renovation project; or

(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2026.

B. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.

C. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.

D. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2026 act shall revert in the time frame set forth in Subsection A of this section to the

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capital development and reserve fund, except for tribal projects that shall revert to the tribal infrastructure project fund."

SECTION HTRC→4.←HTRC HTRC→3.←HTRC Laws 2023, Chapter 199, Section 1 is amended to read:

"SECTION 1. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--

A. Except as provided in Subsection E of this section and as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:

(1) no later than September 30 following:

(a) the end of fiscal year 2024 if the project for which an appropriation was made has less than five percent of the project's total appropriation amount subject to a binding written agreement with a third party on that date;

(b) the end of fiscal year 2025 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or

(c) the end of fiscal year 2027 for a project for which an appropriation was made related to an inclusive construction or renovation project; or

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(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2027.

B. Except for appropriations to the capital program fund, money from appropriations made in this act shall not be used to pay indirect project costs.

C. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.

D. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.

E. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2026 act shall revert in the time frame set forth in Subsection A of this section to the capital development and reserve fund, except for tribal projects that shall revert to the tribal infrastructure project fund."

SECTION HTRC→5.←HTRC HTRC→4.←HTRC Laws 2024, Chapter 66, Section 1 is amended to read:

"SECTION 1. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--

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A. Except as provided in Subsection E of this section and as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:

(1) no later than September 30 following:

(a) the end of fiscal year 2026 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or

(b) the end of fiscal year 2028 for a project for which an appropriation was made related to an inclusive construction or renovation project; or

(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2028.

B. The agencies named in this act shall certify to the department of finance and administration that the money appropriated in this act is needed for the purposes specified in the applicable section of this act. If an agency has not certified the need for the appropriation for a particular project by the end of fiscal year 2026, the authorization for that project is void.

C. Money that is appropriated from the general fund

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pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.

D. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.

E. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2026 act shall revert in the time frame set forth in Subsection A of this section to the capital development and reserve fund, except for tribal projects that shall revert to the tribal infrastructure project fund."

SECTION HTRC→6.←HTRC HTRC→5.←HTRC Laws 2025, Chapter 159, Section 2 is amended to read:

"SECTION 2. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--

A. Except as provided in Subsection E of this section and as otherwise specifically provided by law, general fund appropriations made pursuant to this act may be expended in fiscal years 2026 through 2029; provided that the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:

(1) no later than September 30 following:

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(a) the end of fiscal year 2027 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or

(b) the end of fiscal year 2029 for a project for which an appropriation was made related to an inclusive construction or renovation project; or

(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2029.

B. The agencies named in this act shall certify to the department of finance and administration that the money appropriated in this act is needed for the purposes specified in the applicable section of this act. If an agency has not certified the need for the appropriation for a particular project by the end of fiscal year 2027, the authorization for that project is void.

C. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.

D. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after

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reserving for unpaid costs and expenses subject to a binding written agreement with a third party.

E. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2026 act shall revert in the time frame set forth in Subsection A of this section to the capital development and reserve fund, except for tribal projects that shall revert to the tribal infrastructure project fund."

SECTION HTRC→7.←HTRC HTRC→6.←HTRC APPLICABILITY.--The provisions of HTRC→Sections 1 and 2←HTRC HTRC→Section 1←HTRC of this act apply to capital outlay appropriations made on or after January 1, 2027.