

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

3 INTRODUCED BY
4 Roberto "Bobby" J. Gonzales
5
6
7
8
9

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.

.223783.1

underscored material = new
[bracketed material] = delete

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:

.223783.1

underscored material = new
[bracketed material] = delete

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

underscored material = new
[bracketed material] = delete

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

.223783.1

underscoring material = new
[bracketed material] = delete

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

.223783.1

underscoring material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.