

FIFTY-SEVENTH LEGISLATURE  
FIRST REGULAR SESSION, 2025

HB 71/a

March 18, 2025

Mr. President:

Your **FINANCE COMMITTEE**, to whom has been referred

**HOUSE BILL 71, as amended**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike all items of House Floor Amendment number 1.

2. On page 1, line 11, after the semicolon, insert "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;".

3. On page 1, line 13, before the period, insert "; PROVIDING FOR REPORTING OF EXPENDITURES OF MONEY IN THE EARLY CHILDHOOD EDUCATION AND CARE 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".

4. On page 1, between lines 15 and 16, insert:

"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

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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 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 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.

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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."".

5. On page 3, strike lines 13 and 14 and insert in lieu thereof:

"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 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

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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 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

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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 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 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."

6. Renumber sections in accordance with these amendments.

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Respectfully submitted,

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Senator George Muñoz, Chair

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 11 For 0 Against  
Yes: Brandt, Campos, Gonzales, Lanier, Muñoz, Padilla, Shendo,  
Steinborn, Tobiassen, Trujillo, Woods  
No: 0  
Excused: None  
Absent: None

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