

SENATE BILL 88

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

George K. Muñoz and William E. Sharer and Pat Woods
and Pamelya Herndon and Elizabeth "Liz" Stefanics

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC FUNDS; CREATING THE MEDICAID TRUST FUND AND THE STATE-SUPPORTED MEDICAID FUND; SFC→REQUIRING THE LEGISLATURE TO PROVIDE FOR THE TRANSFER OF REVERSIONS OF GENERAL APPROPRIATION ACT APPROPRIATIONS AND GENERAL FUND APPROPRIATIONS FOR CAPITAL OUTLAY PROJECTS TO THE MEDICAID TRUST FUND FOR A LIMITED TIME;←SFC REQUIRING CERTAIN INVESTMENT INCOME CREDITED TO THE GENERAL FUND TO BE CREDITED TO THE MEDICAID TRUST FUND FOR A LIMITED TIME SFC→; AMENDING CERTAIN SECTIONS OF LAWS 2021 THROUGH 2024 TO REQUIRE GENERAL FUND

.228976.4AIC March 5, 2025 (9:12pm)

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~~CAPITAL OUTLAY APPROPRIATIONS TO REVERT TO THE MEDICAID TRUST FUND; MAKING A TRANSFER FROM THE GENERAL FUND TO THE MEDICAID TRUST FUND~~ ←SFC .

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

SECTION 1. [NEW MATERIAL] MEDICAID TRUST FUND.--

A. The "medicaid trust fund" is created as a nonreverting fund in the state treasury. The trust fund consists of distributions, appropriations, gifts, grants and donations. Income from investment of the trust fund shall be credited to the trust fund. Money in the trust fund shall be expended only as provided in this section.

B. The state investment officer shall invest money in the trust fund in accordance with the prudent investor rule as set forth in Chapter 6, Article 8 NMSA 1978 and in consultation with the health care authority.

C. The state investment officer shall report quarterly to the legislative finance committee and the state investment council on the investments made pursuant to this section. An annual report shall be submitted no later than October 1 of each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committees.

D. On July 1, 2029 and each July 1 thereafter, a distribution shall be made from the trust fund to the state-supported medicaid fund in an amount equal to five percent of

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the average of the year-end market values of the trust fund for the immediately preceding three calendar years; provided that a distribution shall not be made until the balance of the trust fund at the end of a fiscal year is at least five hundred million dollars (\$500,000,000).

E. Money in the trust fund may be appropriated for any purpose if, in a fiscal year, federal matching funds for the state medicaid program:

F. In fiscal years 2026 through 2029, money in the trust fund may be appropriated to support the state medicaid program if a reduction in federal medicaid funding received by the state will cause a reduction in coverage or benefits below the levels provided as of the effective date of this 2025 act.

(1) decrease by at least seven and one-half percent from the previous fiscal year; or

(2) are less than a one-to-one match with money appropriated by the legislature for the program.

Sf11→SFC→~~E. In fiscal years 2026 through 2029, money in the trust fund may be appropriated to support the state medicaid program if a reduction in federal medicaid funding received by the state will cause a reduction in coverage or benefits below the levels provided as of the effective date of this 2025 act.~~←SFC←Sf11

Sf11→F. In fiscal years 2026 through 2029, money in the trust fund may be appropriated to support the state

medicaid program if a reduction in federal medicaid funding received by the state will cause a reduction in coverage or benefits below the levels provided as of the effective date of this 2025 act. ←Sf11

Sf11 → ~~SFC~~ → ~~F.~~ ← ~~SFC~~ ~~SFC~~ → ~~G.~~ ← ~~SFC~~ ← Sf11 Sf11 → ~~G.~~ ← Sf11

Money in the trust fund may be expended in the event that general fund balances, including all authorized revenues and transfers to the general fund and balances in the general fund operating reserve, the appropriation contingency fund, the tax stabilization reserve and the early childhood education and care fund, will not meet the level of appropriations authorized from the general fund for a fiscal year. In that event, to avoid an unconstitutional deficit, the legislature may appropriate from the trust fund to the general fund only in the amount necessary to meet general fund appropriations for that fiscal year and only if the legislature has authorized transfers from the appropriation contingency fund, the general fund operating reserve, the tax stabilization reserve and the early childhood education and care fund that exhaust those fund balances.

