

1 AN ACT
2 RELATING TO PUBLIC FINANCE; PROVIDING FOR FIFTY PERCENT OF
3 THE BALANCE OF THE EXCESS EXTRACTION TAXES SUSPENSE FUND THAT
4 EXCEEDS THE ANNUAL AVERAGE AMOUNT TO BE TRANSFERRED TO THE
5 BEHAVIORAL HEALTH TRUST FUND FOR THREE YEARS; INCREASING THE
6 AMOUNT THAT IS ANNUALLY TRANSFERRED TO THE EARLY CHILDHOOD
7 EDUCATION AND CARE PROGRAM FUND FROM THE EARLY CHILDHOOD
8 EDUCATION AND CARE FUND; PROVIDING FOR REPORTING OF
9 EXPENDITURES OF MONEY IN THE EARLY CHILDHOOD EDUCATION AND
10 CARE PROGRAM FUND; PROVIDING FOR FIFTY PERCENT OF THE MONEY
11 RECEIVED PURSUANT TO THE FEDERAL MINERAL LEASING ACT THAT
12 EXCEEDS THE ANNUAL AVERAGE AMOUNT TO BE DISTRIBUTED TO THE
13 MEDICAID TRUST FUND FOR THREE YEARS.

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, as amended) is amended to read:

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

23 A. The "excess extraction taxes suspense fund" is
24 created as a nonreverting fund in the state treasury. Money
25 in the fund shall only be used to make transfers by the

1 department of finance and administration as required by this
2 section.

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

7 (1) if in the current fiscal year the total
8 net receipts attributable to the tax imposed pursuant to
9 Section 7-31-4 NMSA 1978 and distributed pursuant to Section
10 7-1-6.20 NMSA 1978 exceed the annual average amount, the
11 department shall distribute the excess amount above the
12 annual average amount as follows:

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

21 (b) the balance of the excess amount
22 above the annual average amount, if any, after the transfer
23 is made pursuant to Subparagraph (a) of this paragraph shall
24 be transferred as follows: 1) for fiscal years 2026 through
25 2028, fifty percent to the early childhood education and care

1 fund and fifty percent to the behavioral health trust fund;
2 provided that if, as of the end of one of those fiscal years,
3 the balance of the early childhood education and care fund is
4 less than the balance of that fund as of the end of fiscal
5 year 2025, the transfer to the behavioral health trust fund
6 made pursuant to this item shall be decreased by an amount
7 equal to one-half of the difference between the balance of
8 the early childhood education and care fund as of the end of
9 fiscal year 2025 and the balance of that fund as of the end
10 of that fiscal year; and 2) for fiscal year 2029 and each
11 fiscal year thereafter, one hundred percent to the early
12 childhood education and care fund; and

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

16 C. As used in this section:

17 (1) "annual average amount" means the total
18 net receipts attributable to the tax imposed pursuant to
19 Section 7-31-4 NMSA 1978 and distributed pursuant to Section
20 7-1-6.20 NMSA 1978 in the immediately preceding five fiscal
21 years, divided by five; and

22 (2) "state reserves" means the general fund
23 balances, as determined by the department of finance and
24 administration, including all authorized revenues and
25 transfers to the general fund and balances in the

1 appropriation contingency fund, the general fund operating
2 reserve, the state-support reserve fund and the tax
3 stabilization reserve."

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

6 "9-29A-1. EARLY CHILDHOOD EDUCATION AND CARE FUND.--

7 A. The "early childhood education and care fund"
8 is created within the state treasury. The fund shall consist
9 of distributions, appropriations, gifts, grants and
10 donations. Income from investment of the fund shall be
11 credited to the fund. Money in the fund shall be expended
12 only as provided in this section.

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

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

18 (2) in consultation with the state
19 treasurer.

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

1 appropriate interim committees.

2 D. On July 1 of each year, a distribution shall be
3 made from the early childhood education and care fund to the
4 early childhood education and care program fund in an amount
5 equal to the greater of five percent of the average of the
6 year-end market values of the fund for the immediately
7 preceding three calendar years or five hundred million
8 dollars (\$500,000,000).

9 E. In addition to the distribution pursuant to
10 Subsection D of this section, money in the early childhood
11 education and care fund may be expended in the event that
12 general fund balances, including all authorized revenues and
13 transfers to the general fund and balances in the general
14 fund operating reserve, the appropriation contingency fund,
15 the tobacco settlement permanent fund, the state-support
16 reserve fund and the tax stabilization reserve, will not meet
17 the level of appropriations authorized from the general fund
18 for a fiscal year. In that event, to avoid an
19 unconstitutional deficit, the legislature may appropriate
20 from the early childhood education and care fund to the
21 general fund only in the amount necessary to meet general
22 fund appropriations for that fiscal year and only if the
23 legislature has authorized transfers from the appropriation
24 contingency fund, the general fund operating reserve, the tax
25 stabilization reserve and the tobacco settlement permanent

1 fund that exhaust those fund balances."

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

4 "9-29A-2. EARLY CHILDHOOD EDUCATION AND CARE PROGRAM
5 FUND.--

6 A. The "early childhood education and care program
7 fund" is created in the state treasury. The fund consists of
8 distributions, appropriations, gifts, grants, donations and
9 income from investment of the fund. The early childhood
10 education and care department shall administer the fund.
11 Money in the fund is subject to appropriation by the
12 legislature for early childhood education and care services
13 and programs. Expenditures from the fund shall be by warrant
14 of the secretary of finance and administration pursuant to
15 vouchers signed by the secretary of early childhood education
16 and care or the secretary's authorized representative. Any
17 unexpended or unencumbered balance in the fund at the end of
18 a fiscal year shall revert to the early childhood education
19 and care fund.

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

25 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
annual average amount, the excess amount above the annual
average amount shall be distributed 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

1 year thereafter, one hundred percent to the early childhood
2 education and care fund.

3 B. If, by June 30, 2025, and by June 30 of each
4 fiscal year thereafter, the remaining amount of the net
5 receipts for that fiscal year of the money received by the
6 state pursuant to the federal Mineral Leasing Act after the
7 distribution pursuant to Subsection A of this section exceeds
8 the threshold amount, the excess shall be distributed to the
9 severance tax permanent fund.

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

16 D. As used in this section:

17 (1) "annual average amount" means the total
18 net receipts attributable to money received by the state
19 pursuant to the federal Mineral Leasing Act in the
20 immediately preceding five fiscal years, divided by five; and

21 (2) "threshold amount" means the net
22 receipts of the money received by the state pursuant to the
23 federal Mineral Leasing Act distributed in fiscal year 2024
24 pursuant to Subsection B of Section 22-8-34 NMSA 1978."

25 SECTION 5. CONTINGENT EFFECTIVE DATE.--The provisions

1 of Section 4 of this act shall become effective upon Senate
2 Bill 88 or similar legislation creating a "medicaid trust
3 fund" of the first session of the fifty-seventh legislature
4 becoming law; provided that if Senate Bill 88 or similar
5 legislation does not take effect by July 1, 2025, the
6 provisions of Section 3 of this act shall not take effect.

7 **SECTION 6. EFFECTIVE DATE.**--The effective date of the
8 provisions of Sections 1 and 2 of this act is July 1, 2025.== HB 71/a
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