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SENATE BILL 687

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

INTRODUCED BY

MANNY M ARAGON

AN ACT

RELATING TO STATE FUNDS; CREATING THE RISK RESERVE IN THE
GENERAL FUND; PROVIDING FOR TRANSFERS INTO AND EXPENDITURES FROM
THE RISK RESERVE UNDER CERTAIN CIRCUMSTANCES; DECLARING AN
EMERGENCY.

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

Section 1. [NEW MATERIAL] RISK RESERVE CREATED IN THE
GENERAL FUND. --

A. The "risk reserve" is created in the general
fund. The risk reserve shall consist of all money transferred
to the risk reserve pursuant to Sections 10-2-16, 13-5-1,
15-7-6, 41-4-23, 51-1-45 and 51-1-46 NMSA 1978. A separate
account within the risk reserve shall be kept for each source of
the transfers into the risk reserve. Interest earned on the
risk reserve shall be credited to the risk reserve.

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1 B. The risk reserve may be expended only upon
2 specific authorization by the legislature in an amount
3 authorized by the legislature for the following purposes, as
4 designated in the legislative authorization:

5 (1) in the event general fund balances,
6 including all authorized revenues and transfers to the general
7 fund and balances in the general fund operating reserve, but
8 excluding balances in the risk reserve, are insufficient to meet
9 the level of appropriations authorized from the general fund,
10 then necessary amounts from the risk reserve may be authorized
11 for transfer to the general fund for use in meeting those
12 appropriations; or

13 (2) in the event any balance in the state
14 government unemployment compensation reserve fund, the local
15 public body unemployment compensation reserve fund, the public
16 property reserve fund, the public liability fund, the surety
17 bond fund or the workers' compensation retention fund is
18 insufficient to meet the expenditures required by law to be made
19 from each fund, then the necessary amount may be authorized for
20 transfer from the appropriate account in the risk reserve to the
21 appropriate fund.

22 Section 2. Section 10-2-16 NMSA 1978 (being Laws 1978,
23 Chapter 132, Section 4, as amended) is amended to read:

24 "10-2-16. SURETY BOND FUND. --

25 A. There is created in the state treasury a "surety

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1 bond fund".

2 B. Money deposited in the surety bond fund may be
3 expended by the department:

4 (1) to provide surety bond coverage;

5 [~~(2)~~] ~~to create a retention fund to cover all or~~
6 ~~any portion of the surety bond risks of state agencies and~~
7 ~~covered educational entities;~~

8 ~~(3)]~~ (2) to pay claims of state agencies and
9 covered educational entities covered by a surety bond
10 certificate of coverage issued by the department; and

11 [~~(4)]~~ (3) to pay any costs and expenses of
12 carrying out the provisions of this section.

13 C. Claims against the surety bond fund shall be made
14 in accordance with a certificate of coverage issued by the
15 department to each state agency and covered educational entity.
16 If the secretary has reason to believe that the surety bond
17 fund, including any transfers to the surety bond fund from the
18 risk reserve, would be exhausted by the payment of all claims
19 allowed against the fund during a particular state fiscal year,
20 the amounts paid for each claim shall be prorated with each
21 state agency and covered educational entity receiving an amount
22 equal to the percentage that its claims bear to the total of
23 claims outstanding and payable from the fund. Any amounts due
24 and unpaid as a result of such proration shall be paid in the
25 following fiscal years.

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1 D. The department shall collect or transfer funds
2 from each state agency and covered educational entity to cover
3 costs of coverage of employees of the agency as required by this
4 section. Money collected or transferred from a state agency or
5 covered educational entity pursuant to this subsection shall be
6 deposited in the surety bond fund.

7 E. The department may provide individual surety bond
8 coverage protecting employees who are employers or supervisors
9 from personal losses for which they may be responsible, which
10 losses were caused by the lack of honesty or faithful
11 performance of employees under their supervision or control.

12 F. The department shall have the right to recover
13 from a public employee for any loss under the Surety Bond Act
14 for which the public employee was responsible.