SECTION 2. [NEW MATERIAL] STATE-SUPPORTED MEDICAID FUND.--The "state-supported medicaid fund" is created in the state treasury. The fund consists of distributions, appropriations, gifts, grants, donations and income from investment of the fund. The health care authority shall

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administer the fund. Money in the fund is subject to appropriation by the legislature to support the state medicaid program and to match federal funds for the state medicaid program. Expenditures from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of health care authority or the secretary's authorized representative. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall revert to the medicaid trust fund.

SFC→~~SECTION 3. Section 6-5-10 NMSA 1978 (being Laws 1994, Chapter 11, Section 1, as amended) is amended to read:~~

~~"6-5-10. STATE AGENCY REVERSIONS--DIRECTOR POWERS-- COMPLIANCE WITH FEDERAL RULES.--~~

~~A. Except as provided in [Subsections B and C] Subsection B of this section, all unreserved undesignated fund balances in reverting funds and accounts as reflected in the central financial reporting and accounting system as of June 30 shall revert by September 30 to the [general] medicaid trust fund; provided that once the balance of the medicaid trust fund at the end of a fiscal year reaches two billion dollars (\$2,000,000,000), the balances shall revert to the general fund. The division may adjust the reversion within forty-five days of release of the audit report for that fiscal year.~~

~~B. The director of the division may modify a reversion required pursuant to Subsection A of this section if~~

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~~the reversion would violate federal law or rules pertaining to
supplanting of state funds with federal funds or other
applicable federal provisions."~~←SFC

SECTION SFC→4.←SFC SFC→3.←SFC Section 6-10-2.1 NMSA
1978 (being Laws 1989, Chapter 324, Section 41, as amended) is
amended to read:

"6-10-2.1. STATE TREASURER--DUTY.--

A. Except as provided in Subsection B of this section, the state treasurer shall identify and allocate to the ~~[general]~~ medicaid trust fund all earnings, including realized and unrealized gains and losses, from the investment of all accounts or funds in ~~[his]~~ the treasurer's custody unless the allocation of the earnings is:

~~[A.]~~ (1) otherwise provided by law;

~~[B.]~~ (2) prohibited by federal law creating the fund or the account or by specific court order; or

~~[C.]~~ (3) from the investment of a permanent fund and the use of the interest and income from the fund is restricted by constitutional or statutory provisions to particular purposes.

B. Once the balance of the medicaid trust fund at the end of a fiscal year reaches two billion dollars (\$2,000,000,000), the allocation pursuant to Subsection A of this section shall be made to the general fund, subject to the provisions of Paragraphs (1) through (3) of that subsection."

.228976.4AIC March 5, 2025 (9:12pm)

Sf11 → SFC → SECTION 5. A new section of Chapter 6, Article 4 NMSA 1978 is enacted to read:

"[NEW MATERIAL] REVERSIONS OF APPROPRIATIONS TO MEDICAID TRUST FUND.--

A. Except as provided in Subsection B of this section and unless otherwise provided by law, the legislature shall provide that the following shall be transferred to the medicaid trust fund at the end of each fiscal year:

(1) one percent of the unexpended or unencumbered balances of appropriations made in Section 4 of the prior year's general appropriation act;

(2) the unexpended or unencumbered balances of all other appropriations made from the general fund in the prior year's general appropriation act, not including appropriations made to nonreverting funds; and

(3) reversion of the unexpended balances of appropriations made from the general fund for capital outlay projects.

B. Once the balance of the medicaid trust fund at the end of a fiscal year reaches two billion dollars (\$2,000,000,000), a transfer pursuant to Subsection A of this section shall not be made."

SECTION 6. Laws 2021, Chapter 138, Section 2 is amended to read:

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~~"SECTION 2. GENERAL FUND APPROPRIATIONS--LIMITATIONS--~~

~~REVERSIONS.--~~

~~A. Except as provided in Subsections C, D and G of this section and as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:~~

~~(1) no later than September 30 following:~~

~~(a) the end of fiscal year 2022 if the project for which an appropriation was made has less than five percent of the project's total appropriation amount subject to a binding written agreement with a third party on that date;~~

~~(b) the end of fiscal year 2023 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or~~

~~(c) the end of fiscal year 2025 for a project for which an appropriation was made related to an inclusive construction or renovation project; or~~

~~(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2025.~~

~~B. Except for appropriations to the capital program~~

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~~fund, money from appropriations made in this act from the general fund shall not be used to pay indirect project costs.~~

~~G. Except as provided in Subsection D of this section, the balance of an appropriation made from the general fund shall revert in the time frame set forth in Subsection A of this section to the capital projects fund.~~

