

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

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 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

1 department shall distribute the excess amount above the
2 annual average amount as follows:

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

11 (b) to the early childhood education
12 and care fund, the balance of the excess amount above the
13 annual average amount, if any, after the transfer is made
14 pursuant to Subparagraph (a) of this paragraph; and

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

18 C. As used in this section:

19 (1) "annual average amount" means the total
20 net receipts attributable to the tax imposed pursuant to
21 Section 7-31-4 NMSA 1978 and distributed pursuant to Section
22 7-1-6.20 NMSA 1978 in the immediately preceding five fiscal
23 years, divided by five; and

24 (2) "state reserves" means the general fund
25 balances, as determined by the department of finance and

1 administration, including all authorized revenues and
2 transfers to the general fund and balances in the
3 appropriation contingency fund, the general fund operating
4 reserve, the state-support reserve fund and the tax
5 stabilization reserve."

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

9 "7-1-6.61. DISTRIBUTION--OIL AND GAS EMERGENCY SCHOOL
10 TAX--EXCESS EXTRACTION TAXES SUSPENSE FUND.--

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

15 B. If the year-to-date amount plus the current net
16 receipts exceeds the threshold amount, the excess shall be
17 distributed by the taxation and revenue department to the
18 excess extraction taxes suspense fund. Each month the
19 department of finance and administration shall make the
20 calculation to determine the excess amount to be distributed.
21 If there is not an excess amount, no distribution shall be
22 made.

23 C. As used in this section:

24 (1) "threshold amount" means the total net
25 receipts attributable to the tax imposed pursuant to Section

1 7-31-4 NMSA 1978 and distributed to the general fund in
2 fiscal year 2024; and

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

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

10 "9-29A-3. DISTRIBUTION--EARLY CHILDHOOD EDUCATION AND
11 CARE FUND--SEVERANCE TAX PERMANENT FUND--PAYMENTS PURSUANT TO
12 FEDERAL MINERAL LEASING ACT.--

13 A. If, by June 30 of each fiscal year, the net
14 receipts for that fiscal year of the money received by the
15 state pursuant to the federal Mineral Leasing Act exceed the
16 annual average amount, the excess amount above the annual
17 average amount shall be distributed to the early childhood
18 education and care fund and attributed to that fiscal year.

19 B. If, by June 30, 2025, and by June 30 of each
20 fiscal year thereafter, the remaining amount of the net
21 receipts for that fiscal year of the money received by the
22 state pursuant to the federal Mineral Leasing Act after the
23 distribution pursuant to Subsection A of this section exceeds
24 the threshold amount, the excess shall be distributed to the
25 severance tax permanent fund.

1 C. The department of finance and administration
2 shall make the calculations to determine if excess amounts
3 shall be distributed pursuant to this section. 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
6 distribution shall be made.

7 D. As used in this section:

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

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

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

SB 26
Page 5