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SENATE BILL 79

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

INTRODUCED BY

John Arthur Smith

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO STATE EXPENDITURES; REDUCING CERTAIN GENERAL FUND
APPROPRIATIONS; TRANSFERRING MONEY TO THE GENERAL FUND FROM
OTHER STATE FUNDS, INCLUDING THE TAX STABILIZATION RESERVE;
CHANGING THE DISTRIBUTIONS FROM CERTAIN FUNDS; MAKING
APPROPRIATIONS FROM OTHER STATE FUNDS AND CERTAIN FEDERAL
FUNDS; REPEALING CERTAIN APPROPRIATIONS; DECLARING AN
EMERGENCY.

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

Section 1. 2008 LEGISLATIVE BRANCH APPROPRIATIONS--
REDUCTIONS.--

A. All general fund appropriations in Section 9 and
Subsections A, B and C of Section 3 of Chapter 1 of Laws 2008
are reduced by three and two-tenths percent rounded to the
nearest one hundred dollars (\$100); provided that the New

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1 Mexico legislative council may transfer amounts from any of the
2 appropriations in Laws 2008, Chapter 1 to any other legislative
3 expenditure where they may be needed to effectuate government
4 efficiency.

5 B. All general fund appropriations in Laws 2008,
6 Chapter 1, Section 4 are reduced by two and one-half percent
7 rounded to the nearest one hundred dollars (\$100).

8 Section 2. 2008 SPECIAL APPROPRIATIONS--REDUCTIONS.--

9 A. Except as provided in Subsection B of this
10 section, all general fund appropriations in Laws 2008, Chapter
11 6 are reduced by two and one-half percent rounded to the
12 nearest one hundred dollars (\$100).

13 B. If an agency certifies that a reduction required
14 by Subsection A of this section cannot be made because of an
15 insufficient unexpended balance, the state budget division of
16 the department of finance and administration, after
17 notification to the legislative finance committee, shall reduce
18 any other unexpended appropriation to the agency by an amount
19 equal to the required reduction amount.

20 Section 3. FUND TRANSFERS.--

21 A. Notwithstanding any restriction on the use of
22 money in the funds, the following amounts from the following
23 funds are transferred to the general fund for the purpose of
24 meeting appropriations from the general fund:

25 (1) twenty million dollars (\$20,000,000) is

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1 transferred from the college affordability endowment fund;
2 (2) one million seven hundred fifty thousand
3 dollars (\$1,750,000) is transferred from the public election
4 fund;

5 (3) eight hundred thousand dollars (\$800,000)
6 is transferred from the public pre-kindergarten fund;

7 (4) five hundred thousand dollars (\$500,000)
8 is transferred from the juvenile continuum grant fund;

9 (5) one million five hundred thousand dollars
10 (\$1,500,000) is transferred from the day-care fund;

11 (6) eight million dollars (\$8,000,000) is
12 transferred from the telecommunications access fund;

13 (7) one million dollars (\$1,000,000) is
14 transferred from the corrections department intensive
15 supervision fund;

16 (8) five million dollars (\$5,000,000) is
17 transferred from the workers' compensation administration fund;

18 (9) three million dollars (\$3,000,000) is
19 transferred from the juvenile community corrections grant fund;

20 (10) five hundred thousand dollars (\$500,000)
21 is transferred from the New Mexico youth conservation corps
22 fund;

23 (11) one million dollars (\$1,000,000) is
24 transferred from the board of nursing fund;

25 (12) six hundred thousand dollars (\$600,000)

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1 is transferred from the higher education endowment fund;

2 (13) one million five hundred thousand dollars
3 (\$1,500,000) is transferred from the electronic voting system
4 revolving fund;

5 (14) four hundred thousand dollars (\$400,000)
6 is transferred from the insurance fraud fund; and

7 (15) one hundred thousand dollars (\$100,000)
8 is transferred from the motorboat fuel tax fund.

9 B. One million dollars (\$1,000,000) of the
10 unexpended balance of the amounts allocated to the
11 administrative office of the courts pursuant to Subsection A of
12 Section 72-4A-9 NMSA 1978 is transferred to the general fund.

