

HOUSE BILL 71

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

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC FINANCE; SFC→PROVIDING FOR FIFTY PERCENT OF
THE BALANCE OF THE EXCESS EXTRACTION TAXES SUSPENSE FUND THAT
EXCEEDS THE ANNUAL AVERAGE AMOUNT TO BE TRANSFERRED TO THE
BEHAVIORAL HEALTH TRUST FUND FOR THREE YEARS;←SFC INCREASING
THE AMOUNT THAT IS ANNUALLY TRANSFERRED TO THE EARLY CHILDHOOD
EDUCATION AND CARE PROGRAM FUND FROM THE EARLY CHILDHOOD
EDUCATION AND CARE FUND SFC→; PROVIDING FOR REPORTING OF
EXPENDITURES OF MONEY IN THE EARLY CHILDHOOD EDUCATION AND CARE

.229474.1AIC March 18, 2025 (8:24pm)

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PROGRAM FUND; PROVIDING FOR FIFTY PERCENT OF THE MONEY RECEIVED
PURSUANT TO THE FEDERAL MINERAL LEASING ACT THAT EXCEEDS THE
ANNUAL AVERAGE AMOUNT TO BE DISTRIBUTED TO THE MEDICAID TRUST
FUND FOR THREE YEARS ← SFC .

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

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

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

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

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

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

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average amount as follows:

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

(b) ~~[to the early childhood education and care fund]~~ the balance of the excess amount above the annual average amount, if any, after the transfer is made pursuant to Subparagraph (a) of this paragraph shall be transferred as follows: 1) for fiscal years 2026 through 2028, fifty percent to the early childhood education and care fund and fifty percent to the behavioral health trust fund; provided that if, as of the end of one of those fiscal years, the balance of the early childhood education and care fund is less than the balance of that fund as of the end of fiscal year 2025, the transfer to the behavioral health trust fund made pursuant to this item shall be decreased by an amount equal to one-half of the difference between the balance of the early childhood education and care fund as of the end of fiscal year 2025 and the balance of that fund as of the end of that fiscal year; and 2) for fiscal year 2029 and each fiscal year

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thereafter, one hundred percent to the early childhood education and care fund; and

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

C. As used in this section:

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

(2) "state reserves" means the general fund balances, as determined by the department of finance and administration, including all authorized revenues and transfers to the general fund and balances in the appropriation contingency fund, the general fund operating reserve, the state-support reserve fund and the tax stabilization reserve." ←SFC

SECTION SFC → 1. ←SFC SFC → 2. ←SFC Section 9-29A-1 NMSA 1978 (being Laws 2020, Chapter 3, Section 1, as amended) is amended to read:

"9-29A-1. EARLY CHILDHOOD EDUCATION AND CARE FUND.--

A. The "early childhood education and care fund" is created within the state treasury. The fund shall consist of distributions, appropriations, gifts, grants and donations. Income from investment of the fund shall be credited to the

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fund. Money in the fund shall be expended only as provided in this section.

B. The state investment officer, subject to the approval of the state investment council, shall invest money in the early childhood education and care fund:

(1) in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act; and

(2) in consultation with the state treasurer.

C. The state investment officer shall report quarterly to the legislative finance committee and the state investment council on the investments made pursuant to this section. Annually, a report shall be submitted no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committees.

D. On July 1 of each year, a distribution shall be made from the early childhood education and care fund to the early childhood education and care program fund in an amount equal to the greater of five percent of the average of the year-end market values of the fund for the immediately preceding three calendar years or [~~two hundred fifty million dollars (\$250,000,000)] SFC→Hf11→five hundred million dollars (\$500,000,000)←Hf11 Hf11→four hundred million dollars (\$400,000,000)←Hf11←SFC SFC→five hundred million dollars (\$500,000,000)←SFC .~~

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E. In addition to the distribution pursuant to Subsection D of this section, money in the early childhood education and care fund may be expended in the event that general fund balances, including all authorized revenues and transfers to the general fund and balances in the general fund operating reserve, the appropriation contingency fund, the tobacco settlement permanent fund, the state-support reserve fund and the tax stabilization reserve, will not meet the level of appropriations authorized from the general fund for a fiscal year. In that event, to avoid an unconstitutional deficit, the legislature may appropriate from the early childhood education and care fund to the general fund only in the amount necessary to meet general fund appropriations for that fiscal year and only if the legislature has authorized transfers from the appropriation contingency fund, the general fund operating reserve, the tax stabilization reserve and the tobacco settlement permanent fund that exhaust those fund balances."

SFC→~~SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.~~←SFC

SFC→SECTION 3. Section 9-29A-2 NMSA 1978 (being Laws 2020, Chapter 3, Section 2, as amended) is amended to read:

"9-29A-2. EARLY CHILDHOOD EDUCATION AND CARE PROGRAM FUND.--

A. The "early childhood education and care program fund" is created in the state treasury. The fund consists of

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distributions, appropriations, gifts, grants, donations and income from investment of the fund. The early childhood education and care department shall administer the fund. Money in the fund is subject to appropriation by the legislature for early childhood education and care services and programs. Expenditures from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of early childhood education and care or the secretary's authorized representative. Any unexpended or unencumbered balance in the fund at the end of a fiscal year shall revert to the early childhood education and care fund.

B. By November 1 of each year beginning in 2025, the state auditor shall report to the legislative finance committee on each expenditure of money in the fund, including the date, recipient and purposes for which the money was expended."

SECTION 4. Section 9-29A-3 NMSA 1978 (being Laws 2020, Chapter 3, Section 3, as amended) is amended to read:

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

A. If, by June 30 of each fiscal year, the net receipts for that fiscal year of the money received by the state pursuant to the federal Mineral Leasing Act exceed the

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annual average amount, the excess amount above the annual average amount shall be distributed ~~[to the early childhood education and care fund]~~ as follows and attributed to that fiscal year:

(1) for fiscal years 2026 through 2028:

(a) fifty percent to the early childhood education and care fund and fifty percent to the medicaid trust fund; provided that

(b) if, as of the end of one of those fiscal years, the balance of the early childhood education and care fund is less than the balance of that fund as of the end of fiscal year 2025, the distribution to the medicaid trust fund made pursuant to Subparagraph (a) of this paragraph shall be decreased by an amount equal to one-half of the difference between the balance of the early childhood education and care fund as of the end of fiscal year 2025 and the balance of that fund as of the end of that fiscal year; and

(2) for fiscal year 2029 and each fiscal year thereafter, one hundred percent to the early childhood education and care fund.

B. If, by June 30, 2025, and by June 30 of each fiscal year thereafter, the remaining amount of the net receipts for that fiscal year of the money received by the state pursuant to the federal Mineral Leasing Act after the

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distribution pursuant to Subsection A of this section exceeds the threshold amount, the excess shall be distributed to the severance tax permanent fund.

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

D. As used in this section:

(1) "annual average amount" means the total net receipts attributable to money received by the state pursuant to the federal Mineral Leasing Act in the immediately 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 5. CONTINGENT EFFECTIVE DATE.--The provisions of Section 4 of this act shall become effective upon Senate Bill 88 or similar legislation creating a "medicaid trust fund" of the first session of the fifty-seventh legislature becoming law; provided that if Senate Bill 88 or similar legislation does not take effect by July 1, 2025, the provisions of Section

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3 of this act shall not take effect.

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 and 2 of this act is July 1, 2025.←SFC

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