

1 SENATE BILL 26

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Roberto "Bobby" J. Gonzales

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10 AN ACT

11 RELATING TO FINANCE; PROVIDING FOR THE DISTRIBUTION OF CERTAIN  
12 EXCESS OIL AND GAS TAX REVENUES AND FEDERAL MINERAL LEASING ACT  
13 PAYMENTS TO THE SEVERANCE TAX PERMANENT FUND.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 6-4-27 NMSA 1978 (being Laws 2020,  
17 Chapter 3, Section 4) is amended to read:

18 "6-4-27. EXCESS EXTRACTION TAXES SUSPENSE FUND--TRANSFER  
19 OF EXCESS OIL AND GAS EMERGENCY SCHOOL TAX REVENUE--TAX  
20 STABILIZATION RESERVE--EARLY CHILDHOOD EDUCATION AND CARE  
21 FUND--SEVERANCE TAX PERMANENT FUND.--

22 A. The "excess extraction taxes suspense fund" is  
23 created as a nonreverting fund in the state treasury. Money in  
24 the fund shall only be used to make transfers by the department  
25 of finance and administration as required by this section.

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1           B. At the end of each fiscal year, the department  
2 of finance and administration shall calculate and transfer the  
3 balance of the fund attributable to that fiscal year as  
4 follows:

5                   (1) if in the current fiscal year the total  
6 net receipts attributable to the tax imposed pursuant to  
7 Section 7-31-4 NMSA 1978 and distributed pursuant to Section  
8 7-1-6.20 NMSA 1978 exceed the annual average amount, the  
9 department shall distribute the excess amount as follows:

10                           (a) to the tax stabilization reserve,  
11 the amount necessary to bring the balance of state reserves to  
12 a level equal to twenty-five percent of the aggregate recurring  
13 appropriations for that fiscal year from the general fund, as  
14 determined by the department; provided that, if the balance in  
15 the excess extraction taxes suspense fund is not sufficient to  
16 meet that level, the entire balance shall be transferred to the  
17 tax stabilization reserve; and

18                                   [~~(2)~~] (b) to the early childhood  
19 education and care fund, the balance [~~remaining in the excess~~  
20 ~~extraction taxes suspense fund~~] of the excess amount, if any,  
21 after the transfer is made pursuant to [~~Paragraph (1) of this~~  
22 ~~subsection~~] Subparagraph (a) of this paragraph; and

23                                   (2) the remaining balance of the fund, if any,  
24 shall be distributed to the severance tax permanent fund.

25           C. As used in this section:

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

6                   (2) "state reserves" means the general fund  
7 balances, as determined by the department of finance and  
8 administration, including all authorized revenues and transfers  
9 to the general fund and balances in [~~the appropriation~~  
10 ~~contingency fund~~] the general fund operating reserve [~~the~~  
11 ~~state support reserve fund~~] and the tax stabilization reserve  
12 [~~and the tobacco settlement permanent fund~~]."

13                   SECTION 2. Section 7-1-6.61 NMSA 1978 (being Laws 2017  
14 (1st S.S.), Chapter 3, Section 3, as amended) is amended to  
15 read:

16                   "7-1-6.61. DISTRIBUTION--OIL AND GAS EMERGENCY SCHOOL  
17 TAX--EXCESS EXTRACTION TAXES SUSPENSE FUND.--

18                   A. A distribution pursuant to Section 7-1-6.20 NMSA  
19 1978 shall be made to the excess extraction taxes suspense fund  
20 in an amount as calculated pursuant to Subsection B of this  
21 section.

22                   B. If the year-to-date amount plus the current net  
23 receipts exceeds the [~~annual average~~] threshold amount, the  
24 excess shall be distributed by the taxation and revenue  
25 department to the excess extraction taxes suspense fund. Each

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1 month the department of finance and administration shall make  
2 the calculation to determine the excess amount to be  
3 distributed. If there is not an excess amount, no distribution  
4 shall be made.

5 C. As used in this section:

6 (1) [~~"annual average amount" means the total~~  
7 ~~net receipts attributable to the tax imposed pursuant to~~  
8 ~~Section 7-31-4 NMSA 1978 and distributed pursuant to Section~~  
9 ~~7-1-6.20 NMSA 1978 in the immediately preceding five fiscal~~  
10 ~~years, divided by five]~~ "threshold amount" means the total net  
11 receipts attributable to the tax imposed pursuant to Section  
12 7-31-4 NMSA 1978 and distributed to the general fund in fiscal  
13 year 2024; and

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

18 SECTION 3. Section 9-29A-3 NMSA 1978 (being Laws 2020,  
19 Chapter 3, Section 3) is amended to read:

20 "9-29A-3. DISTRIBUTION--EARLY CHILDHOOD EDUCATION AND  
21 CARE FUND--SEVERANCE TAX PERMANENT FUND--PAYMENTS PURSUANT TO  
22 FEDERAL MINERAL LEASING ACT.--

23 A. [~~If, by June 30, 2022 and~~] By June 30 of each  
24 fiscal year [~~thereafter~~], the net receipts for that fiscal year  
25 of the money received by the state pursuant to the federal

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1 Mineral Leasing Act exceed the annual average amount, the  
2 excess shall be distributed to the early childhood education  
3 and care fund and attributed to that fiscal year. [~~If there is~~  
4 ~~an excess amount, the distribution shall be made as soon as~~  
5 ~~practicable. If there is not an excess amount, no distribution~~  
6 ~~shall be made to the fund. The department of finance and~~  
7 ~~administration shall make the calculation to determine if an~~  
8 ~~excess amount shall be distributed.~~]

9 B. If, by June 30, 2025, and by June 30 of each  
10 fiscal year thereafter, the remaining amount of the net  
11 receipts for that fiscal year of the money received by the  
12 state pursuant to the federal Mineral Leasing Act after the  
13 distribution pursuant to Subsection A of this section exceeds  
14 the threshold amount, the excess shall be distributed to the  
15 severance tax permanent fund.

16 C. The department of finance and administration  
17 shall make the calculations to determine if excess amounts  
18 shall be distributed pursuant to this section. If there is an  
19 excess amount, the distribution shall be made as soon as  
20 practicable. If there is not an excess amount, no distribution  
21 shall be made.

22 [~~B.~~] D. As used in this section:

23 (1) "annual average amount" means the total  
24 net receipts attributable to money received by the state  
25 pursuant to the federal Mineral Leasing Act in the immediately

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preceding five fiscal years, divided by five; and  
(2) "threshold amount" means the net receipts  
of the money received by the state pursuant to the federal  
Mineral Leasing Act distributed in fiscal year 2024 pursuant to  
Subsection B of Section 22-8-34 NMSA 1978."

**SECTION 4. EFFECTIVE DATE.**--The effective date of the  
provisions of this act is July 1, 2024.