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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:

SECTION 1. 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

1 outlay project that is reauthorized or reappropriated to make
2 a technical change is not subject to the encumbrance
3 requirement provided in Paragraph (3) of Subsection A of this
4 section.

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

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

13 E. If severance tax bonds have been issued and no
14 amount of the proceeds have been encumbered or expended for a
15 capital outlay project for which bonds were issued by January
16 1 of the fiscal year in which unexpended balances will
17 revert, the board of finance division of the department of
18 finance and administration shall freeze the account, and any
19 encumbrances after that date shall be considered invalid. If
20 no amount has been encumbered or expended for a capital
21 outlay appropriation from the general fund or other state
22 funds by January 1 of the fiscal year in which the unexpended
23 balance will revert, the department shall freeze the account,
24 and any encumbrances after that date shall be considered
25 invalid. An expenditure does not include a lawful, automatic

1 deduction from the total proceeds or appropriation.

2 F. The department of finance and administration
3 shall provide an annual report to the legislature by January
4 15 on the capital outlay projects that have been frozen. The
5 balances of frozen accounts shall be available for
6 authorization or appropriation in that fiscal year for other
7 purposes, subject to any applicable rules and state board of
8 finance oversight of severance tax bonds, including, as
9 applicable, requirements of federal tax laws relating to
10 tax-exempt bonds. Should the proposed authorization or
11 appropriation of a capital outlay project initially funded
12 with proceeds of tax-exempt bonds pursuant to this subsection
13 extend the time for expenditure of such proceeds beyond the
14 date which is three years from the date of original issuance
15 of the associated tax-exempt bonds, such authorization or
16 appropriation shall be permitted only if it has been
17 demonstrated to the satisfaction of the state board of
18 finance that the reasons for the failure to expend proceeds
19 within such time period were unanticipated at the time of the
20 related tax-exempt bond issue, that such proceeds are to be
21 expended as promptly as possible, and that the investment and
22 expenditure of such proceeds will comply with applicable
23 requirements of federal tax laws governing the associated
24 tax-exempt bond issue.

25 G. As used in this section:

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

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

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

13 SECTION 2. Laws 2022, Chapter 53, Section 2 is amended
14 to read:

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

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

21 (1) no later than September 30 following:

22 (a) the end of fiscal year 2023 if the
23 project for which an appropriation was made has less than
24 five percent of the project's total appropriation amount
25 subject to a binding written agreement with a third party on

1 that date;

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

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

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

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

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

23 D. The unexpended balance of an appropriation made
24 in this act from the general fund that has not reverted on or
25 before the effective date of this 2026 act shall revert in

1 the time frame set forth in Subsection A of this section to
2 the capital development and reserve fund, except for tribal
3 projects that shall revert to the tribal infrastructure
4 project fund."

5 SECTION 3. Laws 2023, Chapter 199, Section 1 is amended
6 to read:

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

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

13 (1) no later than September 30 following:

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

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

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

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

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

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

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

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

25 SECTION 4. Laws 2024, Chapter 66, Section 1 is amended

1 to read:

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

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

8 (1) no later than September 30 following:

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

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

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

22 B. The agencies named in this act shall certify to
23 the department of finance and administration that the money
24 appropriated in this act is needed for the purposes specified
25 in the applicable section of this act. If an agency has not

1 certified the need for the appropriation for a particular
2 project by the end of fiscal year 2026, the authorization for
3 that project is void.

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

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

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

19 SECTION 5. Laws 2025, Chapter 159, Section 2 is amended
20 to read:

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

23 A. Except as provided in Subsection E of this
24 section and as otherwise specifically provided by law,
25 general fund appropriations made pursuant to this act may be

1 expended in fiscal years 2026 through 2029; provided that the
2 unexpended balance of an appropriation made in this act from
3 the general fund shall revert to the general fund:

4 (1) no later than September 30 following:

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

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

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

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

25 C. Money that is appropriated from the general

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

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

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

15 SECTION 6. APPLICABILITY.--The provisions of Section 1
16 of this act apply to capital outlay appropriations made on or
17 after January 1, 2027.