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SENATE BILL 7

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

INTRODUCED BY

William E. Sharer

AN ACT

RELATING TO TAXATION; DISTRIBUTING REVENUE IN EXCESS OF A FIVE-  
YEAR AVERAGE OF THE OIL AND GAS EMERGENCY SCHOOL TAX TO THE TAX  
STABILIZATION RESERVE; REPEALING THE TAXPAYERS DIVIDEND FUND;  
MAKING AN APPROPRIATION.

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

**SECTION 1.** Section 6-4-4 NMSA 1978 (being Laws 1987,  
Chapter 347, Section 4, as amended) is amended to read:

"6-4-4. RESERVATION OF EXCESS GENERAL FUND REVENUES  
~~[APPROPRIATION TO TAXPAYERS DIVIDEND FUND]~~.--For the seventy-  
seventh and subsequent fiscal years, if the revenues of the  
general fund exceed the total of appropriations from the  
general fund, the excess revenue shall be transferred to the  
operating reserve; provided that if the sum of the excess  
revenue plus the balance in the operating reserve prior to the

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1 transfer is greater than eight percent of the aggregate  
2 recurring appropriations from the general fund for the previous  
3 fiscal year, then an amount equal to the smaller of either the  
4 amount of the excess revenue or the difference between the sum  
5 and eight percent of the aggregate recurring appropriations  
6 from the general fund for the previous fiscal year shall be  
7 transferred to the tax stabilization reserve [~~provided further~~  
8 ~~that if the total of the amount transferred to the tax~~  
9 ~~stabilization reserve pursuant to the provisions of this~~  
10 ~~section plus the balance in that reserve prior to the transfer~~  
11 ~~is greater than six percent of the aggregate recurring~~  
12 ~~appropriations from the general fund for the previous fiscal~~  
13 ~~year, then an amount equal to the smaller of either the amount~~  
14 ~~transferred or the difference between the total and six percent~~  
15 ~~of the aggregate recurring appropriation from the general fund~~  
16 ~~for the previous fiscal year is appropriated to the taxpayers~~  
17 ~~dividend fund]."~~

18 SECTION 2. Section 7-1-6.20 NMSA 1978 (being Laws 1985,  
19 Chapter 65, Section 6, as amended) is amended to read:

20 "7-1-6.20. IDENTIFICATION OF MONEY IN EXTRACTION TAXES  
21 SUSPENSE FUND--DISTRIBUTION.--

22 A. Except as provided in Subsection B of this  
23 section, after the necessary disbursements have been made from  
24 the extraction taxes suspense fund, the money remaining in the  
25 suspense fund as of the last day of the month shall be

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1 identified by tax source and distributed or transferred in  
2 accordance with the provisions of Sections 7-1-6.21 through  
3 7-1-6.23 NMSA 1978 and Section 3 of this 2017 act. After the  
4 necessary distributions and transfers, any balance, except for  
5 remittances unidentified as to source or disposition, shall be  
6 transferred to the general fund.

7 B. Payments on assessments issued by the department  
8 pursuant to the Oil and Gas Conservation Tax Act, the Oil and  
9 Gas Emergency School Tax Act, the Oil and Gas Ad Valorem  
10 Production Tax Act and the Oil and Gas Severance Tax Act shall  
11 be held in the extraction taxes suspense fund until the  
12 secretary determines that there is no substantial risk of  
13 protest or other litigation, whereupon after the necessary  
14 disbursements have been made from the extraction taxes suspense  
15 fund, the money remaining in the suspense fund as of the last  
16 day of the month attributed to these payments shall be  
17 identified by tax source and distributed or transferred in  
18 accordance with the provisions of Sections 7-1-6.21 through  
19 7-1-6.23 NMSA 1978 and Section 3 of this 2017 act. After the  
20 necessary distributions and transfers, any balance, except for  
21 remittance unidentified as to source or disposition, shall be  
22 transferred to the general fund."

23 SECTION 3. A new section of the Tax Administration Act is  
24 enacted to read:

25 "[NEW MATERIAL] DISTRIBUTION--TAX STABILIZATION RESERVE

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1 FROM THE OIL AND GAS EMERGENCY SCHOOL TAX.--

2 A. A distribution pursuant to Section 7-1-6.20 NMSA  
3 1978 shall be made to the tax stabilization reserve in an  
4 amount as calculated pursuant to Subsection B of this section.

5 B. If the year-to-date amount plus the current net  
6 receipts exceeds the annual average amount, the excess shall be  
7 distributed to the tax stabilization reserve. If there is not  
8 an excess amount, no distribution shall be made to the tax  
9 stabilization reserve. Each month the department shall make  
10 the calculation to determine if an excess amount should be  
11 distributed.

12 C. As used in this section:

13 (1) "annual average amount" means the total  
14 net receipts attributable to the tax imposed pursuant to  
15 Section 7-31-4 NMSA 1978 and distributed pursuant to Section  
16 7-1-6.20 NMSA 1978 in the immediately preceding five fiscal  
17 years, divided by five; and

18 (2) "year-to-date amount" means the cumulative  
19 year-to-date net receipts attributable to the tax imposed  
20 pursuant to Section 7-31-4 NMSA 1978 and distributed to the  
21 general fund in the prior months of the current fiscal year."

22 SECTION 4. REPEAL.--Section 6-4-5 NMSA 1978 (being Laws  
23 1987, Chapter 347, Section 5) is repealed.

24 SECTION 5. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2018.

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