~~D. The balance of an appropriation made from the general fund to the Indian affairs department or the aging and long-term services department for a project located on lands of an Indian nation, tribe or pueblo shall revert in the time frame set forth in Subsection A of this section to the tribal infrastructure project fund.~~

~~E. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.~~

~~F. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.~~

~~G. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2025 act shall revert in the time frame set forth in Subsection A of this section to the~~

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~~medicaid trust fund."~~

~~SECTION 7. Laws 2022, Chapter 53, Section 2 is amended to read:~~

~~"SECTION 2. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--~~

~~A. Except as provided in Subsection D of this section and as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:~~

~~(1) no later than September 30 following:~~

~~(a) the end of fiscal year 2023 if the project for which an appropriation was made has less than five percent of the project's total appropriation amount subject to a binding written agreement with a third party on that date;~~

~~(b) the end of fiscal year 2024 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or~~

~~(c) the end of fiscal year 2026 for a project for which an appropriation was made related to an inclusive construction or renovation project; or~~

~~(2) within six months of completion of the~~

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~~project for any other project for which an appropriation was made, but no later than the end of fiscal year 2026.~~

~~B. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.~~

~~C. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.~~

~~D. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2025 act shall revert in the time frame set forth in Subsection A of this section to the medicaid trust fund."~~

~~SECTION 8. Laws 2023, Chapter 199, Section 1 is amended to read:~~

~~"SECTION 1. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--"~~

~~A. Except as provided in Subsection E of this section and as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:~~

~~(1) no later than September 30 following:~~

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~~(a) the end of fiscal year 2024 if the project for which an appropriation was made has less than five percent of the project's total appropriation amount subject to a binding written agreement with a third party on that date;~~

~~(b) the end of fiscal year 2025 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or~~

~~(c) the end of fiscal year 2027 for a project for which an appropriation was made related to an inclusive construction or renovation project; or~~

~~(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2027.~~

~~B. Except for appropriations to the capital program fund, money from appropriations made in this act shall not be used to pay indirect project costs.~~

~~C. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.~~

~~D. For the purposes of this section, "unexpended~~

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~~balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.~~

~~E. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2025 act shall revert in the time frame set forth in Subsection A of this section to the medicaid trust fund."~~

~~SECTION 9. Laws 2024, Chapter 66, Section 1 is amended to read:~~

~~"SECTION 1. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--~~

~~A. Except as provided in Subsection E of this section and as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:~~

~~(1) no later than September 30 following:~~

~~(a) the end of fiscal year 2026 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or~~

~~(b) the end of fiscal year 2028 for a~~

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~~project for which an appropriation was made related to an inclusive construction or renovation project; or~~

~~(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2028.~~

~~B. The agencies named in this act shall certify to the department of finance and administration that the money appropriated in this act is needed for the purposes specified in the applicable section of this act. If an agency has not certified the need for the appropriation for a particular project by the end of fiscal year 2026, the authorization for that project is void.~~

~~C. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.~~

~~D. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.~~

~~E. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2025 act shall revert in the time frame set forth in Subsection A of this section to the~~

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~~medicaid trust fund."~~

~~SECTION 10. TRANSFER.--Three hundred million dollars (\$300,000,000) is transferred from the general fund to the medicaid trust fund.←SFC~~

~~SECTION 4. The effective date of the provisions of this act is July 1, 2025.←SFC←Sf11~~

Sf11→Sf11→~~SECTION 5. A new section of Chapter 6, Article 4 NMSA 1978 is enacted to read:~~

~~"[NEW MATERIAL] REVERSIONS OF APPROPRIATIONS TO MEDICAID TRUST FUND.--~~

~~A. Except as provided in Subsection B of this section and unless otherwise provided by law, the legislature shall provide that the following shall be transferred to the medicaid trust fund at the end of each fiscal year:~~

~~(1) one percent of the unexpended or unencumbered balances of appropriations made in Section 4 of the prior year's general appropriation act;~~

~~(2) the unexpended or unencumbered balances of all other appropriations made from the general fund in the prior year's general appropriation act, not including appropriations made to nonreverting funds; and~~

~~(3) reversion of the unexpended balances of appropriations made from the general fund for capital outlay projects.~~

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~~B. Once the balance of the medicaid trust fund at the end of a fiscal year reaches two billion dollars (\$2,000,000,000), a transfer pursuant to Subsection A of this section shall not be made."~~

