

FIFTY-THIRD LEGISLATURE
FIRST SESSION, 2017

HB 202/a

March 10, 2017

Mr. President:

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

**HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 202**, as amended

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

1. Strike Items 7 and 8 of House Floor Amendment 1.

2. On page 1, line 11, after the semicolon, strike the
remainder of the line and strike line 12 up to the semicolon and
insert in lieu thereof:

"SUSPENDING A DISTRIBUTION TO THE LEGISLATIVE RETIREMENT FUND FOR
TWO YEARS, THEN SENDING THE DISTRIBUTION TO THE MAGISTRATE
RETIREMENT FUND AND THE JUDICIAL RETIREMENT FUND FOR THREE YEARS,
THEN RESUMING THE DISTRIBUTION TO THE LEGISLATIVE RETIREMENT FUND;
DELAYING REDUCTION OF THE CORPORATE INCOME TAX RATES;
DELAYING SINGLE SALES APPORTIONMENT OF INCOME FOR
MANUFACTURERS".

3. On page 2, strike line 2 in its entirety and
strike line 3 up to "IMPOSING".

4. On page 2, line 6, after the semicolon, insert
"DISTRIBUTING A PORTION OF THE GROSS RECEIPTS TAX TO THE
COUNTY-SUPPORTED MEDICAID FUND;".

5. On page 2, lines 8 and 9, strike "HEALTH CARE
INDUSTRY" and on line 10, before the semicolon, insert
"FOR HOSPITALS".

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6. On page 2, line 10, after "THE", insert "GASOLINE TAX, SPECIAL FUEL EXCISE TAX AND".

7. On page 2, line 11, after the semicolon, insert:

"DISTRIBUTING THE REVENUE FROM THE INCREASES TO THE GASOLINE AND MOTOR VEHICLE EXCISE TAXES AND A PORTION OF THE INCREASE OF THE SPECIAL FUEL EXCISE TAX TO THE TAX STABILIZATION RESERVE UNTIL STATE RESERVE FUNDS REACH FIVE PERCENT, TO MUNICIPALITIES AND COUNTIES FOR MAINTENANCE AND REPAIR OF EXISTING TRANSPORTATION INFRASTRUCTURE AND TO THE STATE ROAD MAINTENANCE FUND; CREATING THE STATE ROAD MAINTENANCE FUND; SETTING THE PETROLEUM PRODUCTS LOADING FEE AT ONE HUNDRED FIFTY DOLLARS (\$150) AND DISTRIBUTING A PORTION OF THE FEE TO THE TAX STABILIZATION RESERVE UNTIL STATE RESERVE FUNDS REACH FIVE PERCENT;"

8. On page 2, strike line 15 in its entirety and on line 16, strike the line up to "CREDIT".

9. On page 2, line 18, strike the period and insert in lieu thereof "; MAKING AN APPROPRIATION.".

10. On page 2, between lines 20 and 21, insert the following new sections:

"SECTION 1. Section 7-1-6.4 NMSA 1978 (being Laws 1983, Chapter 211, Section 9, as amended) is amended to read:

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"7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS TAX.--

A. Except as provided in Subsection B of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the product of the quotient of one and two hundred twenty-five thousandths percent divided by the tax rate imposed by Section 7-9-4 NMSA 1978 multiplied by the net receipts, except net receipts attributable to a nonprofit hospital licensed by the department of health, for the month attributable to the gross receipts tax from business locations:

(1) within that municipality;

(2) on land owned by the state, commonly known as the "state fairgrounds", within the exterior boundaries of that municipality;

(3) outside the boundaries of any municipality on land owned by that municipality; and

(4) on an Indian reservation or pueblo grant in an area that is contiguous to that municipality and in which the municipality performs services pursuant to a contract between the municipality and the Indian tribe or Indian pueblo if:

(a) the contract describes an area in

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which the municipality is required to perform services and requires the municipality to perform services that are substantially the same as the services the municipality performs for itself; and

(b) the governing body of the municipality has submitted a copy of the contract to the secretary.