13 C. Notwithstanding any provision of Section 22-24-4
14 NMSA 1978, fifty-eight million four hundred thousand dollars
15 (\$58,400,000) is transferred from the public school capital
16 outlay fund to the general fund for the purpose of meeting
17 appropriations from the general fund. The money transferred
18 represents a portion of the amount of the general fund
19 appropriation made in Laws 2006, Chapter 111, Section 66 and
20 recouped by the offset of allocations that would have been made
21 to school districts for the state share of projects pursuant to
22 Section 22-24-5.7 NMSA 1978.

23 Section 4. Section 6-4-9 NMSA 1978 (being Laws 1999,
24 Chapter 207, Section 1, as amended) is amended to read:

25 "6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--
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1 DISTRIBUTION.--

2 A. The "tobacco settlement permanent fund" is
3 created in the state treasury. The fund shall consist of money
4 distributed to the state pursuant to the master settlement
5 agreement entered into between tobacco product manufacturers
6 and various states, including New Mexico, and executed November
7 23, 1998 or any money released to the state from a qualified
8 escrow fund or otherwise paid to the state as authorized by the
9 model statute, Sections 6-4-12 and 6-4-13 NMSA 1978, enacted
10 pursuant to the master settlement agreement. Money in the fund
11 shall be invested by the state investment officer as land grant
12 permanent funds are invested pursuant to Chapter 6, Article 8
13 NMSA 1978. Income from investment of the fund shall be
14 credited to the fund. Money in the fund shall not be expended
15 for any purpose, except as provided in this section.

16 B. In fiscal years 2003 through 2006, a
17 distribution shall be made from the tobacco settlement
18 permanent fund to the general fund in an amount equal to one
19 hundred percent of the total amount of money distributed to the
20 tobacco settlement permanent fund in that fiscal year.

21 C. In fiscal year 2007 and in each fiscal year
22 thereafter, an annual distribution shall be made from the
23 tobacco settlement permanent fund to the tobacco settlement
24 program fund of an amount equal to fifty percent of the total
25 amount of money distributed to the tobacco settlement permanent

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1 fund in that fiscal year until that amount is less than an
2 amount equal to four and seven-tenths percent of the average of
3 the year-end market values of the tobacco settlement permanent
4 fund for the immediately preceding five calendar years.

5 Thereafter, the amount of the annual distribution shall be four
6 and seven-tenths percent of the average of the year-end market
7 values of the tobacco settlement permanent fund for the
8 immediately preceding five calendar years. In the event that
9 the actual amount distributed to the tobacco settlement program
10 fund in a fiscal year is insufficient to meet appropriations
11 from that fund for that fiscal year, the secretary of finance
12 and administration shall proportionately reduce each
13 appropriation accordingly.

14 D. In addition to the distribution made pursuant to
15 Subsection C of this section, in fiscal year 2009 and in fiscal
16 year 2010, the remaining fifty percent of the total amount of
17 money distributed to the tobacco settlement permanent fund in
18 that fiscal year shall be distributed from the tobacco
19 settlement permanent fund to the tobacco settlement program
20 fund.

21 [~~D.~~] E. The tobacco settlement permanent fund shall
22 be considered a reserve fund of the state and, as a reserve
23 fund, may be expended in the event that general fund balances,
24 including all authorized revenues and transfers to the general
25 fund and balances in the general fund operating reserve, the

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1 appropriation contingency fund and the tax stabilization
2 reserve, will not meet the level of appropriations authorized
3 from the general fund for a fiscal year. In that event, in
4 order to avoid an unconstitutional deficit, the legislature may
5 authorize a transfer from the tobacco settlement permanent fund
6 to the general fund but only in an amount necessary to meet
7 general fund appropriations."