15 G. The risk management advisory board shall review:
16 (1) specifications for all surety bond coverage
17 to be purchased by the department;
18 (2) the form and legal sufficiency of any
19 surety bond coverage to be purchased by the department; and
20 (3) the form, purpose and content of any surety
21 bond certificate of coverage to be issued by the director.

22 H. Before the beginning of each fiscal year, the
23 risk management advisory board shall calculate the current cash
24 balance in the surety bond fund, all revenue projected to be
25 deposited into the fund during the next fiscal year and all

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1 expenditures projected to be made from the fund during the next
2 fiscal year. All projected excess cash balances shall be
3 transferred to the risk reserve. Excess cash balances shall be
4 calculated as the current cash balance plus projected revenue
5 minus projected expenditures. "

6 Section 3. Section 13-5-1 NMSA 1978 (being Laws 1981,
7 Chapter 101, Section 1, as amended) is amended to read:

8 "13-5-1. STATE AGENCY PUBLIC PROPERTY--INSURANCE--RESERVES
9 FOR LOSSES OF STATE AGENCIES--PUBLIC PROPERTY RESERVE FUND
10 CREATED. --

11 A. The risk management division of the general
12 services department shall purchase a blanket insurance policy
13 for public buildings of state agencies against loss or damage by
14 fire, windstorm, hail, smoke, explosion, riot or civil
15 commotion. The risk management division may provide coverage to
16 covered educational entities under the public property reserve
17 fund through blanket or individual policies. ~~[The risk~~
18 ~~management division shall create a reserve for the uninsured~~
19 ~~value of any such public building and for the uninsured loss or~~
20 ~~damage to any such building by flood, subject to any deductible~~
21 ~~which the risk management advisory board determines shall be~~
22 ~~borne by individual state agencies or covered educational~~
23 ~~entities.]~~

24 B. Subject to any deductible to be borne by
25 individual state agencies or covered educational entities, the

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1 risk management division of the general services department may
2 purchase insurance [~~establish reserves or provide a combination~~
3 ~~of insurance and reserves~~] to:

4 (1) cover, in any amount not to exceed
5 replacement cost, buildings of state agencies or covered
6 educational entities destroyed or damaged by any peril other
7 than a peril set forth in Subsection A of this section;

8 (2) cover, in any amount not to exceed
9 replacement cost, any personal property [~~which~~] that is
10 destroyed or damaged by any peril; or

11 (3) cover, in any amount not to exceed
12 replacement cost, any personal property which is stolen.

13 C. Any insurance purchased pursuant to Subsections A
14 and B of this section may be purchased with such deductible
15 provisions as may be deemed desirable by the risk management
16 advisory board.

17 D. The director of the risk management division of
18 the general services department shall include in his annual
19 report to the legislature an inventory of all public buildings
20 insured by the division, the estimated total value of such
21 buildings, the total insured value of such buildings and the
22 amount of any deductible or ~~maximum~~ loss provisions in the
23 current insurance policy covering such buildings.

24 E. There is created in the state treasury the
25 "public property reserve fund". The fund shall consist of

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1 assessments of state agencies and covered educational entities
2 deposited in the fund, money appropriated to the fund and money
3 received as proceeds of insurance purchased pursuant to this
4 section. The fund may be used to:

5 (1) purchase property insurance;

6 (2) pay any claim covered by a certificate of
7 coverage issued by the director of the risk management division
8 of the general services department; provided such claims shall
9 only be paid to the extent of actual expenses [~~which~~] that have
10 been or will be incurred to repair, reconstruct and replace
11 covered property;

12 (3) pay the cost of repair, reconstruction and
13 replacement of property and expense incidental thereto arising
14 from damage or destruction covered pursuant to this section;

15 (4) enter into such consulting and other
16 contracts as may be necessary or desirable in carrying out the
17 provisions of this section; and

18 (5) pay any costs and expenses incurred in
19 carrying out the provisions of this section.

20 F. The director of the legislative council service
21 may elect to cover all or any part of any public buildings or
22 property under his jurisdiction through the public property
23 reserve fund by giving written notice of such election to the
24 director of the risk management division of the general services
25 department and paying assessments [~~which~~] that the director of

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1 the risk management division prescribes.

