

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 79

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

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 C. After the reductions pursuant to Subsections A  
9 and B of this section, each amount appropriated from the  
10 general fund in Laws 2008, Chapter 1, Sections 3, 4, 5, 7 and 8  
11 in the personal services and employee benefits category of each  
12 legislative agency is further reduced by an amount equal to two  
13 and one-half percent of the amount of the general fund  
14 appropriation in Section 8 of the General Appropriation Act of  
15 2008 that was distributed to that agency, provided that each  
16 agency shall use category transfers, cash balances, vacancy  
17 savings and other available funds to provide the salary  
18 increases provided for in Section 8 of the General  
19 Appropriation Act of 2008 and Laws 2008, Chapter 6, Section 43.

20 D. Prior to June 30, 2009, the New Mexico  
21 legislative council may reduce any general fund appropriations  
22 in Laws 2009, Chapter 1, Section 1, provided that the total  
23 amount of the reductions shall not exceed two and one-half  
24 percent of the total general fund appropriations in that  
25 section.

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1           Section 2. 2008 SPECIAL APPROPRIATIONS--REDUCTIONS.--The  
2 balances of all general fund appropriations in Laws 2008,  
3 Chapter 6 that were unexpended or unencumbered on the effective  
4 date of this act are reduced by seven and three-tenths percent  
5 rounded to the nearest one hundred dollars (\$100).

6           Section 3. AUTHORITY TO REDUCE ALLOTMENTS.--

7           A. If, in this act or any other act of the first  
8 session of the forty-ninth legislature, a general fund  
9 appropriation or budget is reduced and funds in excess of the  
10 amount of the reduced appropriation or budget have already been  
11 allotted to the agency receiving the appropriation, the  
12 department of finance and administration may reduce any other  
13 general fund allotment to the agency in order to recoup the  
14 overallotment of the reduced appropriation or budget. In the  
15 case of an appropriation made to one agency but disbursed or  
16 transferred to another agency, the department of finance and  
17 administration may reduce any other general fund allotment to  
18 the agency to which the appropriation was disbursed or  
19 transferred in order to recoup the overallotment of the reduced  
20 appropriation or budget. The authority provided in this  
21 section is additional to any other power the department of  
22 finance and administration has to remedy overallotments, and  
23 the grant of authority in this section shall not be deemed to  
24 be a legislative determination that the department of finance  
25 and administration does not otherwise have the authority

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1 provided in this section.

2 B. As used in this section, "agency" means any  
3 department, institution, board, bureau, commission, district or  
4 committee of government of the state and means every office or  
5 officer of any of the above.

6 Section 4. FUND TRANSFERS.--

7 A. Notwithstanding any restriction on the use of  
8 money in the funds, the following amounts from the following  
9 funds are transferred to the general fund for the purpose of  
10 meeting appropriations from the general fund:

11 (1) fourteen million five hundred thousand  
12 dollars (\$14,500,000) is transferred from the college  
13 affordability endowment fund;

14 (2) one million seven hundred fifty thousand  
15 dollars (\$1,750,000) is transferred from the public election  
16 fund;

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

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

21 (5) one million five hundred thousand dollars  
22 (\$1,500,000) is transferred from the day-care fund;

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

25 (7) one million dollars (\$1,000,000) is

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1 transferred from the corrections department intensive  
2 supervision fund;

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

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

7 (10) five hundred thousand dollars (\$500,000)  
8 is transferred from the New Mexico youth conservation corps  
9 fund;

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

12 (12) six hundred thousand dollars (\$600,000)  
13 is transferred from the higher education endowment fund;

14 (13) one million five hundred thousand dollars  
15 (\$1,500,000) is transferred from the electronic voting system  
16 revolving fund;

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

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

21 B. One million dollars (\$1,000,000) of the  
22 unexpended balance of the amounts allocated from the water  
23 project fund to the administrative office of the courts  
24 pursuant to Subsection A of Section 72-4A-9 NMSA 1978, and  
25 derived from funds other than distributions from the water

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1 trust fund, is transferred to the general fund.