8 Section 5. Section 59A-53-5.2 NMSA 1978 (being Laws 2007,
9 Chapter 152, Section 1) is amended to read:

10 "59A-53-5.2. APPROPRIATIONS AND TRANSFERS FROM THE FIRE
11 PROTECTION FUND.--

12 A. For each fiscal year, the amount to be
13 distributed by the marshal pursuant to Sections 59A-53-4,
14 59A-53-5 and 59A-53-5.1 NMSA 1978 is appropriated from the fire
15 protection fund to the commission for the purpose of making the
16 distributions.

17 B. For the purposes of Subsections C and D of this
18 section, the "remaining balance in the fire protection fund"
19 shall be calculated on June 30 of each year and shall equal the
20 balance of the fund on that date less the sum of:

21 (1) the total amount to be distributed during
22 the succeeding fiscal year pursuant to Sections 59A-53-4,
23 59A-53-5 and 59A-53-5.1 NMSA 1978; and

24 (2) the total amount of other appropriations
25 from the fire protection fund for the succeeding fiscal year.

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1 C. On the following dates, the following
2 percentages of the remaining balance in the fire protection
3 fund shall be transferred from the fire protection fund to the
4 fire protection grant fund:

5 (1) on June 30, 2007, six and seven-tenths
6 percent;

7 (2) on June 30, 2008, thirteen and four-tenths
8 percent;

9 (3) on June 30, 2009, thirteen and four-tenths
10 percent;

11 (4) on June 30, 2010, thirteen and four-tenths
12 percent;

13 [~~(3)~~] (5) on June 30, [~~2009~~] 2011, twenty and
14 one-tenth percent;

15 [~~(4)~~] (6) on June 30, [~~2010~~] 2012, twenty-six
16 and eight-tenths percent;

17 [~~(5)~~] (7) on June 30, [~~2011~~] 2013, thirty-
18 three and five-tenths percent;

19 [~~(6)~~] (8) on June 30, [~~2012~~] 2014, forty and
20 two-tenths percent;

21 [~~(7)~~] (9) on June 30, [~~2013~~] 2015, forty-six
22 and nine-tenths percent;

23 [~~(8)~~] (10) on June 30, [~~2014~~] 2016, fifty-
24 three and six-tenths percent;

25 [~~(9)~~] (11) on June 30, [~~2015~~] 2017, sixty and
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1 three-tenths percent;

2 [~~(10)~~] (12) on June 30, [~~2016~~] 2018, sixty-
3 seven percent;

4 [~~(11)~~] (13) on June 30, [~~2017~~] 2019, seventy-
5 three and seven-tenths percent;

6 [~~(12)~~] (14) on June 30, [~~2018~~] 2020, eighty
7 and four-tenths percent;

8 [~~(13)~~] (15) on June 30, [~~2019~~] 2021, eighty-
9 seven and one-tenth percent;

10 [~~(14)~~] (16) on June 30, [~~2020~~] 2022, ninety-
11 three and eight-tenths percent; and

12 [~~(15)~~] (17) on June 30, [~~2021~~] 2023 and on
13 each subsequent June 30, one hundred percent.

14 D. On June 30 of each year, the remaining balance
15 in the fire protection fund, less the amount to be transferred
16 on that date pursuant to Subsection C of this section, shall be
17 transferred to the general fund; provided that no transfer
18 shall be made pursuant to this subsection after June 30, [~~2020~~]
19 2022."

20 Section 6. Laws 2008 (2nd S.S.), Chapter 10, Section 1 is
21 amended to read:

22 "Section 1. APPROPRIATION.--

23 A. [~~Thirty-two million five hundred thousand~~
24 ~~dollars (\$32,500,000)] Five million five hundred thousand
25 dollars (\$5,500,000) is appropriated from the general fund to
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1 the human services department for expenditure in fiscal years
2 2009 and 2010 as follows:

3 (1) [~~ten million dollars (\$10,000,000)~~] four
4 million dollars (\$4,000,000) to provide coverage for
5 individuals enrolled in or eligible for the developmental
6 disabilities medicaid waiver program; and

7 [~~(2) twenty million dollars (\$20,000,000) to~~
8 ~~provide health care coverage for individuals through age~~
9 ~~eighteen in medicaid or state children health insurance program~~
10 ~~designed to reduce the number of children without coverage; and~~

11 [~~(3) two million five hundred thousand dollars~~
12 ~~(\$2,500,000) for]~~

13 (2) one million five hundred thousand dollars
14 (\$1,500,000) to enhance behavioral health services [to] for
15 individuals through age eighteen with behavioral health care
16 needs who are already enrolled in the medicaid program or the
17 state children health insurance program.