B. If the reduction made by Laws 1991, Chapter 9, Section 9 to the distribution under this section impairs the ability of a municipality to meet its principal or interest payment obligations for revenue bonds outstanding prior to July 1, 1991 that are secured by the pledge of all or part of the municipality's revenue from the distribution made under this section, then the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet any required payment, provided that the distribution amount does not exceed the amount that would have been due that municipality under this section as it was in effect on June 30, 1992.

C. A distribution pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a municipality pursuant to the Tax Increment for Development Act."

SECTION 2. Section 7-1-6.7 NMSA 1978 (being Laws 1994, Chapter 5, Section 2, as amended) is amended to

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read:

"7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to four and seventy-nine hundredths percent of the taxable gross receipts attributable to the sale of fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to [~~twenty-six hundredths~~] one hundred sixty-four thousandths percent of gasoline taxes, exclusive of penalties and interest, collected pursuant to the Gasoline Tax Act.

C. From July 1, 2013 through June 30, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to forty-six thousandths percent of the net receipts attributable to the gross receipts tax distributable to the general fund.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund from the net receipts attributable to the gross receipts tax distributable to the general fund in an amount equal to

[~~(1) eighty thousand dollars (\$80,000)~~]

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~~monthly from July 1, 2007 through June 30, 2008;~~

~~(2) one hundred sixty-seven thousand dollars (\$167,000) monthly from July 1, 2008 through June 30, 2009; and~~

~~(3)] two hundred fifty thousand dollars (\$250,000) [monthly after July 1, 2009]."~~

SECTION 3. Section 7-1-6.8 NMSA 1978 (being Laws 1983, Chapter 211, Section 13, as amended) is amended to read:

"7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the motorboat fuel tax fund in an amount equal to [~~thirteen-hundredths of one~~] eighty-two thousandths percent of the net receipts attributable to the gasoline tax."

SECTION 4. Section 7-1-6.9 NMSA 1978 (being Laws 1991, Chapter 9, Section 11, as amended) is amended to read:

"7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO MUNICIPALITIES AND COUNTIES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made in an amount equal to [~~ten and thirty-eight hundredths~~] six and five hundred thirty-six thousandths percent of the net receipts attributable to

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the taxes, exclusive of penalties and interest, imposed by the Gasoline Tax Act.

B. [~~Except as provided in Subsection D of this section~~] The amount determined in Subsection A of this section shall be distributed as follows:

(1) ninety percent of the amount shall be paid to the treasurers of municipalities and H class counties in the proportion that the taxable motor fuel sales in each of the municipalities and H class counties bears to the aggregate taxable motor fuel sales in all of these municipalities and H class counties; and

(2) ten percent of the amount shall be paid to the treasurers of the counties, including H class counties, in the proportion that the taxable motor fuel sales outside of incorporated municipalities in each of the counties bears to the aggregate taxable motor fuel sales outside of incorporated municipalities in all of the counties.

C. Except as provided in Subsection D of this section, this distribution shall be paid into a separate road fund in the municipal treasury or county road fund for expenditure only for construction, reconstruction, resurfacing or other improvement or maintenance of public roads, streets, alleys or bridges, including right-of-way and materials acquisition. Money distributed pursuant to this section may be used by a municipality or county to provide matching funds for projects subject to

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cooperative agreements entered into with the [~~state highway and~~] department of transportation [~~department~~] pursuant to Section 67-3-28 NMSA 1978. Any municipality or H class county that has created or that creates a "street improvement fund" to which gasoline tax revenues or distributions are irrevocably pledged under Sections 3-34-1 through 3-34-4 NMSA 1978 or that has pledged all or a portion of gasoline tax revenues or distributions to the payment of bonds shall receive its proportion of the distribution of revenues under this section impressed with and subject to these pledges.

D. This distribution may be paid into a separate road fund or the general fund of the municipality or county if the municipality has a population less than three thousand or the county has a population less than four thousand."

