

# DFA-Special Session 2020

June 17, 2020



## Agreements

- Agree to 12% Reserves **both LFC/Exec**
- Agree to use of Federal Stimulus—CARES Act funding (pending Congressional Approval) **LFC \$25m more**
- Agree to Section 4 Budget Reductions 1% to 4% **both LFC/Exec**
- Agree to take credit for Medicaid FMAP **LFC**
- Agree to reductions for specials **both LFC/Exec**
- Agree to Tobacco revenue swap **LFC**
- Agree to pair back new initiatives **both LFC/Exec**

## Differences

- Salary differences for educators and state employees 2%
- Specials – EDD Job Training Incentive Program (\$1m)
  - EDD LEDA (\$5m)
  - ALTSD Kiki Saavedra Senior Dignity Fund (\$1m)
  - DOH DD Waiver reversions (\$7m)
  - DPS Law Enforcement Vehicles (\$2.6m)
- Sanding to SEG 1% (\$32m) vs. LFC 2% (\$64.7m) and other PSS reductions
- Road Swap \$175m (\$80m from FY21; \$75m swap for bonds)
- Super Sweep to replace 2019/2020 capital projects \$175m. Will delay some 2020 projects but would not cancel any project.
- Fund Sweeps—more discussion
- Federal Funds--appropriations

## Budget-Accounting Issues

- Raises changed to 1.5% for employees making less than \$40k and .5% for everyone one else.
- Portions of the CRF has already been budgeted with \$77 million already sent out.
- The OPBUD-4 designation, typically used to track special and nonrecurring appropriations of state funds, is the appropriate way to track CARES Act funds.
- Budgeting and tracking COVID related expenditures once funds are comingled in the operating budget will make it more difficult to track compliance and potentially opening the state up to federal audit.
- Agencies need flexibility to adjust budgets

## Solvency Solutions

## Federal Funds—Concerns

- Notion of taking credit for federal funds problematic
- “Taking credit” for federal funds supplants federal funds for state appropriations
- Not all funds have been received (GEER) may be on reimbursement basis
- FEMA reimbursements
- Appropriating Federal Funds--May 27, 2020 letter to LFC
  - CARES Act funds are “federal funds” under New Mexico Law in the same way as any other federal funds. The General Appropriation Act of 2019 defines “federal funds” as “any payments by the United States government to state government or agencies except those payments made in accordance with the federal Mineral Leasing Act,” which properly describes the \$1.068 billion the state received through the Coronavirus Relief Fund.
  - Generally speaking, Legislature does not have power to appropriate federal funds.

# CARES Act Guidance

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19)
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency. The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures. Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments. The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

From <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>

## Capital Outlay Voids, Bond Issuances & Fund Transfers

STBF--The increase in capacity will be approximately \$140 million

- The appropriations that can't be issued would be approximately \$80 million.

Swap-- FY21 capacity (senior and supplemental) would be around \$160 million if \$100 million is swapped. If we don't swap that, capacity is more like \$270 million.