

1 SENATE BILL 113

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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7
8 FOR THE LEGISLATIVE FINANCE COMMITTEE

9
10 AN ACT

11 RELATING TO STATE EXPENDITURES; REDUCING APPROPRIATIONS IN THE
12 GENERAL APPROPRIATION ACT OF 2015, IN THE GENERAL APPROPRIATION
13 ACT OF 2016 AND IN LAWS 2016, CHAPTER 1; ALLOWING FOR FISCAL
14 YEAR 2017 GENERAL FUND APPROPRIATION REDUCTIONS; TRANSFERRING
15 MONEY FROM FUNDS AND ACCOUNTS TO THE FISCAL YEAR 2017
16 APPROPRIATION ACCOUNT AND THE OPERATING RESERVE ACCOUNT OF THE
17 GENERAL FUND; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. GENERAL APPROPRIATION ACT OF 2015

21 APPROPRIATION REDUCTION.--Eleven million six hundred thousand
22 dollars (\$11,600,000) of the general fund appropriation to the
23 economic development department in Item (21) of Section 5 of
24 the General Appropriation Act of 2015 for projects pursuant to
25 the Local Economic Development Act shall not be expended for

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1 the original purpose but shall revert to the general fund."

2 SECTION 2. A new section of the General Appropriation Act
3 of 2016 is enacted to read:

4 "[NEW MATERIAL] 2016 APPROPRIATION REDUCTIONS.--The
5 following general fund appropriations in Section 4 of the
6 General Appropriation Act of 2016 are reduced as follows:

7 A. to the taxation and revenue department tax
8 administration program in the personal services and employee
9 benefits category, by two million five hundred thousand dollars
10 (\$2,500,000);

11 B. to the taxation and revenue department motor
12 vehicle program in the personal services and employee benefits
13 category, by one million six hundred thousand dollars
14 (\$1,600,000);

15 C. to the department of public safety law
16 enforcement program in the personal services and employee
17 benefits category, by five million dollars (\$5,000,000); and

18 D. to the public education department special
19 appropriations made in Items (a) through (d), (f) through (i)
20 and (l) through (t), by twenty-two million dollars
21 (\$22,000,000) in the aggregate."

22 SECTION 3. A new section of the General Appropriation Act
23 of 2016 is enacted to read:

24 "[NEW MATERIAL] FISCAL YEAR 2017 OPERATING BUDGET AND
25 ALLOTMENT ADJUSTMENTS.--

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1 A. For the remainder of fiscal year 2017, the
2 department of finance and administration shall regularly
3 consult with the legislative finance committee staff to compare
4 revenue collections with the revenue estimate. If the general
5 fund consensus revenue forecast projects that revenue and
6 transfers to the general fund, including all transfers
7 authorized by Section 13 of the General Appropriation Act of
8 2016, will be insufficient to meet fiscal year 2017 general
9 fund appropriations, the governor, with the approval of the
10 state board of finance and after review and an opportunity to
11 comment by the legislative finance committee, shall reduce
12 fiscal year 2017 general fund appropriations by up to one
13 percent of the total amount of those appropriations, in
14 accordance with the following provisions:

15 (1) the reductions shall apply to all
16 agencies, funds, programs and other recipients and to all
17 programs and categories within agencies that receive a general
18 fund appropriation in Section 4 of the General Appropriation
19 Act of 2016 and in Subsection A of Section 3 and Sections 4, 5,
20 7 and 8 of Chapter 1 of Laws 2016, except that no reductions
21 shall be made to the general fund operating budgets of the
22 medical assistance program or the medicaid behavioral health
23 program of the human services department or to the
24 developmental disabilities support program of the department of
25 health;

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1 (2) except as provided in Paragraph (3) of
2 this subsection, the reductions to appropriations in Section 4
3 of the General Appropriation Act of 2016 shall apply
4 proportionately to each agency, fund, program and other
5 recipient based on the agency's, fund's, program's and other
6 recipient's share of the total amount of fiscal year 2017
7 general fund appropriations; and

8 (3) the reductions to legislative
9 appropriations shall, in the aggregate, be proportionate to
10 those appropriations' share of the total amount of fiscal year
11 2017 general fund appropriations, but, among individual
12 legislative appropriations, shall be in a proportion that the
13 New Mexico legislative council determines.

14 B. The department of finance and administration
15 shall reduce and otherwise adjust the general fund allotments
16 of all agencies, funds, programs and other recipients in
17 accordance with the reductions applied under this section.