SECTION 5. Section 7-1-6.10 NMSA 1978 (being Laws 1983, Chapter 211, Section 15, as amended) is amended to read:

"7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state road fund in an amount equal to the net receipts attributable to the taxes, surcharges, penalties and interest imposed pursuant to the Gasoline Tax Act and to the taxes, surtaxes, fees, penalties and interest imposed pursuant to the Special Fuels Supplier Tax Act and the Alternative Fuel Tax Act less:

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(1) the amount distributed to the state aviation fund pursuant to Subsection B of Section 7-1-6.7 NMSA 1978;

(2) the amount distributed to the motorboat fuel tax fund pursuant to Section 7-1-6.8 NMSA 1978;

(3) the amount distributed to municipalities and counties pursuant to [~~Subsection A of~~] Section 7-1-6.9 NMSA 1978 and Section 14 of this 2017 act;

(4) the amount distributed to the county government road fund pursuant to Section 7-1-6.19 NMSA 1978;

(5) the amount distributed to the local governments road fund pursuant to Section 7-1-6.39 NMSA 1978;

(6) the amount distributed to the municipalities pursuant to Section 7-1-6.27 NMSA 1978;

(7) the amount distributed to the municipal arterial program of the local governments road fund pursuant to Section 7-1-6.28 NMSA 1978;

(8) the amount distributed to a qualified tribe pursuant to [~~a gasoline tax sharing agreement entered into between the secretary of transportation and the qualified tribe pursuant to the provisions]~~ Subsection A of Section [~~67-3-8.1]~~ 7-1-6.44 NMSA 1978;

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[and]

(9) the amount distributed to the general fund pursuant to Subsection B of Section 7-1-6.44 NMSA 1978;

(10) the amount distributed to the tax stabilization reserve pursuant to Section 13 of this 2017 act; and

(11) the amount distributed to the state road maintenance fund pursuant to Section 15 of this 2017 act.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state road fund in an amount equal to the net receipts attributable to the taxes, interest and penalties from the Weight Distance Tax Act."

SECTION 6. Section 7-1-6.19 NMSA 1978 (being Laws 1991, Chapter 9, Section 15, as amended) is amended to read:

"7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND CREATED.--

A. There is created in the state treasury the "county government road fund".

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county government road

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fund in an amount equal to [~~five and seventy-six hundredths~~] three and six hundred twenty-seven thousandths percent of the net receipts attributable to the gasoline tax."

SECTION 7. Section 7-1-6.25 NMSA 1978 (being Laws 1988, Chapter 70, Section 9, as amended) is amended to read:

"7-1-6.25. DISTRIBUTION OF PETROLEUM PRODUCTS LOADING FEE--CORRECTIVE ACTION FUND--LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 of the net receipts attributable to the petroleum products loading fee shall be made to each of the following funds in the following amounts:

A. to the local governments road fund an amount equal to the net receipts attributable to a fee of forty dollars (\$40.00) per load; [~~and~~]

B. to the tax stabilization reserve, an amount equal to the net receipts attributable to a fee of one hundred ten dollars (\$110) per load, prior to and including the last month a distribution to the tax stabilization reserve is made pursuant to Section 13 of this 2017 act; and

C. beginning one month after the last distribution is made to the tax stabilization reserve pursuant to Section 13 of this 2017 act, to the

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corrective action fund, the balance, if any, of the net receipts."

SECTION 8. Section 7-1-6.27 NMSA 1978 (being Laws 1991, Chapter 9, Section 20, as amended) is amended to read:

"7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to municipalities for the purposes and amounts specified in this section in an aggregate amount equal to [~~five and seventy-six hundredths~~] three and six hundred twenty-seven thousandths percent of the net receipts attributable to the gasoline tax.