2 G. For purposes of this section, "state agency"
3 means the state or any of its branches, agencies, departments,
4 boards, instrumentalities or institutions.

5 H. For the purposes of this section, "covered
6 educational entities" means school districts as defined in
7 Section 22-1-2 NMSA 1978 and educational institutions
8 established pursuant to Chapter 21, Articles 13, 16 and 17 NMSA
9 1978 ~~[which]~~ that request and are granted coverage from the risk
10 management division of the general services department, if the
11 coverage is commercially unavailable; except that coverage shall
12 be provided to a school district only through the public school
13 ~~[group]~~ insurance authority or its successor unless the district
14 has been granted a waiver by the authority or the authority is
15 not offering the coverage for the fiscal year for which the
16 division offers its coverage. A local school district to which
17 the division may provide coverage may provide for marketing and
18 servicing to be done by licensed insurance agents who shall
19 receive reasonable compensation for their services.

20 ~~[I. The provisions of this section are effective~~
21 ~~July 1, 1990.]~~

22 I. Before the beginning of each fiscal year, the
23 risk management advisory board shall calculate the current cash
24 balance in the public property reserve fund, all revenue
25 projected to be deposited into the fund during the next fiscal

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1 year and all expenditures projected to be made from the fund
2 during the next fiscal year. All projected excess cash balances
3 shall be transferred to the risk reserve. Excess cash balances
4 shall be calculated as the current cash balance plus projected
5 revenue minus projected expenditures. "

6 Section 4. Section 15-7-6 NMSA 1978 (being Laws 1977,
7 Chapter 385, Section 9, as amended) is amended to read:

8 "15-7-6. WORKERS' COMPENSATION RETENTION FUND. --

9 A. There is created in the state treasury the
10 "workers' compensation retention fund".

11 B. Money deposited in or appropriated to the
12 workers' compensation retention fund may be used by the director
13 to:

14 (1) purchase workers' compensation insurance;

15 [~~(2)~~] ~~establish appropriate reserves to provide~~
16 ~~workers' compensation coverage for employees of state agencies~~
17 ~~or employees of covered educational entities;~~

18 [~~(3)~~] (2) pay workers' compensation claims in
19 accordance with the Workers' Compensation Act;

20 [~~(4)~~] (3) enter into consulting and other
21 contracts as may be necessary or desirable in carrying out the
22 provisions of this section; and

23 [~~(5)~~] (4) pay any costs or expenses incurred in
24 carrying out the provisions of this section.

25 C. For the purposes of this section, "covered

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1 educational entities" means school districts as defined in
2 Section 22-1-2 NMSA 1978 and educational institutions
3 established pursuant to Chapter 21, Articles 13, 16 and 17 NMSA
4 1978 [~~which~~] that request and are granted coverage from the risk
5 management division of the general services department, if the
6 coverage is commercially unavailable; except that coverage shall
7 be provided to a school district only through the public school
8 [~~group~~] insurance authority or its successor unless the district
9 has been granted a waiver by the authority or the authority is
10 not offering the coverage for the fiscal year for which the
11 division offers its coverage. A local school district to which
12 the division may provide coverage may provide for marketing and
13 servicing to be done by licensed insurance agents who shall
14 receive reasonable compensation for their services.

15 D. Before the beginning of each fiscal year, the
16 risk management advisory board shall calculate the current cash
17 balance in the workers' compensation retention fund, all revenue
18 projected to be deposited into the fund during the next fiscal
19 year and all expenditures projected to be made from the fund
20 during the next fiscal year. All projected excess cash balances
21 shall be transferred to the risk reserve. Excess cash balances
22 shall be calculated as the current cash balance plus projected
23 revenue minus projected expenditures. "

24 Section 5. Section 41-4-23 NMSA 1978 (being Laws 1977,
25 Chapter 386, Section 17, as amended) is amended to read:

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1 "41-4-23. PUBLIC LIABILITY FUND CREATED--PURPOSES.--

2 A. There is created the "public liability fund".

3 The fund and any income from the fund shall be held in trust,
4 deposited in a segregated account and invested by the general
5 services department with the prior approval of the state board
6 of finance.

