

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 920

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
CREATING THE NEW MEXICO RECOVERY AND REINVESTMENT FUND IN  
RESPONSE TO THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT  
OF 2009; DECLARING AN EMERGENCY.

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

Section 1. A new section of Chapter 6, Article 4 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] NEW MEXICO RECOVERY AND REINVESTMENT  
FUND.--

A. The legislature finds that:

(1) the state is not eligible for an increase  
to the federal medical assistance percentage provided in  
Subsection (b) or (c) of Section 5001 of the federal American  
Recovery and Reinvestment Act of 2009 if any amounts

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underscored material = new  
[bracketed material] = delete

1 attributable, directly or indirectly, to the increase are  
2 deposited or credited into any reserve or rainy day fund of the  
3 state;

4 (2) in order to ensure compliance with this  
5 requirement, it is desirable to set up a fund separate and  
6 apart from the state's general fund to capture excess fiscal  
7 year 2009 general fund revenues attributable to an increase to  
8 the federal medical assistance percentage provided in  
9 Subsection (b) or (c) of Section 5001 of the federal American  
10 Recovery and Reinvestment Act of 2009;

11 (3) the separate fund will also enable the  
12 state to clearly account to the federal government regarding  
13 earnings and expenditures on excess fiscal year 2009 general  
14 fund revenues attributable to an increase to the federal  
15 medical assistance percentage provided in Subsection (b) or (c)  
16 of Section 5001 of the federal American Recovery and  
17 Reinvestment Act of 2009; and

18 (4) in the period of time during which the  
19 fund will be available for expenditure, the fund will be used  
20 to stabilize the state's budget in the event of revenue  
21 shortfalls and to fund the state's share of the medicaid  
22 program, thereby preserving jobs and minimizing reductions in  
23 essential services, both of which are stated purposes of the  
24 federal American Recovery and Reinvestment Act of 2009.

25 B. The "New Mexico recovery and reinvestment fund"

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1 is created in the state treasury. The fund shall consist of  
2 money that is credited to the fund pursuant to Subsection C of  
3 this section, reversions to the fund of the unexpended balances  
4 of appropriations from the fund, appropriations made to the  
5 fund and investment income credited to the fund. Money in the  
6 fund shall not revert to any state fund at the end of any  
7 fiscal year and shall not be expended for any purpose except as  
8 provided in this section. Income from investment of the fund  
9 shall be credited to the fund.

10 C. Notwithstanding the reversion provisions of  
11 general appropriation acts or other laws, at the end of fiscal  
12 year 2009, the unexpended balance of a general fund  
13 appropriation shall be credited to the New Mexico recovery and  
14 reinvestment fund if the state budget division of the  
15 department of finance and administration determines that the  
16 unexpended balance is attributable to an increase in the  
17 federal medical assistance percentage provided in Subsection  
18 (b) or (c) of Section 5001 of the federal American Recovery and  
19 Reinvestment Act of 2009.

20 D. If revenue and transfers to the general fund at  
21 the end of fiscal year 2009, 2010 or 2011 are not sufficient to  
22 meet general fund appropriations, the governor, with state  
23 board of finance approval, may transfer to the general fund  
24 from the unappropriated balance of the New Mexico recovery and  
25 reinvestment fund an amount up to the amount of the

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1 insufficiency.

2 E. Except as provided in Subsection D of this  
3 section, the New Mexico recovery and reinvestment fund may be  
4 appropriated by the legislature solely for medicaid expenses in  
5 fiscal year 2010, fiscal year 2011 and the first quarter of  
6 fiscal year 2012; provided that any balance of an appropriation  
7 from the fund not expended within the period provided in the  
8 appropriation shall revert to the fund.

9 F. The unexpended balance of the New Mexico  
10 recovery and reinvestment fund as of September 30, 2011 shall  
11 be returned to the federal government, unless federal law or  
12 regulation provides for a different disposition."

13 Section 2. EMERGENCY.--It is necessary for the public  
14 peace, health and safety that this act take effect immediately.