18 B. Any unexpended or unencumbered balance remaining
19 at the end of fiscal year 2010 shall revert to the general
20 fund."

21 Section 7. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES
22 CONTINGENCY FUNDS--APPROPRIATION.--

23 A. Upon certification by the state board of finance
24 that the human services department has received reimbursement
25 from federal temporary assistance for needy families

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1 contingency funds for state expenditures meeting criteria for
2 the temporary assistance for needy families program, up to
3 twenty-two million one hundred thousand dollars (\$22,100,000)
4 of the amount received is appropriated to the human services
5 department for expenditure in fiscal years 2009 and 2010 for
6 the following purposes, provided that if the amount received is
7 less than twenty-two million one hundred thousand dollars
8 (\$22,100,000), the following amounts shall be reduced
9 proportionately:

10 (1) six million eight hundred thousand dollars
11 (\$6,800,000) to provide coverage for individuals enrolled in or
12 eligible for the developmental disabilities medicaid waiver
13 program;

14 (2) thirteen million six hundred thousand
15 dollars (\$13,600,000) to provide health care coverage for
16 individuals through age eighteen in the medicaid program or the
17 state children health insurance program designed to reduce the
18 number of children without coverage; and

19 (3) one million seven hundred thousand dollars
20 (\$1,700,000) for behavioral health services to individuals
21 through age eighteen with behavioral health care needs in the
22 medicaid program or the state children health insurance
23 program.

24 B. Any unexpended or unencumbered balance remaining
25 at the end of fiscal year 2010 shall revert to the general

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1 fund.

2 Section 8. TOBACCO SETTLEMENT PROGRAM FUND--APPROPRIATION
3 FOR MEDICAID.--Twenty-four million five hundred fifty thousand
4 dollars (\$24,550,000) is appropriated from the tobacco
5 settlement program fund to the human services department for
6 expenditure in fiscal year 2009 for the medical assistance
7 program. Any unexpended or unencumbered balance remaining at
8 the end of fiscal year 2009 shall revert to the tobacco
9 settlement program fund.

10 Section 9. APPROPRIATION--PUBLIC SCHOOL SUPPORT.--Thirty-
11 five million seven hundred fifty-three thousand six hundred
12 dollars (\$35,753,600) is appropriated from the appropriation
13 contingency fund to the state equalization guarantee
14 distribution for the purpose of supplementing the general fund
15 appropriation to the distribution in fiscal year 2009. The
16 appropriation is from the separate account of the appropriation
17 contingency fund dedicated for the purpose of implementing and
18 maintaining educational reforms pursuant to Laws 2004, Chapter
19 114, Section 12. Any unexpended or unencumbered balance
20 remaining at the end of fiscal year 2009 shall not revert.

21 Section 10. TRANSFER--TAX STABILIZATION RESERVE.--Fifty-
22 five million seven hundred thousand dollars (\$55,700,000) is
23 transferred from the general fund tax stabilization reserve to
24 the fiscal year 2009 appropriation account of the general fund.
25 The transfer is contingent upon the governor sending a message

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1 to the first session of the forty-ninth legislature that,
2 pursuant to Subsection D of Section 6-4-2.2 NMSA 1978, general
3 fund revenues, including transfers to the general fund, are
4 projected by the governor to be insufficient to meet
5 appropriations authorized by law from the general fund for
6 fiscal year 2009.

7 Section 11. REPEAL.--Laws 2008, Chapter 50, Section 1 is
8 repealed.

9 Section 12. CONTINGENCY.--The provisions of Sections 8
10 and 9 of this act are contingent upon the enactment into law of
11 legislation of the first session of the forty-ninth legislature
12 that reduces the general fund appropriations in the General
13 Appropriation Act of 2008.

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

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