B. The distribution authorized in this section shall be used for the following purposes:

(1) reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys, streets, roads or bridges, or any combination of the foregoing; or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads or bridges, or any combination of the foregoing; provided that any of the foregoing improvements may include [~~but are not limited to~~] the acquisition of rights of way;

(2) to provide matching funds for projects subject to cooperative agreements with the [~~state highway and~~] department of transportation [~~department~~] pursuant to Section 67-3-28 NMSA 1978; and

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(3) for expenses of purchasing, maintaining and operating transit operations and facilities, for the operation of a transit authority established by the Municipal Transit Law and for the operation of a vehicle emission inspection program. A municipality may engage in the business of the transportation of passengers and property within the political subdivision by whatever means the municipality may decide and may acquire cars, trucks, motor buses and other equipment necessary for operating the business. A municipality may acquire land, erect buildings and equip the buildings with all the necessary machinery and facilities for the operation, maintenance, modification, repair and storage of the cars, trucks, motor buses and other equipment needed. A municipality may do all things necessary for the acquisition and the conduct of the business of public transportation.

C. For the purposes of this section:

(1) "computed distribution amount" means the distribution amount calculated for a municipality for a month pursuant to Paragraph (2) of Subsection D of this section prior to any adjustments to the amount due to the provisions of Subsections E and F of this section;

(2) "floor amount" means four hundred seventeen dollars (\$417);

(3) "floor municipality" means a municipality whose computed distribution amount is less than the floor

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amount; and

(4) "full distribution municipality" means a municipality whose population at the last federal decennial census was at least two hundred thousand.

D. Subject to the provisions of Subsections E and F of this section, each municipality shall be distributed a portion of the aggregate amount distributable under this section in an amount equal to the greater of:

(1) the floor amount; or

(2) eighty-five percent of the aggregate amount distributable under this section times a fraction, the numerator of which is the municipality's reported taxable gallons of gasoline for the immediately preceding state fiscal year and the denominator of which is the reported total taxable gallons for all municipalities for the same period.

E. Fifteen percent of the aggregate amount distributable under this section shall be referred to as the "redistribution amount". Beginning in August 1990, and each month thereafter, from the redistribution amount there shall be taken an amount sufficient to increase the computed distribution amount of every floor municipality to the floor amount. In the event that the redistribution amount is insufficient for this purpose, the computed distribution amount for each floor municipality shall be increased by an amount equal to the

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redistribution amount times a fraction, the numerator of which is the difference between the floor amount and the municipality's computed distribution amount and the denominator of which is the difference between the product of the floor amount multiplied by the number of floor municipalities and the total of the computed distribution amounts for all floor municipalities.

F. If a balance remains after the redistribution amount has been reduced pursuant to Subsection E of this section, there shall be added to the computed distribution amount of each municipality that is neither a full distribution municipality nor a floor municipality an amount that equals the balance of the redistribution amount times a fraction, the numerator of which is the computed distribution amount of the municipality and the denominator of which is the sum of the computed distribution amounts of all municipalities that are neither full distribution municipalities nor floor municipalities."

SECTION 9. Section 7-1-6.28 NMSA 1978 (being Laws 1991, Chapter 9, Section 22, as amended) is amended to read:

"7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the municipal arterial program of the local governments road fund created in Section 67-3-28.2 NMSA 1978 in an amount equal to [~~one and forty-four hundredths~~] nine hundred

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seven thousandths percent of the net receipts attributable to the gasoline tax."".

11. On pages 4 through 23, strike Sections 2 through 4 in their entirety and insert in lieu thereof the following new sections:

"SECTION 11. Section 7-1-6.39 NMSA 1978 (being Laws 1995, Chapter 6, Section 9, as amended) is amended to read:

"7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the local governments road fund in an amount equal to [~~nine and fifty-two~~] seven and sixty-nine hundredths percent of the net receipts attributable to the taxes, exclusive of penalties and interest, from the special fuel excise tax imposed by the Special Fuels Supplier Tax Act."

