

SENATE BILL 26

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

INTRODUCED BY

Roberto "Bobby" J. Gonzales

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

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

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

"6-4-27. EXCESS EXTRACTION TAXES SUSPENSE FUND--TRANSFER

.223783.1AIC March 10, 2023 (8:48am)

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OF EXCESS OIL AND GAS EMERGENCY SCHOOL TAX REVENUE--TAX  
STABILIZATION RESERVE--EARLY CHILDHOOD EDUCATION AND CARE  
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 SFC→**above the annual average amount**←SFC 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

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[~~(2)~~] (b) to the early childhood education and care fund, the balance [~~remaining in the excess extraction taxes suspense fund~~] of the excess amount SFC→above the annual average amount←SFC, if any, after the transfer is made pursuant to [~~Paragraph (1) of this subsection~~] Subparagraph (a) of this paragraph; 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 SFC→[the appropriation contingency fund]←SFC SFC→the appropriation contingency fund←SFC SFC→,←SFC the general fund operating reserve SFC→,←SFC SFC→[the state-support reserve fund]←SFC SFC→the state-support reserve fund←SFC and the tax stabilization reserve [~~and the tobacco settlement permanent fund~~]."

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

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read:

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

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

B. If the year-to-date amount plus the current net receipts exceeds the [~~annual average~~] threshold amount, the excess shall be distributed by the taxation and revenue department to the excess extraction taxes suspense fund. Each month the department of finance and administration shall make the calculation to determine the excess amount to be distributed. If there is not an excess amount, no distribution shall be made.

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~~] "threshold amount" means the total net receipts attributable to the tax imposed pursuant to Section 7-31-4 NMSA 1978 and distributed to the general fund in fiscal year 2024; and

(2) "year-to-date amount" means the cumulative

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year-to-date net receipts attributable to the tax imposed pursuant to Section 7-31-4 NMSA 1978 and distributed to the general fund in the prior months of the current fiscal year."

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

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

A. [~~If, by June 30, 2022 and~~] HTRC→**By**←HTRC HTRC→**If, by**←HTRC June 30 of each fiscal year [~~thereafter~~], 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 SFC→**amount above the annual average amount**←SFC shall be distributed to the early childhood education and care fund and attributed to that fiscal year. [~~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 to the fund. The department of finance and administration shall make the calculation to determine if an excess amount shall be distributed.]~~]

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 distribution pursuant to Subsection A of this section exceeds

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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.

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

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