



The Legislature
of the
State of New Mexico

49th Legislature, First Session

LAWS 2009

CHAPTER 3

SENATE FINANCE COMMITTEE SUBSTITUTE FOR

SENATE BILL 79, with emergency clause

Introduced by



PARTIAL VETO

EMERGENCY CLAUSE

Chapter 3

AN ACT

1
2 RELATING TO STATE EXPENDITURES; REDUCING CERTAIN GENERAL FUND
3 APPROPRIATIONS; TRANSFERRING MONEY TO THE GENERAL FUND FROM
4 OTHER STATE FUNDS, INCLUDING THE TAX STABILIZATION RESERVE;
5 CHANGING THE DISTRIBUTIONS FROM CERTAIN FUNDS; MAKING
6 APPROPRIATIONS FROM OTHER STATE FUNDS AND CERTAIN FEDERAL
7 FUNDS; REPEALING CERTAIN APPROPRIATIONS; DECLARING AN
8 EMERGENCY.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

13 A. All general fund appropriations in Section 9
14 and Subsections A, B and C of Section 3 of Chapter 1 of Laws
15 2008 are reduced by three and two-tenths percent rounded to
16 the nearest one hundred dollars (\$100); provided that the
17 New Mexico legislative council may transfer amounts from any
18 of the appropriations in Laws 2008, Chapter 1 to any other
19 legislative expenditure where they may be needed to
20 effectuate government efficiency.

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

24 C. After the reductions pursuant to Subsections A
25 and B of this section, each amount appropriated from the

1 general fund in Laws 2008, Chapter 1, Sections 3, 4, 5, 7 and
2 8 in the personal services and employee benefits category of
3 each legislative agency is further reduced by an amount equal
4 to two and one-half percent of the amount of the general fund
5 appropriation in Section 8 of the General Appropriation Act
6 of 2008 that was distributed to that agency, provided that
7 each agency shall use category transfers, cash balances,
8 vacancy savings and other available funds to provide the
9 salary increases provided for in Section 8 of the General
10 Appropriation Act of 2008 and Laws 2008, Chapter 6,
11 Section 43.

12 D. Prior to June 30, 2009, the New Mexico
13 legislative council may reduce any general fund
14 appropriations in Laws 2009, Chapter 1, Section 1, provided
15 that the total amount of the reductions shall not exceed two
16 and one-half percent of the total general fund appropriations
17 in that section.

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

24 Section 3. AUTHORITY TO REDUCE ALLOTMENTS.--

25 A. If, in this act or any other act of the first

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

20 B. As used in this section, "agency" means any
21 department, institution, board, bureau, commission, district
22 or committee of government of the state and means every
23 office or officer of any of the above.

24 Section 4. FUND TRANSFERS.--

25 A. Notwithstanding any restriction on the use of

1 money in the funds, the following amounts from the following
2 funds are transferred to the general fund for the purpose of
3 meeting appropriations from the general fund:

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

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

10 (3) eight hundred thousand dollars
11 (\$800,000) is transferred from the public pre-kindergarten
12 fund;

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

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

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

19 (7) one million dollars (\$1,000,000) is
20 transferred from the corrections department intensive
21 supervision fund;

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

25 (9) three million dollars (\$3,000,000) is

1 transferred from the juvenile community corrections grant
2 fund;

3 (10) five hundred thousand dollars
4 (\$500,000) is transferred from the New Mexico youth
5 conservation corps fund;

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

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

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

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

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

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

23 C. Notwithstanding any provision of
24 Section 22-24-4 NMSA 1978, fifty-eight million four hundred
25 thousand dollars (\$58,400,000) is transferred from the public

1 school capital outlay fund to the general fund for the
2 purpose of meeting appropriations from the general fund. The
3 money transferred represents a portion of the amount of the
4 general fund appropriation made in Laws 2006, Chapter 111,
5 Section 66 and recouped by the offset of allocations that
6 would have been made to school districts for the state share
7 of projects pursuant to Section 22-24-5.7 NMSA 1978.

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

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

15 "6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--
16 DISTRIBUTION.--

17 A. The "tobacco settlement permanent fund" is
18 created in the state treasury. The fund shall consist of
19 money distributed to the state pursuant to the master
20 settlement agreement entered into between tobacco product
21 manufacturers and various states, including New Mexico, and
22 executed November 23, 1998 or any money released to the state
23 from a qualified escrow fund or otherwise paid to the state
24 as authorized by the model statute, Sections 6-4-12 and
25 6-4-13 NMSA 1978, enacted pursuant to the master settlement

1 agreement. Money in the fund shall be invested by the state
2 investment officer as land grant permanent funds are invested
3 pursuant to Chapter 6, Article 8 NMSA 1978. Income from
4 investment of the fund shall be credited to the fund. Money
5 in the fund shall not be expended for any purpose, except as
6 provided in this section.