SECTION 12. Section 7-1-6.43 NMSA 1978 (being Laws 2003, Chapter 86, Section 1, as amended) is amended to read:

"7-1-6.43. DISTRIBUTION TO JUDICIAL RETIREMENT AND MAGISTRATE RETIREMENT FUNDS--LEGISLATIVE RETIREMENT FUND--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 from the net receipts attributable to the amount of tax deducted pursuant to the Oil and Gas

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Proceeds and Pass-Through Entity Withholding Tax Act
shall be made:

(1) beginning July 1, 2019 and prior to July 1, 2022, to the:

(a) judicial retirement fund, in the amount of fifty-five thousand one hundred twenty-five dollars (\$55,125); and

(b) magistrate retirement fund, in the amount of nineteen thousand eight hundred seventy-five dollars (\$19,875); and

(2) on and after July 1, 2022, to the legislative retirement fund in [an] the amount equal to seventy-five thousand dollars (\$75,000) or, if larger, in an amount equal to one-twelfth of the amount necessary to pay out the retirement benefits due under state legislator member coverage plan 2 and Paragraph (2) of Subsection C of Section 10-11-41 NMSA 1978 for the succeeding calendar year.

B. In regard to the distribution to the legislative retirement fund, in December [2003] 2021 and in each December thereafter, the public employees retirement association, with the assistance of the legislative council service, shall determine the amount of [those] retirement benefits for the succeeding calendar year. If the monthly average exceeds seventy-five thousand dollars (\$75,000), the association shall

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~~[notify] immediately notify the department of the average amount. [That average amount shall be the amount distributed pursuant to Subsection A of this section as of the end of each month of the twelve consecutive months beginning with the December in which the determination was made.]"~~

SECTION 13. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION--TAX STABILIZATION RESERVE.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the tax stabilization reserve in an amount equal to eighteen and fifty-two hundredths percent of the net receipts attributable to the gasoline tax and in an amount equal to nine and sixty-one hundredths percent of the net receipts attributable to the special fuel excise tax until the month following a certification by the state board of finance to the secretary that the total amount in state reserve funds at the end of the prior fiscal year, according to the general fund financial summary that is prepared by the department of finance and administration in August of each year, was at least five percent of the total general fund appropriations for the prior fiscal year.

B. As used in this section, "state reserve funds" means the general fund operating reserve, the appropriation contingency fund, the tax stabilization

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reserve, the taxpayers dividend fund and the tobacco settlement permanent fund."

SECTION 14. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] ADDITIONAL DISTRIBUTION OF THE GASOLINE TAX AND THE SPECIAL FUEL EXCISE TAX TO MUNICIPALITIES AND COUNTIES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to municipalities and counties, subject to the requirements of Subsection B of this section, in the following amounts:

(1) prior to and including the last month a distribution is made pursuant to Section 13 of this 2017 act:

(a) nine and two hundred fifty-six thousandths percent of the net receipts attributable to the gasoline tax; and

(b) two and eighty-nine hundredths percent of the net receipts attributable to the special fuel excise tax; and

(2) beginning one month after the last distribution is made to the tax stabilization reserve pursuant to Section 13 of this 2017 act, in an amount equal to:

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(a) eighteen and five hundred sixteen thousandths percent of the net receipts attributable to the gasoline tax; and

(b) seven and six hundred ninety-five thousandths percent of the net receipts attributable to the special fuel excise tax.

B. Except as provided in Subsection D of this section, this distribution shall be paid into a maintenance and repair road fund in the municipal treasury or county road fund for expenditure only for reconstruction, resurfacing or other improvement or maintenance of existing public roads, streets, alleys or bridges, including right-of-way and materials acquisition.

C. The amount determined in Subsection A of this section shall be distributed as follows:

(1) sixty-six and seven-tenths percent of the amount shall be paid to the treasurers of municipalities and H class counties in the proportion that the taxable motor fuel sales in each of the municipalities and H class counties bears to the aggregate taxable motor fuel sales in all of these municipalities and H class counties; and

(2) thirty-three and three-tenths percent of the amount shall be paid to the treasurers of the counties, including H class counties, in the proportion

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that the taxable motor fuel sales outside of incorporated municipalities in each of the counties bears to the aggregate taxable motor fuel sales outside of incorporated municipalities in all of the counties.

D. The distributions made pursuant to this section may be paid into a separate road fund or the general fund of the municipality or county if the municipality has a population less than three thousand or the county has a population less than four thousand.