~~SECTION 6. Laws 2021, Chapter 138, Section 2 is amended to read:~~

~~"SECTION 2. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--~~

~~A. Except as provided in Subsections C, D and G of this section and as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:~~

~~(1) no later than September 30 following:~~

~~(a) the end of fiscal year 2022 if the project for which an appropriation was made has less than five percent of the project's total appropriation amount subject to a binding written agreement with a third party on that date;~~

~~(b) the end of fiscal year 2023 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or~~

~~(c) the end of fiscal year 2025 for a~~

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~~project for which an appropriation was made related to an inclusive construction or renovation project; or~~

~~(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2025.~~

~~B. Except for appropriations to the capital program fund, money from appropriations made in this act from the general fund shall not be used to pay indirect project costs.~~

~~C. Except as provided in Subsection D of this section, the balance of an appropriation made from the general fund shall revert in the time frame set forth in Subsection A of this section to the capital projects fund.~~

~~D. The balance of an appropriation made from the general fund to the Indian affairs department or the aging and long-term services department for a project located on lands of an Indian nation, tribe or pueblo shall revert in the time frame set forth in Subsection A of this section to the tribal infrastructure project fund.~~

~~E. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.~~

~~F. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written~~

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~~agreement with a third party prior to the authorized state agency's approval to enter into that agreement.~~

~~G. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2025 act shall revert in the time frame set forth in Subsection A of this section to the medicaid trust fund."~~

~~SECTION 7. Laws 2022, Chapter 53, Section 2 is amended to read:~~

~~"SECTION 2. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--~~

~~A. Except as provided in Subsection D of this section and as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:~~

~~(1) no later than September 30 following:~~

~~(a) the end of fiscal year 2023 if the project for which an appropriation was made has less than five percent of the project's total appropriation amount subject to a binding written agreement with a third party on that date;~~

~~(b) the end of fiscal year 2024 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational~~

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~~technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or~~

~~(c) the end of fiscal year 2026 for a project for which an appropriation was made related to an inclusive construction or renovation project; or~~

~~(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2026.~~

~~B. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.~~

~~C. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.~~

~~D. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2025 act shall revert in the time frame set forth in Subsection A of this section to the medicaid trust fund."~~

~~SECTION 8. Laws 2023, Chapter 199, Section 1 is amended to read:~~

~~"SECTION 1. GENERAL FUND APPROPRIATIONS--LIMITATIONS--"~~

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~~REVERSIONS.---~~

~~A. Except as provided in Subsection E of this section and as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:~~

~~(1) no later than September 30 following:~~

~~(a) the end of fiscal year 2024 if the project for which an appropriation was made has less than five percent of the project's total appropriation amount subject to a binding written agreement with a third party on that date;~~

~~(b) the end of fiscal year 2025 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or~~

~~(c) the end of fiscal year 2027 for a project for which an appropriation was made related to an inclusive construction or renovation project; or~~

~~(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2027.~~

~~B. Except for appropriations to the capital program fund, money from appropriations made in this act shall not be~~

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~~used to pay indirect project costs.~~

~~G. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.~~

~~D. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.~~

~~E. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2025 act shall revert in the time frame set forth in Subsection A of this section to the medicaid trust fund."~~

~~SECTION 9. Laws 2024, Chapter 66, Section 1 is amended to read:~~

~~"SECTION 1. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--"~~

~~A. Except as provided in Subsection E of this section and as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert to the general fund:~~

~~(1) no later than September 30 following:~~

~~(a) the end of fiscal year 2026 for a~~

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~~project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or~~

~~(b) the end of fiscal year 2028 for a project for which an appropriation was made related to an inclusive construction or renovation project; or~~

~~(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2028.~~

~~B. The agencies named in this act shall certify to the department of finance and administration that the money appropriated in this act is needed for the purposes specified in the applicable section of this act. If an agency has not certified the need for the appropriation for a particular project by the end of fiscal year 2026, the authorization for that project is void.~~

~~G. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.~~

~~D. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after~~

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~~reserving for unpaid costs and expenses subject to a binding written agreement with a third party.~~

~~E. The unexpended balance of an appropriation made in this act from the general fund that has not reverted on or before the effective date of this 2025 act shall revert in the time frame set forth in Subsection A of this section to the medicaid trust fund."~~

~~SECTION 10. TRANSFER.--Three hundred million dollars (\$300,000,000) is transferred from the general fund to the medicaid trust fund.←Sf11←Sf11~~

Sf11→SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.←Sf11