7 B. Money deposited in the public liability fund may
8 be expended by the risk management division of the general
9 services department:

10 (1) to purchase tort liability insurance for
11 state agencies and their employees and for any local public body
12 participating in the public liability fund and its employees;

13 (2) to contract with one or more consulting or
14 claims adjusting firms pursuant to the provisions of Section 41-
15 4-24 NMSA 1978;

16 (3) to defend, save harmless and indemnify any
17 state agency or employee of a state agency or a local public
18 body or an employee of such local public body for any claim or
19 liability covered by a valid and current certificate of coverage
20 to the limits of such certificate of coverage;

21 (4) to pay claims and judgments covered by a
22 certificate of coverage;

23 (5) to contract with one or more attorneys or
24 law firms on a per-hour basis, or with the attorney general, to
25 defend tort liability claims against governmental entities and

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1 public employees acting within the scope of their duties;

2 (6) to pay any costs and expenses incurred in
3 carrying out the provisions of this section;

4 [~~(7) to create a retention fund for any risk~~
5 ~~covered by a certificate of coverage;~~

6 ~~(8) to cover personal injury liability risks of~~
7 ~~governmental entities, including the risks set forth in~~
8 ~~Paragraph (2) of Subsection B and Paragraph (2) of Subsection D~~
9 ~~of Section 41-4-4 NMSA 1978, to the extent and to the limits of~~
10 ~~any certificate of coverage;~~

11 ~~(9)]~~ (7) to insure or provide certificates of
12 coverage to school bus contractors and their employees,
13 notwithstanding Subsection [E] E of Section 41-4-3 NMSA 1978,
14 for any comparable risk for which immunity has been waived for
15 public employees pursuant to Section 41-4-5 NMSA 1978, if the
16 coverage is commercially unavailable; except that coverage for
17 exposure created by Sections 41-4-9, 41-4-10 and 41-4-12 NMSA
18 1978 shall be provided to its member public school districts and
19 participating other educational entities of the public school
20 insurance authority, by the authority, and except that coverage
21 shall be provided to a contractor and his employees only through
22 the public school [group] insurance authority or its successor,
23 unless the district to which the contractor provides services
24 has been granted a waiver by the authority or the authority is
25 not offering the coverage for the fiscal year for which the

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1 division offers its coverage. A local school district to which
2 the division may provide coverage may provide for marketing and
3 servicing to be done by licensed insurance agents who shall
4 receive reasonable compensation for their services; and

5 [~~(10)~~] (8) to insure or provide certificates of
6 coverage for any ancillary coverage typically found in
7 commercially available liability policies provided to
8 governmental entities, if the coverage is commercially
9 unavailable.

10 C. No settlement of any claim covered by the public
11 liability fund in excess of five thousand dollars (\$5,000) shall
12 be made unless the settlement has first been approved in writing
13 by the director of the risk management division of the general
14 services department. This subsection shall not be construed to
15 limit the authority of an insurance carrier, covering any
16 liability under the Tort Claims Act, to compromise, adjust and
17 settle claims against governmental entities or their public
18 employees.

19 D. Claims against the public liability fund shall be
20 made in accordance with rules or regulations of the director of
21 the risk management division of the general services department.
22 If the director of the risk management division has reason to
23 believe that the fund, including any transfers to the fund from
24 the risk reserve, would be exhausted by payment of all claims
25 allowed during a particular state fiscal year, pursuant to

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1 regulations of the risk management division, the amounts paid to
2 each claimant and other parties obtaining judgments shall be
3 prorated, with each party receiving an amount equal to the
4 percentage his own payment bears to the total of claims or
5 judgments outstanding and payable from the fund. Any amounts
6 due and unpaid as a result of such proration shall be paid in
7 the following fiscal years.