E. Money from the distribution made pursuant to this section shall not be pledged for the payment of bonds or debentures or expended to pay the principal or interest of outstanding bonds or debentures."

SECTION 15. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION OF THE GASOLINE TAX AND THE SPECIAL FUEL EXCISE TAX--STATE ROAD MAINTENANCE FUND.--

A. The "state road maintenance fund" is created as a nonreverting fund in the state treasury. No income earned on the fund shall be transferred to another fund.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state road maintenance fund in the following amounts:

(1) prior to and including the last month a

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distribution is made pursuant to Section 13 of this 2017 act:

(a) nine and two hundred fifty-six thousandths percent of the net receipts attributable to the gasoline tax; and

(b) two and eighty-nine hundredths percent of the net receipts attributable to the special fuel excise tax; and

(2) beginning one month after the last distribution is made to the tax stabilization reserve pursuant to Section 13 of this 2017 act, in an amount equal to:

(a) eighteen and five hundred sixteen thousandths percent of the net receipts attributable to the gasoline tax; and

(b) seven and six hundred ninety-five thousandths percent of the net receipts attributable to the special fuel excise tax.

C. The department of transportation shall administer the fund, and money in the fund is subject to appropriation by the legislature only to the department of transportation for expenditure for reconstruction, resurfacing or other improvement or maintenance of existing public roads, streets, alleys or bridges, including right-of-way and materials acquisition.

D. Money in the fund shall not be pledged for the payment of bonds or debentures or expended to pay the principal or interest of outstanding bonds or debentures.

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E. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of transportation or the secretary's authorized representative."

SECTION 16. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION--GROSS RECEIPTS TAX TO COUNTY-SUPPORTED MEDICAID FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 of the net receipts attributable to the gross receipts tax shall be made to the county-supported medicaid fund in the amount of two million two hundred thousand dollars (\$2,200,000)."".

12. On page 41, line 20, before the period, insert the following:

"as provided in Subsection B of this section.

B. Exempted from any local option gross receipts tax, but not the state gross receipts tax, are receipts of net patient care revenue of an organization that is a hospital licensed by the department of health that demonstrates to the department that it has been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered."

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13. Reletter the succeeding subsections accordingly.

14. On page 28, between lines 6 and 7, insert the following new sections:

"SECTION 19. Section 7-2A-5 NMSA 1978 (being Laws 1981, Chapter 37, Section 38, as amended) is amended to read:

"7-2A-5. CORPORATE INCOME TAX RATES.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978 shall be at the rates specified in the following tables:

A. For taxable years beginning prior to January 1, 2014:

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000 but not over \$1,000,000	\$24,000 plus 6.4% of excess over \$500,000
Over \$1,000,000	\$56,000 plus 7.6% of excess over \$1,000,000.

B. For taxable years beginning on or after January 1, 2014 and prior to January 1, 2015:

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000 but not over \$1,000,000	\$24,000 plus

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	6.4% of excess over \$500,000
Over \$1,000,000	\$56,000 plus 7.3% of excess over \$1,000,000.

C. For taxable years beginning on or after January 1, 2015 and prior to January 1, 2016:

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000 but not over \$1,000,000	\$24,000 plus 6.4% of excess over \$500,000
Over \$1,000,000	\$56,000 plus 6.9% of excess over \$1,000,000.

D. For taxable years beginning on or after January 1, 2016 and prior to January 1, [~~2017~~] 2019:

If the net income is: shall be:	The tax
Not over \$500,000	4.8% of net income
Over \$500,000 but not over \$1,000,000 plus	\$24,000 6.4% of excess

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over \$500,000

Over \$1,000,000

\$56,000
plus 6.6% of excess
over \$1,000,000.

~~[E. For taxable years beginning on or after
January 1, 2017 and prior to January 1, 2018:~~

~~If the net income is:
shall be:~~

~~The tax~~

~~Not over \$500,000
income~~

~~4.8% of net~~

~~Over \$500,000~~

~~\$24,000 plus
6.2% of excess
over \$500,000.~~

F.] E. For taxable years beginning on or after
January 1, [2018] 2019:

If the net income is:
shall be:

The tax

Not over \$500,000
income

4.8% of net

Over \$500,000

\$24,000 plus
5.9% of excess
over \$500,000."

