

State of New Mexico  
House of Representatives

FIFTY-FOURTH LEGISLATURE  
SECOND SESSION



February 18, 2020

HOUSE FLOOR AMENDMENT number \_\_\_\_\_ to HOUSE BILL 341, as amended

Amendment sponsored by Representative ~~Rod Montoya~~

*Greg Schneider*

1. On page 1, line 11, after the semicolon, insert "CHANGING THE NAME OF THE GENERAL FUND OPERATING RESERVE TO THE "OVERDRAFT PROTECTION RESERVE";".

2. On page 1, line 13, strike "GENERAL FUND OPERATING" and insert in lieu thereof "OVERDRAFT PROTECTION".

3. On page 1, between lines 16 and 17, insert the following section:

"SECTION 1. Section 6-4-2.1 NMSA 1978 (being Laws 1987, Chapter 184, Section 1) is amended to read:

"6-4-2.1. [~~GENERAL FUND OPERATING~~] OVERDRAFT PROTECTION RESERVE CREATED--AUTHORIZING EXPENDITURES.--

A. There is hereby created within the general fund the "[~~general fund operating~~] overdraft protection reserve".  
[~~Notwithstanding any other provision of law to the contrary, there shall be deposited to the general fund operating reserve cash balances in the fund existing pursuant to Laws 1966, Chapter 66, Section 16; Laws 1968, Chapter 71, Section 13; Laws 1970, Chapter 89, Section 4; Laws 1971, Chapter 327, Section 6; Laws 1972, Chapter 98, Section 6; Laws 1973, Chapter 403, Section 6; Laws 1974 (S.S.), Chapter 3, Section 6; Laws 1975 (S.S.), Chapter 17, Section 6; Laws 1976, Chapter 58, Section 7; Laws 1979, Chapter 404, Section 7; Laws 1981, Chapter 38, Section 7; Laws 1983, Chapter 46, Section 8; Laws 1984 (S.S.), Chapter 7, Section 7; and Laws 1986, Chapter 116, Section 1.~~]

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B. The [~~general fund operating~~] overdraft protection reserve may be expended only upon specific authorization by the legislature in an amount authorized by the legislature and only in the event general fund revenues and balances, including all other transfers to the general fund authorized by law, are insufficient to meet the level of appropriations authorized.""

4. On page 3, between lines 12 and 13, insert the following section:

"SECTION 3. Section 6-4-2.3 NMSA 1978 (being Laws 1991, Chapter 10, Section 7) is amended to read:

"6-4-2.3. APPROPRIATION CONTINGENCY FUND.--There is created within the general fund the "appropriation contingency fund". [~~A.~~] The appropriation contingency fund may be expended only upon specific authorization by the legislature or as provided in Sections [~~6-7-1 through 6-7-3~~] 12-11-23 through 12-11-25 NMSA 1978 in the event there is no surplus of unappropriated money in the general fund and in the amount authorized by the legislature.

~~[B. Notwithstanding Section 6-4-4 NMSA 1978, for the seventy-ninth fiscal year, if the revenues of the general fund exceed the total appropriations from the general fund, the excess revenue shall be transferred to the appropriation contingency fund.~~

~~C. Five million dollars (\$5,000,000) is transferred from the operating reserve fund to the public school state-support reserve fund in the eightieth fiscal year.~~

~~D. If revenues and transfers to the general fund, excluding transfers to the operating reserve, appropriation contingency fund and public school state-support reserve, as of the end of the seventy-ninth fiscal year, are not sufficient to meet appropriations, the governor, with state board of finance approval, may transfer at the end of that year the amount necessary to meet~~

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~~the year's obligations from the unencumbered balance remaining in the general fund operating reserve in a total not to exceed sixty million dollars (\$60,000,000).]"~~.

5. On page 3, line 20, strike "general fund operating" and insert in lieu thereof "overdraft protection" and on line 22, strike "general fund operating" and insert in lieu thereof "overdraft protection".

6. On page 4, line 5, strike "general fund operating" and insert in lieu thereof "overdraft protection", on line 12, strike "general fund operating" and insert in lieu thereof "overdraft protection" and on line 15, strike "general fund operating" and insert in lieu thereof "overdraft protection".

7. On page 4, between lines 15 and 16, insert the following new sections:

"SECTION 5. Section 6-4-9 NMSA 1978 (being Laws 1999, Chapter 207, Section 1, as amended by Laws 2017, Chapter 2, Section 6 and by Laws 2017, Chapter 80, Section 1) is amended to read:

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

A. The "tobacco settlement permanent fund" is created in the state treasury. The fund shall consist of money distributed to the state pursuant to the master settlement agreement entered into between tobacco product manufacturers and various states, including New Mexico, and executed November 23, 1998 or any money released to the state from a qualified escrow fund or otherwise paid to the state as authorized by Section 6-4-13 NMSA 1978, enacted pursuant to the master settlement agreement or as otherwise authorized by law. Money in the fund shall be invested by the state investment officer in accordance with the limitations in Article 12, Section 7 of the constitution of New Mexico. Income from investment of the fund

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shall be credited to the fund. Money in the fund shall not be expended for any purpose, except as provided in this section.