18 C. As used in this section:

19 (1) "fiscal year 2017 general fund
20 appropriations" means the sum of all general fund
21 appropriations in Section 4 of the General Appropriation Act of
22 2016, as reduced by Laws 2016 (2nd S.S.), Chapter 6, Section 2,
23 and in Subsection A of Section 3 and Sections 4, 5, 7 and 8 of
24 Chapter 1 of Laws 2016, as reduced by Section 11 of the General
25 Appropriation Act of 2016 and by Laws 2016 (2nd S.S.), Chapter

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1 6, Section 1; and

2 (2) "general fund consensus revenue forecast"
3 means the revenue estimates prepared at the end of the 2017
4 legislative session by the career economists of the department
5 of finance and administration, taxation and revenue department,
6 department of transportation and legislative finance
7 committee."

8 SECTION 4. FUND AND OTHER ACCOUNT TRANSFERS--
9 APPROPRIATIONS.--Notwithstanding any restriction on the use of
10 money from the source, the following amounts are appropriated
11 from the following sources for expenditure in fiscal year 2017,
12 and any unexpended or unencumbered balance remaining at the end
13 of fiscal year 2017 shall revert to the source:

14 A. two million five hundred thousand dollars
15 (\$2,500,000) from the state road fund to the taxation and
16 revenue department tax administration program in the personal
17 services and employee benefits category;

18 B. one million six hundred thousand dollars
19 (\$1,600,000) from the motor vehicle suspense fund to the
20 taxation and revenue department motor vehicle program in the
21 personal services and employee benefits category;

22 C. four million dollars (\$4,000,000) from the game
23 protection fund to the department of game and fish for payment
24 to the commissioner of public lands for hunting and fishing
25 licensee access to state trust lands. This appropriation is in

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1 addition to the existing one-million-dollar (\$1,000,000)
2 contract between the department and the commissioner for access
3 to state trust lands in fiscal year 2017; and

4 D. five million dollars (\$5,000,000) from the state
5 road fund to the department of public safety law enforcement
6 program in the personal services and employee benefits
7 category.

8 SECTION 5. FUND AND OTHER ACCOUNT TRANSFERS AND
9 REVERSIONS TO GENERAL FUND--FISCAL YEAR 2017.--Notwithstanding
10 any restriction on the use of money in the funds or accounts,
11 the following amounts from the following funds or accounts are
12 transferred to the fiscal year 2017 appropriation account of
13 the general fund:

14 A. two million nine hundred thousand dollars
15 (\$2,900,000) from the state infrastructure bank;

16 B. four million dollars (\$4,000,000) from the rural
17 infrastructure revolving loan fund;

18 C. four million dollars (\$4,000,000) from
19 appropriations made in Laws 2006, Chapter 111, Section 65, Laws
20 2007, Chapter 42, Section 86 and Laws 2008, Chapter 92, Section
21 72 to the wastewater facility construction loan fund;

22 D. four million dollars (\$4,000,000) from the
23 enhanced 911 fund;

24 E. two million dollars (\$2,000,000) from the day-
25 care fund;

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1 F. one million six hundred forty-nine thousand four
2 hundred fifty-eight dollars (\$1,649,458) from the balance of
3 distributions from the cigarette tax made in accordance with
4 Subsection F of Section 7-1-6.11 NMSA 1978;

5 G. two million seventy-three thousand one hundred
6 dollars (\$2,073,100) from the oil and gas accounting suspense
7 fund administered by the taxation and revenue department;

8 H. six million dollars (\$6,000,000) from amounts
9 reserved for risk-related coverage in the public school
10 insurance fund;

11 I. ten million dollars (\$10,000,000) from the
12 public liability fund;

13 J. five million dollars (\$5,000,000) from the state
14 transportation pool account of the general services department;

15 K. six hundred ninety-nine thousand three hundred
16 dollars (\$699,300) from the public property reserve fund;

17 L. one million two hundred thirteen thousand seven
18 hundred dollars (\$1,213,700) from the insurance licensee
19 continuing education fund;

20 M. seven hundred eighty-four thousand two hundred
21 dollars (\$784,200) from the insurance fraud fund;

22 N. two hundred two thousand six hundred dollars
23 (\$202,600) from the title insurance maintenance assessment
24 fund;