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

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

1 distributed to the tobacco settlement program fund in a
2 fiscal year is insufficient to meet appropriations from that
3 fund for that fiscal year, the secretary of finance and
4 administration shall proportionately reduce each
5 appropriation accordingly.

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

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

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

3 "59A-53-5.2. APPROPRIATIONS AND TRANSFERS FROM THE FIRE
4 PROTECTION FUND.--

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

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

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

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

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

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

25 (2) on June 30, 2008, thirteen and

1 four-tenths percent;
2 (3) on June 30, 2009, thirteen and
3 four-tenths percent;
4 (4) on June 30, 2010, thirteen and
5 four-tenths percent;
6 (5) on June 30, 2011, twenty and one-tenth
7 percent;
8 (6) on June 30, 2012, twenty-six and
9 eight-tenths percent;
10 (7) on June 30, 2013, thirty-three and
11 five-tenths percent;
12 (8) on June 30, 2014, forty and two-tenths
13 percent;
14 (9) on June 30, 2015, forty-six and
15 nine-tenths percent;
16 (10) on June 30, 2016, fifty-three and
17 six-tenths percent;
18 (11) on June 30, 2017, sixty and
19 three-tenths percent;
20 (12) on June 30, 2018, sixty-seven percent;
21 (13) on June 30, 2019, seventy-three and
22 seven-tenths percent;
23 (14) on June 30, 2020, eighty and
24 four-tenths percent;
25 (15) on June 30, 2021, eighty-seven and

1 one-tenth percent;

2 (16) on June 30, 2022, ninety-three and
3 eight-tenths percent; and

4 (17) on June 30, 2023 and on each subsequent
5 June 30, one hundred percent.

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

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

14 "Section 1. APPROPRIATION.--

15 A. Five million five hundred thousand dollars
16 (\$5,500,000) is appropriated from the general fund to the
17 human services department for expenditure in fiscal years
18 2009 and 2010 as follows:

19 (1) four million dollars (\$4,000,000) to
20 provide coverage for individuals enrolled in or eligible for
21 the developmental disabilities medicaid waiver program; and

22 (2) one million five hundred thousand
23 dollars (\$1,500,000) to enhance behavioral health services
24 for individuals through age eighteen with behavioral health
25 care needs who are ~~already~~ enrolled in the medicaid program

1 or the state children health insurance program.

2 B. Any unexpended or unencumbered balance
3 remaining at the end of fiscal year 2010 shall revert to the
4 general fund."

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

16 Section 9. TOBACCO SETTLEMENT PROGRAM FUND--
17 APPROPRIATION FOR MEDICAID.--Twenty-four million five hundred
18 fifty thousand dollars (\$24,550,000) is appropriated from the
19 tobacco settlement program fund to the human services
20 department for expenditure in fiscal year 2009 for the
21 medical assistance program. Any unexpended or unencumbered
22 balance remaining at the end of fiscal year 2009 shall revert
23 to the tobacco settlement program fund.

24 Section 10. APPROPRIATION--PUBLIC SCHOOL SUPPORT.--
25 Thirty-five million seven hundred fifty-three thousand six

1 hundred dollars (\$35,753,600) is appropriated from the
2 appropriation contingency fund to the state equalization
3 guarantee distribution for the purpose of supplementing the
4 general fund appropriation to the distribution in fiscal year
5 2009. The appropriation is from the separate account of the
6 appropriation contingency fund dedicated for the purpose of
7 implementing and maintaining educational reforms pursuant to
8 Laws 2004, Chapter 114, Section 12. Any unexpended or
9 unencumbered balance remaining at the end of fiscal year 2009
10 shall not revert.

11 Section 11. TRANSFER--TAX STABILIZATION RESERVE.--

12 Fifty-five million seven hundred thousand dollars
13 (\$55,700,000) is transferred from the general fund tax
14 stabilization reserve to the fiscal year 2009 appropriation
15 account of the general fund. The transfer is contingent upon
16 the governor sending a message to the first session of the
17 forty-ninth legislature that, pursuant to Subsection D of
18 Section 6-4-2.2 NMSA 1978, general fund revenues, including
19 transfers to the general fund, are projected by the governor
20 to be insufficient to meet appropriations authorized by law
21 from the general fund for fiscal year 2009.

22 Section 12. REPEAL.--Laws 2008, Chapter 50, Section 1
23 is repealed.

24 Section 13. CONTINGENCY.--The provisions of Sections 8
25 and 9 of this act are contingent upon the enactment into law

1 of legislation of the first session of the forty-ninth
2 legislature that reduces general fund appropriations in the
3 General Appropriation Act of 2008.

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

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Diane D. Denish

Diane D. Denish, President
Senate

Lenore M. Naranjo
Lenore M. Naranjo, Chief Clerk
Senate

Ben Lujan

Ben Lujan, Speaker
House of Representatives

Stephen R. Arias
Stephen R. Arias, Chief Clerk
House of Representatives

Approved by me this 6th day of February, 2009

Bill Richardson
Governor Bill Richardson
State of New Mexico