8 E. Before the beginning of each fiscal year, the
9 risk management advisory board shall calculate the current cash
10 balance in the public liability fund, all revenue projected to
11 be deposited into the fund during the next fiscal year and all
12 expenditures projected to be made from the fund during the next
13 fiscal year. All projected excess cash balances shall be
14 transferred to the risk reserve. Excess cash balances shall be
15 calculated as the current cash balance plus projected revenue
16 minus projected expenditures. "

17 Section 6. Section 51-1-45 NMSA 1978 (being Laws 1977,
18 Chapter 227, Section 7, as amended) is amended to read:

19 "51-1-45. STATE GOVERNMENT UNEMPLOYMENT COMPENSATION
20 RESERVE FUND CREATED--PURPOSES--ASSESSMENTS.--

21 A. There is created a "state government unemployment
22 compensation reserve fund". The fund and any income from the
23 fund shall be held in trust, deposited in a segregated account
24 and invested by the director of the risk management division of
25 the general services department with the prior approval of the

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1 state board of finance. Money in the fund is hereby
2 appropriated to carry out the purposes of the fund.

3 B. The director of the risk management division of
4 the general services department shall assess each state agency
5 at the end of each calendar quarter in accordance with the rate
6 schedule prescribed by the risk management division plus an
7 additional amount to pay reasonable costs of administration of
8 the fund. Assessments shall be deposited in the state
9 government unemployment compensation reserve fund to carry out
10 the purposes of Laws 1977, Chapter 227, as amended. The
11 director of the risk management division shall approve the
12 method of computing the amounts that are payable under this
13 subsection by each state agency and the time and manner of
14 payments.

15 C. Money deposited in the state government
16 unemployment compensation reserve fund may be used by the
17 director of the risk management division of the general services
18 department to:

19 (1) pay the department for benefits paid to
20 employees of state agencies;

21 (2) pay any costs or expenses incurred in
22 protesting benefits paid by the department; and

23 (3) pay any other costs incurred in carrying
24 out the provisions of this section [~~and~~

25 ~~(4) establish and maintain a reserve fund for~~

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1 ~~paying reimbursements of benefits paid to employees of state~~
2 ~~agencies].~~

3 D. Before the beginning of each fiscal year, the
4 risk management advisory board shall calculate the current cash
5 balance in the state government unemployment compensation
6 reserve fund, all revenue projected to be deposited into the
7 fund during the next fiscal year and all expenditures projected
8 to be made from the fund during the next fiscal year. All
9 projected excess cash balances shall be transferred to the risk
10 reserve. Excess cash balances shall be calculated as the
11 current cash balance plus projected revenue minus projected
12 expenditures. "

13 Section 7. Section 51-1-46 NMSA 1978 (being Laws 1977,
14 Chapter 227, Section 8, as amended) is amended to read:

15 "51-1-46. LOCAL PUBLIC BODY UNEMPLOYMENT COMPENSATION
16 RESERVE FUND CREATED--PURPOSES--ASSESSMENTS.--

17 A. There is created the "local public body
18 unemployment compensation reserve fund". The fund and any
19 income from the fund shall be held in trust, deposited in a
20 segregated account and invested by the general services
21 department with the prior approval of the state board of
22 finance. Money in the fund is hereby appropriated to carry out
23 the purposes of the fund.

24 B. Any local public body of this state may
25 participate in the local public body unemployment compensation

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1 reserve fund by:

2 (1) giving notice to the director of the risk
3 management division of the general services department at least
4 ninety days prior to the date participation is to begin; and

5 (2) agreeing to pay at the end of each calendar
6 quarter an amount determined pursuant to the rate schedule pre-
7 scribed by the risk management division plus such additional
8 amount as may be necessary to pay reasonable costs of
9 administration.

10 C. The director of the risk management division of
11 the general services department shall terminate the
12 participation of any local public body in the local public body
13 unemployment compensation reserve fund if the local public body
14 fails to:

15 (1) pay any assessment made by the risk
16 management division within thirty days after the date of
17 assessment; or

18 (2) comply with regulations of the risk
19 management division.