25 O. seven hundred three thousand seven hundred

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- 1 dollars (\$703,700) from the New Mexico medical board fund;
- 2 P. one million dollars (\$1,000,000) from the New
- 3 Mexico livestock board general fund;
- 4 Q. one million two hundred fifty thousand dollars
- 5 (\$1,250,000) from the workers' compensation administration
- 6 fund;
- 7 R. three million two hundred eighty-two thousand
- 8 seven hundred dollars (\$3,282,700) from the corrective action
- 9 fund;
- 10 S. nine hundred forty-eight thousand four hundred
- 11 dollars (\$948,400) from the food service sanitation fund;
- 12 T. nine hundred three thousand two hundred dollars
- 13 (\$903,200) from the water conservation fund;
- 14 U. seven hundred twenty thousand dollars (\$720,000)
- 15 from the state air quality permit fund;
- 16 V. six hundred fifty thousand (\$650,000) from the
- 17 liquid waste fund;
- 18 W. six hundred forty-one thousand eight hundred
- 19 dollars (\$641,800) from the radiation protection fund;
- 20 X. six hundred thirty-five thousand one hundred
- 21 dollars (\$635,100) from the tire recycling fund;
- 22 Y. five hundred fifty-six thousand nine hundred
- 23 dollars (\$556,900) from the water quality management fund;
- 24 Z. three hundred ninety thousand dollars (\$390,000)
- 25 from the storage tank fund;

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1 AA. three hundred eighty-three thousand dollars
2 (\$383,000) from the hazardous waste fund;

3 BB. three hundred seventeen thousand two hundred
4 dollars (\$317,200) from the water recreation facilities fund;

5 CC. three hundred seven thousand four hundred
6 dollars (\$307,400) from the public water supply system operator
7 and public wastewater facility operator fund; and

8 DD. three hundred thirteen thousand dollars
9 (\$313,000) from the concealed handgun carry fund.

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

12 "6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--
13 DISTRIBUTION.--

14 A. The "tobacco settlement permanent fund" is
15 created in the state treasury. The fund shall consist of money
16 distributed to the state pursuant to the master settlement
17 agreement entered into between tobacco product manufacturers
18 and various states, including New Mexico, and executed November
19 23, 1998 or any money released to the state from a qualified
20 escrow fund or otherwise paid to the state as authorized by
21 [~~Sections 6-4-12 and~~] Section 6-4-13 NMSA 1978, enacted
22 pursuant to the master settlement agreement or as otherwise
23 authorized by law. Money in the fund shall be invested by the
24 state investment officer in accordance with the limitations in
25 Article 12, Section 7 of the constitution of New Mexico.

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1 Income from investment of the fund shall be credited to the
2 fund. Money in the fund shall not be expended for any purpose,
3 except as provided in this section.

4 B. In fiscal year 2007 and in each fiscal year
5 thereafter, an annual distribution shall be made from the
6 tobacco settlement permanent fund to the tobacco settlement
7 program fund of an amount equal to fifty percent of the total
8 amount of money distributed to the tobacco settlement permanent
9 fund in that fiscal year until that amount is less than an
10 amount equal to four and seven-tenths percent of the average of
11 the year-end market values of the tobacco settlement permanent
12 fund for the immediately preceding five calendar years.
13 Thereafter, the amount of the annual distribution shall be four
14 and seven-tenths percent of the average of the year-end market
15 values of the tobacco settlement permanent fund for the
16 immediately preceding five calendar years. In the event that
17 the actual amount distributed to the tobacco settlement program
18 fund in a fiscal year is insufficient to meet appropriations
19 from that fund for that fiscal year, the secretary of finance
20 and administration shall proportionately reduce each
21 appropriation accordingly.

22 C. In addition to the distribution made pursuant to
23 Subsection B of this section, in fiscal years 2009 through 2013
24 and 2016, the remaining fifty percent of the total amount of
25 money distributed to the tobacco settlement permanent fund in

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1 that fiscal year shall be distributed from the tobacco
2 settlement permanent fund to the tobacco settlement program
3 fund.

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

11 E. In addition to the distribution made pursuant to
12 Subsections B and D of this section, in fiscal year 2014,
13 twenty-five percent of the total amount of money distributed to
14 the tobacco settlement permanent fund in that fiscal year shall
15 be distributed from the tobacco settlement permanent fund to
16 the tobacco settlement program fund for appropriation for
17 direct services provided by early childhood care and education
18 programs administered by the children, youth and families
19 department.

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

23 (1) 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; or

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

11 SECTION 7. TOBACCO SETTLEMENT PERMANENT FUND TRANSFER TO
12 THE GENERAL FUND--FISCAL YEAR 2017.--The governor, with state
13 board of finance approval, may, in addition to the transfer
14 authorized by Laws 2016 (2nd S.S.), Chapter 4, Section 2,
15 transfer from the tobacco settlement permanent fund to the
16 operating reserve account of the general fund an amount up to
17 the amount remaining in the fund, less the total amount
18 appropriated in Section 4 of the General Appropriation Act of
19 2016 from the tobacco settlement program fund, as necessary to
20 meet the appropriations authorized by law from the general fund
21 for fiscal year 2017.

22 SECTION 8. EMERGENCY.--It is necessary for the public
23 peace, health and safety that this act take effect immediately.