

1 SENATE BILL 88

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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5 and Pamelya Herndon and Elizabeth "Liz" Stefanics
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10 AN ACT

11 RELATING TO PUBLIC FUNDS; CREATING THE MEDICAID TRUST FUND AND
12 THE STATE-SUPPORTED MEDICAID FUND; REQUIRING THE LEGISLATURE TO
13 PROVIDE FOR THE TRANSFER OF REVERSIONS OF GENERAL APPROPRIATION
14 ACT APPROPRIATIONS AND GENERAL FUND APPROPRIATIONS FOR CAPITAL
15 OUTLAY PROJECTS TO THE MEDICAID TRUST FUND FOR A LIMITED TIME;
16 REQUIRING CERTAIN INVESTMENT INCOME CREDITED TO THE GENERAL
17 FUND TO BE CREDITED TO THE MEDICAID TRUST FUND FOR A LIMITED
18 TIME; AMENDING CERTAIN SECTIONS OF LAWS 2021 THROUGH 2024 TO
19 REQUIRE GENERAL FUND CAPITAL OUTLAY APPROPRIATIONS TO REVERT TO
20 THE MEDICAID TRUST FUND; MAKING A TRANSFER FROM THE GENERAL
21 FUND TO THE MEDICAID TRUST FUND.
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23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

25 A. The "medicaid trust fund" is created as a

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1 nonreverting fund in the state treasury. The trust fund
2 consists of distributions, appropriations, gifts, grants and
3 donations. Income from investment of the trust fund shall be
4 credited to the trust fund. Money in the trust fund shall be
5 expended only as provided in this section.

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

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

17 D. On July 1, 2029 and each July 1 thereafter, a
18 distribution shall be made from the trust fund to the state-
19 supported medicaid fund in an amount equal to five percent of
20 the average of the year-end market values of the trust fund for
21 the immediately preceding three calendar years; provided that a
22 distribution shall not be made until the balance of the trust
23 fund at the end of a fiscal year is at least five hundred
24 million dollars (\$500,000,000).

25 E. Money in the trust fund may be appropriated for

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1 any purpose if, in a fiscal year, federal matching funds for
2 the state medicaid program:

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

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

7 F. Money in the trust fund may be expended in the
8 event that general fund balances, including all authorized
9 revenues and transfers to the general fund and balances in the
10 general fund operating reserve, the appropriation contingency
11 fund, the tax stabilization reserve and the early childhood
12 education and care fund, will not meet the level of
13 appropriations authorized from the general fund for a fiscal
14 year. In that event, to avoid an unconstitutional deficit, the
15 legislature may appropriate from the trust fund to the general
16 fund only in the amount necessary to meet general fund
17 appropriations for that fiscal year and only if the legislature
18 has authorized transfers from the appropriation contingency
19 fund, the general fund operating reserve, the tax stabilization
20 reserve and the early childhood education and care fund that
21 exhaust those fund balances.

22 SECTION 2. [NEW MATERIAL] STATE-SUPPORTED MEDICAID
23 FUND.--The "state-supported medicaid fund" is created in the
24 state treasury. The fund consists of distributions,
25 appropriations, gifts, grants, donations and income from

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

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

13 "6-5-10. STATE AGENCY REVERSIONS--DIRECTOR POWERS--
14 COMPLIANCE WITH FEDERAL RULES.--

15 A. Except as provided in [~~Subsections B and C~~]
16 Subsection B of this section, all unreserved undesignated fund
17 balances in reverting funds and accounts as reflected in the
18 central financial reporting and accounting system as of June 30
19 shall revert by September 30 to the [~~general~~] medicaid trust
20 fund; provided that once the balance of the medicaid trust fund
21 at the end of a fiscal year reaches two billion dollars
22 (\$2,000,000,000), the balances shall revert to the general
23 fund. The division may adjust the reversion within forty-five
24 days of release of the audit report for that fiscal year.

25 B. The director of the division may modify a

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1 reversion required pursuant to Subsection A of this section if
2 the reversion would violate federal law or rules pertaining to
3 supplanting of state funds with federal funds or other
4 applicable federal provisions."

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

7 "6-10-2.1. STATE TREASURER--DUTY.--

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

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

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

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

21 B. Once the balance of the medicaid trust fund at
22 the end of a fiscal year reaches two billion dollars
23 (\$2,000,000,000), the allocation pursuant to Subsection A of
24 this section shall be made to the general fund, subject to the
25 provisions of Paragraphs (1) through (3) of that subsection."

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1 SECTION 5. A new section of Chapter 6, Article 4 NMSA
2 1978 is enacted to read:

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

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

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

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

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

19 B. Once the balance of the medicaid trust fund at
20 the end of a fiscal year reaches two billion dollars
21 (\$2,000,000,000), a transfer pursuant to Subsection A of this
22 section shall not be made."

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

25 "SECTION 2. GENERAL FUND APPROPRIATIONS--LIMITATIONS--
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1 REVERSIONS.--

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

6 (1) no later than September 30 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (1) no later than September 30 following:

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

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

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

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

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

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

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

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

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

14 "SECTION 1. GENERAL FUND APPROPRIATIONS--LIMITATIONS--
15 REVERSIONS.--

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

20 (1) no later than September 30 following:

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

25 (b) the end of fiscal year 2025 for a

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

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

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

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

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

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

23 E. The unexpended balance of an appropriation made
24 in this act from the general fund that has not reverted on or
25 before the effective date of this 2025 act shall revert in the

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1 time frame set forth in Subsection A of this section to the
2 medicaid trust fund."

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

5 "SECTION 1. GENERAL FUND APPROPRIATIONS--LIMITATIONS--
6 REVERSIONS.--

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

11 (1) no later than September 30 following:

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

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

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

24 B. The agencies named in this act shall certify to
25 the department of finance and administration that the money

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1 appropriated in this act is needed for the purposes specified
2 in the applicable section of this act. If an agency has not
3 certified the need for the appropriation for a particular
4 project by the end of fiscal year 2026, the authorization for
5 that project is void.

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

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

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

19 SECTION 10. TRANSFER.--Three hundred million dollars
20 (\$300,000,000) is transferred from the general fund to the
21 medicaid trust fund.