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HOUSE BILL 89

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

INTRODUCED BY

James G. Townsend and Randall T. Pettigrew and  
Candy Spence Ezzell

AN ACT

RELATING TO PUBLIC FINANCE; CREATING THE TAXPAYER DIVIDEND  
INCOME TAX REBATE FUND; PROVIDING FOR INCOME TAX REBATES;  
CHANGING A DISTRIBUTION OF FEDERAL MINERAL LEASING FUNDS TO THE  
EARLY CHILDHOOD EDUCATION AND CARE FUND TO THE TAXPAYER  
DIVIDEND INCOME TAX REBATE FUND; AMENDING, REPEALING AND  
ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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~~]  
TAXPAYER DIVIDEND INCOME TAX REBATE FUND---

A. The "excess extraction taxes suspense fund" is

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1 created as a nonreverting fund in the state treasury. Money in  
2 the fund shall only be used to make transfers by the department  
3 of finance and administration as required by this section.

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

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

15 (2) to the ~~[early childhood education and~~  
16 ~~care]~~ taxpayer dividend income tax rebate fund, the balance  
17 remaining in the excess extraction taxes suspense fund, if any,  
18 after the transfer is made pursuant to Paragraph (1) of this  
19 subsection.

20 C. As used in this section, "state reserves" means  
21 the general fund balances, as determined by the department of  
22 finance and administration, including all authorized revenues  
23 and transfers to the general fund and balances in the  
24 appropriation contingency fund, the general fund operating  
25 reserve, the state-support reserve fund, the tax stabilization

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1 reserve and the tobacco settlement permanent fund."

2 SECTION 2. A new section of the Income Tax Act is enacted  
3 to read:

4 "[NEW MATERIAL] TAXPAYER DIVIDEND INCOME TAX REBATE FUND--  
5 CREATED--INCOME TAX REBATES.--

6 A. The "taxpayer dividend income tax rebate fund"  
7 is created as a nonreverting fund in the state treasury. The  
8 fund shall consist of distributions, appropriations, gifts,  
9 grants and donations. The fund shall be administered by the  
10 department, and money in the fund is appropriated to the  
11 department to provide income tax rebates as provided by this  
12 section. Disbursements from the fund shall be made by warrant  
13 of the secretary of finance and administration pursuant to  
14 vouchers signed by the secretary of taxation and revenue or the  
15 secretary's designee.

16 B. A resident who files a New Mexico income tax  
17 return and who is not a dependent of another individual shall  
18 be eligible for a tax rebate pursuant to this section. The  
19 resident shall receive a rebate in an amount equal to the  
20 amount of money in the taxpayer dividend income tax rebate fund  
21 at the end of the previous calendar year divided by the total  
22 number of residents who filed an income tax return for that  
23 year. A rebate shall not be allowed for a return filed after  
24 May 31. Rebates shall be provided by the department as soon as  
25 practicable.

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1           C. The rebates provided by this section may be  
2 deducted from the taxpayer's New Mexico income tax liability.  
3 If the amount of rebate exceeds the taxpayer's income tax  
4 liability, the excess shall be refunded to the taxpayer.

5           D. The department may require a taxpayer to claim a  
6 rebate provided by this section on forms and in a manner  
7 required by the department.

8           E. An annual report shall be submitted no later  
9 than October 1 each year to the legislative finance committee,  
10 the revenue stabilization and tax policy committee and any  
11 other appropriate interim committees on the cost of the rebates  
12 provided pursuant to this section and any other information  
13 necessary to evaluate the rebates."

14           **SECTION 3.** Section 22-8-34 NMSA 1978 (being Laws 1967,  
15 Chapter 16, Section 90, as amended) is amended to read:

16           "22-8-34. FEDERAL MINERAL LEASING FUNDS.--

17           A. Money received by the state pursuant to the  
18 provisions of the federal Mineral Leasing Act shall be  
19 distributed to the public school fund, except as follows:

20                   (1) an annual appropriation to the  
21 instructional material fund;

22                   (2) an annual appropriation to the board of  
23 regents of the New Mexico institute of mining and technology  
24 for the bureau of geology and mineral resources;

25                   (3) the distribution made pursuant to

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1 Subsection B of this section; and

2 (4) the distribution made [~~pursuant to Section~~  
3 ~~3 of this 2020 act~~] to the taxpayer dividend income tax rebate  
4 fund pursuant to Section 4 of this 2023 act.

5 B. Money received by the state as its share of a  
6 prepayment of royalties pursuant to 30 U.S.C. 1726(b), as that  
7 section may be amended or renumbered, shall be distributed as  
8 follows:

9 (1) a portion of the receipts, estimated by  
10 the taxation and revenue department to be equal to the amount  
11 that the state would have received as its share of royalties in  
12 the same fiscal year if the prepayment had not been made, shall  
13 be distributed to the public school fund; and

14 (2) the remainder shall be distributed to the  
15 common school permanent fund."

16 SECTION 4. [NEW MATERIAL] DISTRIBUTION--TAXPAYER DIVIDEND  
17 INCOME TAX REBATE FUND--PAYMENTS PURSUANT TO FEDERAL MINERAL  
18 LEASING ACT.--

19 A. If, by June 30 of each fiscal year, the net  
20 receipts for that fiscal year of the money received by the  
21 state pursuant to the federal Mineral Leasing Act exceed the  
22 annual average amount, the excess shall be distributed to the  
23 taxpayer dividend income tax rebate fund. If there is an  
24 excess amount, the distribution shall be made as soon as  
25 practicable. If there is not an excess amount, no distribution

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1 shall be made to the fund. The department of finance and  
2 administration shall make the calculation to determine if an  
3 excess amount shall be distributed.

4 B. As used in this section, "annual average amount"  
5 means the total net receipts attributable to money received by  
6 the state pursuant to the federal Mineral Leasing Act in the  
7 immediately preceding five fiscal years, divided by five.

8 SECTION 5. REPEAL.--Section 9-29A-3 NMSA 1978 (being Laws  
9 2020, Chapter 3, Section 3) is repealed.

10 SECTION 6. APPLICABILITY.--The provisions of Section 2 of  
11 this act apply to taxable years beginning on or after January  
12 1, 2023.