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

12 D. Notwithstanding the provisions of Section  
13 22-25-10 NMSA 1978, five million five hundred thousand dollars  
14 (\$5,500,000) of the unexpended proceeds of taxable severance  
15 tax bonds is transferred from the public school capital  
16 improvements fund to the general fund.

17 Section 5. Section 6-4-9 NMSA 1978 (being Laws 1999,  
18 Chapter 207, Section 1, as amended) is amended to read:

19 "6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--  
20 DISTRIBUTION.--

21 A. The "tobacco settlement permanent fund" is  
22 created in the state treasury. The fund shall consist of money  
23 distributed to the state pursuant to the master settlement  
24 agreement entered into between tobacco product manufacturers  
25 and various states, including New Mexico, and executed November  
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1 23, 1998 or any money released to the state from a qualified  
2 escrow fund or otherwise paid to the state as authorized by the  
3 model statute, Sections 6-4-12 and 6-4-13 NMSA 1978, enacted  
4 pursuant to the master settlement agreement. Money in the fund  
5 shall be invested by the state investment officer as land grant  
6 permanent funds are invested pursuant to Chapter 6, Article 8  
7 NMSA 1978. Income from investment of the fund shall be  
8 credited to the fund. Money in the fund shall not be expended  
9 for any purpose, except as provided in this section.

10 B. In fiscal years 2003 through 2006, a  
11 distribution shall be made from the tobacco settlement  
12 permanent fund to the general fund in an amount equal to one  
13 hundred percent of the total amount of money distributed to the  
14 tobacco settlement permanent fund in that fiscal year.

15 C. In fiscal year 2007 and in each fiscal year  
16 thereafter, an annual distribution shall be made from the  
17 tobacco settlement permanent fund to the tobacco settlement  
18 program fund of an amount equal to fifty percent of the total  
19 amount of money distributed to the tobacco settlement permanent  
20 fund in that fiscal year until that amount is less than an  
21 amount equal to four and seven-tenths percent of the average of  
22 the year-end market values of the tobacco settlement permanent  
23 fund for the immediately preceding five calendar years.  
24 Thereafter, the amount of the annual distribution shall be four  
25 and seven-tenths percent of the average of the year-end market

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1 values of the tobacco settlement permanent fund for the  
2 immediately preceding five calendar years. In the event that  
3 the actual amount distributed to the tobacco settlement program  
4 fund in a fiscal year is insufficient to meet appropriations  
5 from that fund for that fiscal year, the secretary of finance  
6 and administration shall proportionately reduce each  
7 appropriation accordingly.

8 D. In addition to the distribution made pursuant to  
9 Subsection C of this section, in fiscal year 2009 and in fiscal  
10 year 2010, the remaining fifty percent of the total amount of  
11 money distributed to the tobacco settlement permanent fund in  
12 that fiscal year shall be distributed from the tobacco  
13 settlement permanent fund to the tobacco settlement program  
14 fund.

15 [~~D.~~] E. The tobacco settlement permanent fund shall  
16 be considered a reserve fund of the state and, as a reserve  
17 fund, may be expended in the event that general fund balances,  
18 including all authorized revenues and transfers to the general  
19 fund and balances in the general fund operating reserve, the  
20 appropriation contingency fund and the tax stabilization  
21 reserve, will not meet the level of appropriations authorized  
22 from the general fund for a fiscal year. In that event, in  
23 order to avoid an unconstitutional deficit, the legislature may  
24 authorize a transfer from the tobacco settlement permanent fund  
25 to the general fund but only in an amount necessary to meet

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1 general fund appropriations."

2 Section 6. Section 59A-53-5.2 NMSA 1978 (being Laws 2007,  
3 Chapter 152, Section 1) is amended to read:

4 "59A-53-5.2. APPROPRIATIONS AND TRANSFERS FROM THE FIRE  
5 PROTECTION FUND.--

6 A. For each fiscal year, the amount to be  
7 distributed by the marshal pursuant to Sections 59A-53-4,  
8 59A-53-5 and 59A-53-5.1 NMSA 1978 is appropriated from the fire  
9 protection fund to the commission for the purpose of making the  
10 distributions.

