

1 SENATE BILL 223

2 56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PUBLIC FINANCE; CREATING THE MEDICAID TRUST FUND
12 AND THE STATE-SUPPORTED MEDICAID FUND; CHANGING DISTRIBUTIONS
13 OF CERTAIN OIL AND GAS EMERGENCY SCHOOL TAX REVENUE AND FEDERAL
14 MINERAL LEASING ACT REVENUE FROM THE EARLY CHILDHOOD EDUCATION
15 AND CARE FUND TO THE NEW MEDICAID TRUST FUND; SUBJECTING THE
16 DISTRIBUTION TO A LIMITATION.

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

19 SECTION 1. A new section of Chapter 6, Article 4 NMSA
20 1978 is enacted to read:

21 "[NEW MATERIAL] MEDICAID TRUST FUND.--

22 A. The "medicaid trust fund" is created within the
23 state treasury. The fund consists of distributions,
24 appropriations, gifts, grants and donations. Income from
25 investment of the fund shall be credited to the fund. Money in

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1 the fund shall be expended only as provided in this section.

2 B. The state investment officer, subject to the
3 approval of the state investment council, shall invest money in
4 the fund:

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

7 (2) in consultation with the state treasurer.

8 C. The state investment officer shall report
9 quarterly to the legislative finance committee and the state
10 investment council on the investments made pursuant to this
11 section. Annually, a report shall be submitted no later than
12 October 1 to the legislative finance committee, the
13 revenue stabilization and tax policy committee and any other
14 appropriate interim committees.

15 D. On July 1 of each year, a distribution shall be
16 made from the trust fund to the state-supported medicaid fund
17 in an amount equal to five percent of the average of the year-
18 end market values of the trust fund for the immediately
19 preceding three calendar years. If, on July 1 of a year, the
20 trust fund has been in effect for less than three calendar
21 years, the distribution shall be in an amount equal to five
22 percent of the average of the year-end market values of the
23 trust fund for the immediately preceding number of calendar
24 years that the trust fund has been in effect.

25 E. In addition to the distribution pursuant to

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1 Subsection D of this section, money in the medicaid trust fund
2 may be expended in the event that general fund balances,
3 including all authorized revenues and transfers to the general
4 fund and balances in the general fund operating reserve, the
5 appropriation contingency fund and the tax stabilization
6 reserve, will not meet the level of appropriations authorized
7 from the general fund for a fiscal year. In that event, to
8 avoid an unconstitutional deficit, the legislature may
9 appropriate from the trust fund to the general fund only in the
10 amount necessary to meet general fund appropriations for that
11 fiscal year and only if the legislature has authorized
12 transfers from the appropriation contingency fund, the general
13 fund operating reserve and the tax stabilization reserve that
14 exhaust those fund balances."

15 SECTION 2. [NEW MATERIAL] STATE-SUPPORTED MEDICAID

16 FUND.--The "state-supported medicaid fund" is created as a
17 nonreverting fund in the state treasury. The fund consists of
18 distributions, appropriations, gifts, grants and donations.
19 Income from investment of the fund shall be credited to the
20 fund. The health care authority department shall administer
21 the fund. Money in the fund is subject to appropriation by the
22 legislature to support the state medicaid program and to match
23 federal funds for the state medicaid program. Expenditures
24 from the fund shall be by warrant of the secretary of finance
25 and administration pursuant to vouchers signed by the secretary

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1 of health care authority or the secretary's authorized
2 representative.

3 SECTION 3. That version of Section 6-4-27 NMSA 1978
4 (being Laws 2020, Chapter 3, Section 4, as amended) that is to
5 become effective July 1, 2024 is amended to read:

6 "6-4-27. EXCESS EXTRACTION TAXES SUSPENSE FUND--TRANSFER
7 OF EXCESS OIL AND GAS EMERGENCY SCHOOL TAX REVENUE--TAX
8 STABILIZATION RESERVE-- [~~EARLY CHILDHOOD EDUCATION AND CARE~~]
9 MEDICAID TRUST FUND--SEVERANCE TAX PERMANENT FUND.--

10 A. The "excess extraction taxes suspense fund" is
11 created as a nonreverting fund in the state treasury. Money in
12 the fund shall only be used to make transfers by the department
13 of finance and administration as required by this section.

14 B. At the end of each fiscal year, the department
15 of finance and administration shall calculate and transfer the
16 balance of the fund attributable to that fiscal year as
17 follows:

18 (1) if in the current fiscal year the total
19 net receipts attributable to the tax imposed pursuant to
20 Section 7-31-4 NMSA 1978 and distributed pursuant to Section
21 7-1-6.20 NMSA 1978 exceed the annual average amount, the
22 department shall distribute the excess amount above the annual
23 average amount as follows:

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

7 (b) to the [~~early childhood education~~
8 ~~and care~~] medicaid trust fund, the balance of the excess amount
9 above the annual average amount, if any, after the transfer is
10 made pursuant to Subparagraph (a) of this paragraph; provided
11 that, if a distribution from the medicaid trust fund to the
12 state-supported medicaid fund in the previous fiscal year is an
13 amount equal to or greater than one-half of the amount
14 appropriated for the state medicaid program for that fiscal
15 year, no further transfer pursuant to this subparagraph shall
16 be made; and

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

19 C. As used in this section:

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

25 (2) "state reserves" means the general fund

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

6 SECTION 4. That version of Section 9-29A-3 NMSA 1978
7 (being Laws 2020, Chapter 3, Section 3, as amended) that is to
8 become effective July 1, 2024 is recompiled as Section 6-4-30
9 NMSA 1978 and is amended to read:

10 "6-4-30. DISTRIBUTION--~~[EARLY CHILDHOOD EDUCATION AND~~
11 ~~CARE]~~ MEDICAID TRUST FUND--SEVERANCE TAX PERMANENT FUND--
12 PAYMENTS PURSUANT TO 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]~~ medicaid trust fund and attributed to that
19 fiscal year; provided that, if a distribution from the medicaid
20 trust fund to the state-supported medicaid fund is sufficient
21 to meet one-half of the funding needed for the state medicaid
22 program for the following fiscal year, as determined by the
23 department of finance and administration in consultation with
24 the legislative finance committee, no further distribution
25 pursuant to this subsection shall be made.

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

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

14 D. As used in this section:

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

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

23 SECTION 5. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2024.