20 D. Money deposited in the local public body
21 unemployment compensation reserve fund may be used by the
22 director of the risk management division of the general services
23 department to:

24 (1) reimburse the department for benefits paid
25 to public employees covered under the local public body

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1 unemployment compensation reserve fund during the previous
2 calendar quarter;

3 (2) pay any costs or expenses incurred in
4 protesting benefits paid by the department; and

5 (3) pay any costs and expenses incurred in
6 carrying out the provisions of this section [and

7 ~~(4) establish and maintain a reserve fund for~~
8 ~~paying reimbursements of benefits paid to employees of local~~
9 ~~public bodies].~~

10 E. Before the beginning of each fiscal year, the
11 risk management advisory board shall calculate the current cash
12 balance in the public body unemployment compensation reserve
13 fund, all revenue projected to be deposited into the fund during
14 the next fiscal year and all expenditures projected to be made
15 from the fund during the next fiscal year. All projected excess
16 cash balances shall be transferred to the risk reserve. Excess
17 cash balances shall be calculated as the current cash balance
18 plus projected revenue minus projected expenditures. "

19 Section 8. EMERGENCY. --It is necessary for the public
20 peace, health and safety that this act take effect immediately.

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
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5 JANUARY 31, 1996
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7 Mr. Presi dent:
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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred
10

11 SENATE BILL 687
12

13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the FINANCE
15 COMMI TTEE.
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17 Respectfully submi tted,
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23 SENATOR MANNY M. ARAGON, Chai rman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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1 FORTY-SECOND LEGISLATURE
2 SECOND SESSION, 1996
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5 February 14, 1996
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7 Mr. President:
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9 Your FINANCE COMMITTEE, to whom has been referred
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11 SENATE BILL 687
12

13 has had it under consideration and reports same with recommendation that
14 it DO PASS.
15

16 Respectfully submitted,
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21 Ben D. Altamirano, Chairman
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25 Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

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The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Doni sthorpe, Duran, Ingle, Kidd, Kysar

Absent: None

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FORTY-SECOND LEGISLATURE

SECOND SESSION

February 14, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE BILL 687

Amendment sponsored by Senator Manny M Aragon

1. On page 1, line 13, after the semicolon insert "MAKING AN
APPROPRIATION;".

2. On page 1, line 22, after "41-4-23" strike the comma and insert
"and" and strike "and 51-1-46".

3. On page 2, between lines 21 and 22, insert the following
subsection:

"C. Upon the transfer of any amount pursuant to Paragraph (1)
of Subsection B of this section, the secretary of finance and
administration shall determine, on an agency-by-agency basis, how much

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SECOND SESSION

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SFI/SB 687

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of the transferred amount was derived from federal funds. Upon the determination, the secretary shall negotiate a settlement with the federal government concerning any reimbursement that may be owed by the state. After reporting to the legislative finance committee on the results of the negotiations, the secretary is authorized to expend such amount from the risk reserve as may be necessary to reimburse, or otherwise compensate, the federal government. Such amount is appropriated. "

4. On page 4, line 6, after the period insert "Income from the surety bond fund shall be credited to the fund. "

5. On page 5, line 2, strike "All" and insert in lieu thereof "Ninety percent of all".

6. On page 7, line 2, after "to the fund" insert ", income earned by the fund".

7. On page 9, line 2, strike "All" and insert in lieu thereof "Ninety percent of all".

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FORTY-SECOND LEGISLATURE
SECOND SESSION

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8. On page 9, line 11, after "in" insert ", earned by".

9. On page 10, line 20, strike "All" and insert in lieu thereof
"Ninety percent of all".

10. On page 14, line 13, strike "All" and insert in lieu thereof
"Ninety percent of all".

11. On page 16, line 8, strike "All" and insert in lieu thereof
"Ninety percent of all".

12. On pages 16 through 18, strike Section 7 in its entirety.

13. Renumber the succeeding sections accordingly.

Manny M. Aragon

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FORTY-SECOND LEGISLATURE
SECOND SESSION

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SF1/SB 687

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FORTY-SECOND LEGISLATURE
SECOND SESSION

SFI/SB 687

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FORTY- SECOND LEGI SLATURE
SECOND SESSI ON, 1996

February 14, 1996

Mr. President:

Your FINANCE COMMI TTEE, to whom has been referred

SENATE BILL 687

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

Respectfully submit ted,

Ben D. Altami rano, Chair man

FORTY-SECOND LEGISLATURE
SECOND SESSION

SFI/SB 687

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Doni sthorpe, Duran, Ingle, Kidd, Kysar

Absent: None

S0687FC1

Underscored material = new
[bracketed material] = delete