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HOUSE BILL 708

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

LUCIANO "LUCKY" VARELA

FOR THE LEGISLATIVE FINANCE COMMITTEE AND THE REVENUE  
STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO STATE FUNDS; CLARIFYING AND CHANGING PROVISIONS  
GOVERNING CASH FLOW; AMENDING, REPEALING AND ENACTING SECTIONS  
OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. Section 6-4-6 NMSA 1978 (being Laws 1991,  
Chapter 132, Section 1) is repealed and a new Section 6-4-6 NMSA  
1978 is enacted to read:

"6-4-6. [NEW MATERIAL] USE OF FUNDS AUTHORIZED TO  
MAINTAIN CASH FLOW. --

A. Unless prohibited by Subsection B or C of this  
section, for cash flow purposes the cash balance in any fund or  
account in the state treasury, regardless of the specific  
allocation or appropriation to the fund or account, may be used:

(1) to support periodic allotments to state

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1 agencies pursuant to Section 6-3-6 NMSA 1978 in order to meet  
2 expenditures contained in an operating budget approved pursuant  
3 to Section 6-3-7 NMSA 1978;

4 (2) to support allotments made to institutions  
5 of post-secondary educational or vocational institutions;

6 (3) to support allotments made for public  
7 school support; or

8 (4) to support expenditures from agency  
9 accounts if the expenditures are for personal services and  
10 contained in an operating budget approved pursuant to Section  
11 6-3-7 NMSA 1978.

12 B. No cash balance may be transferred or used to  
13 support periodic allotments unless the secretary of finance and  
14 administration or his designee reasonably expects that the  
15 balance in the fund or account will be fully restored by the end  
16 of the fiscal year.

17 C. No cash balance from the following funds or  
18 accounts shall be used for cash flow purposes to support  
19 periodic allotments to state agencies, unless there is a  
20 specific authorization for such use in a current law other than  
21 this section:

22 (1) a permanent fund;

23 (2) any debt service fund or account  
24 established for the payment of principal and interest on any  
25 indebtedness of the state;

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- 1 (3) federal funds deposited for payment for a  
2 specific program;  
3 (4) a retirement or pension fund; or  
4 (5) any other fund if the use of the fund would  
5 violate a constitutional or trust provision."

6 Section 2. Section 8-6-7 NMSA 1978 (being Laws 1987,  
7 Chapter 183, Section 1, as amended) is amended to read:

8 "8-6-7. WRONGFUL DRAWING OR PAYMENT OF WARRANT BY  
9 SECRETARY OR TREASURER--PENALTY. --

10 A. If the secretary of finance and administration  
11 draws any warrant on the state treasurer when he knows or, with  
12 the use of available accounting information, should reasonably  
13 know there is an insufficient [~~unexpended and unencumbered~~] cash  
14 balance available for the purpose for which the warrant is  
15 drawn, he [~~shall be~~] is in violation of this section, unless the  
16 warrant includes federal funds that will be receipted based upon  
17 established warrant-clearing patterns.

18 B. If the state treasurer pays any warrant when he  
19 knows or, with the use of available accounting information,  
20 should reasonably know there are insufficient funds available in  
21 the treasury for the purpose to pay the warrant, he [~~shall be~~]  
22 is in violation of this section unless the warrant includes  
23 federal funds that will be receipted based upon established  
24 warrant-clearing patterns.

25 C. A violation of this section [~~shall be~~] is

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1 punishable by a fine of not more than one thousand dollars  
2 (\$1,000) or by imprisonment for not more than one year or by  
3 both such fine and imprisonment in the discretion of the judge."

4 Section 3. REPEAL. --Section 6-10-42 NMSA 1978 (being Laws  
5 1923, Chapter 76, Section 25, as amended) is repealed.

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

**State of New Mexico**  
**House of Representatives**

**FORTY- SECOND LEGISLATURE**  
**SECOND SESSION, 1996**

February 9, 1996

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has  
been referred

HOUSE BILL 708

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

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Jerry W. Sandel, Chairman

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 13 For 0 Against

Yes: 13

Excused: None

Absent: None

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# State of New Mexico House of Representatives

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 10, 1996

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
whom has been referred

HOUSE BILL 708

has had it under consideration and reports same with  
recommendation that it DO PASS, amended as follows:

1. On page 2, strike lines 8 through 11 an insert in lieu  
thereof:

"(4) to support temporary negative balances in any state  
fund or account if the secretary of finance and administration  
finds that amounts sufficient to cover the negative balance  
are in another state fund or account and, pursuant to  
established distribution procedures, will be transferred to  
the account with the negative balance in the normal course of  
business."

2. On page 2, lines 12 and 13, strike "transferred or used

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**FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996**

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to  
support periodic allotments" and insert in lieu thereof "used  
pursuant to Subsection A of this section".

3. On page 2, lines 15 and 16, strike "by the end of the"  
and insert in lieu thereof "for that".

**Respectfully submitted,**

\_\_\_\_\_  
Max Coll, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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The roll call vote was 12 For 1 Against  
Yes: 12  
No: Bird  
Excused: Buffett, Casey, Gentry, Martinez, Wallace  
Absent: None

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SECOND SESSION, 1996

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 13, 1996

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been referred

HOUSE BILL 708, as amended

has had it under consideration and reports same with recommendation that it DO PASS, and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
TITO D. CHAVEZ, Chairman

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FORTY- SECOND LEGISLATURE  
SECOND SESSION, 1996

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

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against  
Yes: 5  
No: 0  
Excused: Campos, Rhodes, Romero  
Absent: None

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 14, 1996

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

HOUSE BILL 708, as amended

has had it under consideration and reports same with  
recommendation that it DO PASS, amended as follows:

1. On page 2, lines 18 and 19, strike "to support periodic  
allotments to state agencies" and insert in lieu thereof "pursuant  
to Subsection A of this section".

2. On page 3, strike line 17 and insert in lieu thereof  
"federally approved cash drawdowns. ".

3. On page 3, lines 23 and 24, strike "established warrant-  
clearing patterns" and insert in lieu thereof "federally approved  
cash drawdowns".

Respectfully submitted,

**FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996**

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\_\_\_\_\_  
Ben D. Altamirano, Chairman

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

Date \_\_\_\_\_

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Donisthorpe, Duran, Ingle, Kidd, Kysar

Absent: None

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