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

15 (1) the total amount to be distributed during  
16 the succeeding fiscal year pursuant to Sections 59A-53-4,  
17 59A-53-5 and 59A-53-5.1 NMSA 1978; and

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

20 C. On the following dates, the following  
21 percentages of the remaining balance in the fire protection  
22 fund shall be transferred from the fire protection fund to the  
23 fire protection grant fund:

24 (1) on June 30, 2007, six and seven-tenths  
25 percent;

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

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

5 (4) on June 30, 2010, thirteen and four-tenths  
6 percent;

7 [~~(3)~~] (5) on June 30, [~~2009~~] 2011, twenty and  
8 one-tenth percent;

9 [~~(4)~~] (6) on June 30, [~~2010~~] 2012, twenty-six  
10 and eight-tenths percent;

11 [~~(5)~~] (7) on June 30, [~~2011~~] 2013, thirty-  
12 three and five-tenths percent;

13 [~~(6)~~] (8) on June 30, [~~2012~~] 2014, forty and  
14 two-tenths percent;

15 [~~(7)~~] (9) on June 30, [~~2013~~] 2015, forty-six  
16 and nine-tenths percent;

17 [~~(8)~~] (10) on June 30, [~~2014~~] 2016, fifty-  
18 three and six-tenths percent;

19 [~~(9)~~] (11) on June 30, [~~2015~~] 2017, sixty and  
20 three-tenths percent;

21 [~~(10)~~] (12) on June 30, [~~2016~~] 2018, sixty-  
22 seven percent;

23 [~~(11)~~] (13) on June 30, [~~2017~~] 2019, seventy-  
24 three and seven-tenths percent;

25 [~~(12)~~] (14) on June 30, [~~2018~~] 2020, eighty

1 and four-tenths percent;

2 [~~(13)~~] (15) on June 30, [~~2019~~] 2021, eighty-  
3 seven and one-tenth percent;

4 [~~(14)~~] (16) on June 30, [~~2020~~] 2022, ninety-  
5 three and eight-tenths percent; and

6 [~~(15)~~] (17) on June 30, [~~2021~~] 2023 and on  
7 each subsequent June 30, one hundred percent.

8 D. On June 30 of each year, the remaining balance  
9 in the fire protection fund, less the amount to be transferred  
10 on that date pursuant to Subsection C of this section, shall be  
11 transferred to the general fund; provided that no transfer  
12 shall be made pursuant to this subsection after June 30, [~~2020~~]  
13 2022."

14 Section 7. Laws 2008 (2nd S.S.), Chapter 10, Section 1 is  
15 amended to read:

16 "Section 1. APPROPRIATION.--

17 A. [~~Thirty-two million five hundred thousand~~  
18 ~~dollars (\$32,500,000)] Five million five hundred thousand  
19 dollars (\$5,500,000) is appropriated from the general fund to  
20 the human services department for expenditure in fiscal years  
21 2009 and 2010 as follows:~~

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

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

5                   ~~(3) two million five hundred thousand dollars~~  
6 ~~(\$2,500,000) for]~~

7                   (2) one million five hundred thousand dollars  
8 (\$1,500,000) to enhance behavioral health services [to] for  
9 individuals through age eighteen with behavioral health care  
10 needs who are already enrolled in the medicaid program or the  
11 state children health insurance program.

12                   B. Any unexpended or unencumbered balance remaining  
13 at the end of fiscal year 2010 shall revert to the general  
14 fund."

15                   Section 8. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES  
16 CONTINGENCY FUNDS--APPROPRIATION.--Upon certification by the  
17 state board of finance that the human services department has  
18 received reimbursement from federal temporary assistance for  
19 needy families contingency funds for state expenditures meeting  
20 criteria for the temporary assistance for needy families  
21 program, twenty-two million one hundred thousand dollars  
22 (\$22,100,000) of the amount received is appropriated to the  
23 human services department for transfer to the tax  
24 administration suspense fund for payment of the working  
25 families tax credit pursuant to Section 7-2-18.15 NMSA 1978.

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

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

21           Section 11. 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 12. REPEAL.--Laws 2008, Chapter 50, Section 1 is  
8 repealed.

9 Section 13. 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 general fund appropriations in the General  
13 Appropriation Act of 2008.

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