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SECTION 20. Section 7-4-10 NMSA 1978 (being Laws 1993, Chapter 153, Section 1, as amended) is amended to read:

"7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

A. Except as provided in Subsections B and C of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

B. A taxpayer whose principal business activity in New Mexico is manufacturing may elect to have business income apportioned to this state:

(1) in the taxable year beginning on or after January 1, 2014 and prior to January 1, 2015, by multiplying the income by a fraction, the numerator of which is twice the sales factor plus the property factor plus the payroll factor and the denominator of which is four;

(2) in the taxable year beginning on or after January 1, 2015 and prior to January 1, 2016, by multiplying the income by a fraction, the numerator of which is three multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is five;

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(3) in the taxable [~~year~~] years beginning on or after January 1, 2016 and prior to January 1, [~~2017~~] 2019, by multiplying the income by a fraction, the numerator of which is seven multiplied by the sales factor plus one and one-half multiplied by the property factor plus one and one-half multiplied by the payroll factor and the denominator of which is ten; and

~~[(4) in the taxable year beginning on or after January 1, 2017 and prior to January 1, 2018, by multiplying the income by a fraction, the numerator of which is eight multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is ten; and~~

~~(5)]~~ (4) in taxable years beginning on or after January 1, [~~2018~~] 2019, by multiplying the income by a fraction, the numerator of which is the total sales of the taxpayer in New Mexico during the taxable year and the denominator of which is the total sales of the taxpayer from any location within or outside of the state during the taxable year.

C. A taxpayer whose principal business activity in New Mexico is a headquarters operation may elect to have business income apportioned to this state by multiplying the income by a fraction, the numerator of which is the total sales of the taxpayer in New Mexico during the taxable year and the denominator of which is the total sales of the taxpayer from any location within or outside of the state during the taxable year.

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D. To elect the method of apportionment provided by Subsection B or C of this section, the taxpayer shall notify the department of the election, in writing, no later than the date on which the taxpayer files the return for the first taxable year to which the election will apply. The election will apply to that taxable year and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B or C of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months. The election will apply to the separately filed return of the taxpayer or the combined or consolidated return the taxpayer has elected to be included pursuant to Section 7-2A-8.3 or 7-2A-8.4 NMSA 1978.

E. For purposes of this section:

(1) "headquarters operation" means:

(a) the center of operations of a business: 1) where corporate staff employees are physically employed; 2) where centralized functions are performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including operating a call center; 3) the function and purpose of which is to manage and direct most aspects and functions of the

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business operations within a subdivided area of the United States; 4) from which final authority over regional or subregional offices, operating facilities and any other offices of the business are issued; and 5) including national and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters; or

(b) the center of operations of a business: 1) the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and 2) from which final authority over one or more centralized functions is issued; and

(2) "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

(a) construction;

(b) farming;

(c) power generation, except for electricity generation at a facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; or

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(d) processing natural resources, including hydrocarbons."".

15. On page 42, line 13, strike "Sixty" and insert in lieu thereof "Prior to July 1, 2018, sixty percent, and on and after July 1, 2018, sixty-five".

16. On page 42, line 19, strike "Sixty" and insert in lieu thereof "Prior to July 1, 2018, sixty percent, and on and after July 1, 2018, sixty-five".

17. On pages 42 through 47, strike Section 16 in its entirety and insert in lieu thereof the following new sections:

"SECTION 30. Section 7-13-3 NMSA 1978 (being Laws 1971, Chapter 207, Section 3, as amended) is amended to read:

"7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS "GASOLINE TAX".--

A. For the privilege of receiving gasoline in this state, there is imposed an excise tax at a rate provided in Subsection B of this section on each gallon of gasoline received in New Mexico.

B. The tax imposed by Subsection A of this section shall be [~~seventeen cents (\$.17)~~] twenty-seven cents (\$.27) per gallon received in New Mexico.