B. In fiscal year 2007 and in each fiscal year thereafter, an annual distribution shall be made from the tobacco settlement permanent fund to the tobacco settlement program fund of an amount equal to fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year until that amount is less than an amount equal to four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distribution shall be four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. In the event that the actual amount distributed to the tobacco settlement program fund in a fiscal year is insufficient to meet appropriations from that fund for that fiscal year, the secretary of finance and administration shall proportionately reduce each appropriation accordingly.

C. In addition to the distribution made pursuant to Subsection B of this section, in fiscal years 2009 through 2013, 2016 and 2018, the remaining fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the tobacco settlement program fund.

D. In addition to the distribution made pursuant to Subsections B and E of this section, in fiscal year 2014, twenty-five percent of the total amount of money distributed pursuant to the master settlement agreement to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the lottery tuition fund.

E. In addition to the distribution made pursuant to Subsections B and D of this section, in fiscal year 2014, twenty-

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five percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the tobacco settlement program fund for appropriation for direct services provided by early childhood care and education programs administered by the children, youth and families department.

F. The tobacco settlement permanent fund is a reserve fund of the state. Money in the tobacco settlement permanent fund may be expended:

(1) in the event that general fund balances, including all authorized revenues and transfers to the general fund and balances in the [~~general fund operating~~] overdraft protection reserve, the appropriation contingency fund and the tax stabilization reserve, will not meet the level of appropriations authorized from the general fund for a fiscal year. In that event, in order to avoid an unconstitutional deficit, the legislature may authorize a transfer from the tobacco settlement permanent fund to the general fund but only in an amount necessary to meet general fund appropriations; or

(2) as provided in Laws 2016 (2nd S.S.), Chapter 4, Section 2 and in Laws 2017, Chapter 2, Section 7 [~~of this 2017 act~~]."

SECTION 6. Section 6-12-15 NMSA 1978 (being Laws 1989, Chapter 124, Section 1) is amended to read:

"6-12-15. STATE BOND GUARANTEE FUND--CREATION--PURPOSES.--

A. There is created within the state treasury the "state bond guarantee fund". The fund is established as an additional source for payments of principal and interest due on state general obligation indebtedness already incurred or incurred in the future or for payments of any other obligations arising in connection with

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that indebtedness. The fund shall be drawn upon only in the event ad valorem taxes or other revenues of the state available for the described payments are either insufficient or are not received by the state at the time due or anticipated.

B. If it is determined by the department of finance and administration or the state treasurer that there are insufficient ad valorem taxes or other state revenues to meet a payment of principal or interest due on state general obligation indebtedness or to meet any other obligation arising in connection with that indebtedness lawfully payable from ad valorem taxes or that the receipt of ad valorem taxes or other revenues to be used to make any such payment will be delayed and not be available to make the payment when due, the department of finance and administration or the state treasurer may request the state board of finance to direct a temporary transfer of a sufficient amount of money from the [~~general fund operating~~] overdraft protection reserve, or any other available fund in the state treasury in which there may be a surplus over current requirements, to the state bond guarantee fund so that the payment becoming due may be made and a default avoided. If such a transfer is directed by the state board of finance, the state treasurer shall use the amount transferred to the state bond guarantee fund to make the payment. The amount transferred to the state bond guarantee fund shall be repaid to the fund from which transferred from ad valorem taxes or other revenues of the state that are available for the repayment and which are not otherwise required for subsequent payments of state general obligation indebtedness.

C. Nothing in this section prevents the application of any other funds of the state available for that purpose to the payment of general obligation indebtedness of the state or other obligations arising in connection with that indebtedness."

SECTION 7. Section 22-18A-5 NMSA 1978 (being Laws 1989, Chapter 134, Section 5) is amended to read:

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"22-18A-5. TEMPORARY TRANSFER OF FUNDS.--If it is determined by the [state] public education department [~~of public education~~] and the department of finance and administration that there are insufficient ad valorem taxes or other public school district revenues to meet a payment of principal or interest due on public school district general obligation indebtedness or to meet any other obligation arising in connection with that indebtedness lawfully payable from ad valorem taxes, or that the receipt of ad valorem taxes or other revenues to be used to make any such payment will be delayed and not be available to make the payment when due, the [state] public education department [~~of public education~~] and the department of finance and administration may request the state board of finance to direct a temporary transfer of a sufficient amount of money from the state-support reserve fund or the [~~general fund operating~~] overdraft protection reserve to the public school district general obligation bonds loan fund so that the payment becoming due may be made and a default avoided. In determining the order of transfer, money in the state-support reserve fund shall be transferred first, and if that amount is insufficient, then the [~~general fund operating~~] overdraft protection reserve shall be used. If such a transfer is directed by the state board of finance, the [state] public education department [~~of public education~~] shall use the amount transferred to the state public school district general obligation bonds loan fund to make the payment."".

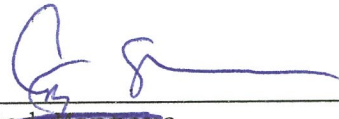
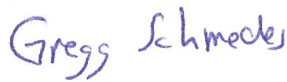
8. Renumber sections to correspond to these amendments.

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\_\_\_\_\_  
Rod Montoya  


Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_