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C. The tax imposed by this section may be called the "gasoline tax".

SECTION 31. Section 7-13A-3 NMSA 1978 (being Laws 1990, Chapter 124, Section 16, as amended) is amended to read:

"7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS "PETROLEUM PRODUCTS LOADING FEE".--

A. For the privilege of loading gasoline or special fuel from a rack at a refinery or pipeline terminal in this state into a cargo tank, there is imposed a fee on the distributor at a rate provided in Subsection [G] D of this section on each gallon of gasoline or special fuel loaded in New Mexico on which the petroleum products loading fee has not been previously paid.

B. For the privilege of importing gasoline or special fuel into this state for resale or consumption in this state there is imposed a fee determined as provided in Subsection [G] D of this section on each load of gasoline or special fuel imported into New Mexico for resale or consumption on which the petroleum products loading fee has not been previously paid. [~~For the purposes of this section, "load" means eight thousand gallons of gasoline or special fuel.~~]

C. To determine how many loads a person is to report under the provisions of this section, the person

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shall divide by eight thousand the total gallons of gasoline reported for the purposes of Section 7-13-3 NMSA 1978 as adjusted ~~[under]~~ pursuant to the provisions of Section 7-13-4 NMSA 1978 and the total gallons of special ~~[fuels]~~ fuel received in New Mexico less any gallons exempted under Section 7-13A-4 NMSA 1978. Loads shall be calculated to the nearest one-hundredth of a load.

~~[E.]~~ D. The fee imposed by this section ~~[is and]~~ may be referred to as the "petroleum products loading fee" and shall be:

(1) one hundred fifty dollars (\$150) per load prior to and including the last month a distribution to the tax stabilization reserve is made pursuant to Section 13 of this 2017 act; and

(2) beginning one month after the last distribution to the tax stabilization reserve is made pursuant Section 13 of this 2017 act, one hundred fifty dollars (\$150) per load or whichever of the following applies:

~~[(1) in the event]~~ (a) forty dollars (\$40.00) per load if, as certified by the secretary of environment, [certifies that] the unobligated balance of the corrective action fund at the end of the prior fiscal year equals or exceeds eighteen million dollars (\$18,000,000); [the fee shall be set at forty dollars (\$40.00) per load

~~(2) in the event]~~ (b) eighty dollars (\$80.00) per load if, as certified by the secretary of

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environment, [~~certifies that~~] the unobligated balance of the corrective action fund at the end of the prior fiscal year exceeds twelve million dollars (\$12,000,000) but is less than eighteen million dollars (\$18,000,000); [~~the fee shall be set at eighty dollars (\$80.00) per load;~~

~~(3) in the event] (c) one hundred twenty dollars (\$120) per load if, as certified by the secretary of environment, [~~certifies that~~] the unobligated balance of the corrective action fund at the end of the prior fiscal year exceeds six million dollars (\$6,000,000) but is less than twelve million dollars (\$12,000,000); [~~the fee shall be set at one hundred twenty dollars (\$120) per load; and~~~~

~~(4) in the event] or~~

(d) one hundred fifty dollars (\$150) per load if, as certified by the secretary of environment, [~~certifies that~~] the unobligated balance of the corrective action fund at the end of the prior fiscal year is less than six million dollars (\$6,000,000). [~~the fee shall be set at one hundred fifty dollars (\$150) per load.~~

~~D.] E.~~ The amount of the petroleum products loading fee [~~set~~] determined pursuant to Paragraph [~~(1)~~] (2) [~~(3) or (4)~~] of Subsection [~~(C)~~] D of this section shall be imposed on the first day of the month following expiration of ninety days after the end of the fiscal year for which the certification was made, except as

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provided in Paragraph (2) of Subsection D of this section.

~~[E.] F.~~ As used in this section, [~~"unobligated balance of the corrective action fund" means corrective action fund equity less all known or anticipated liabilities against the fund]~~ "load" means eight thousand gallons of gasoline or special fuel."

18. On page 47, between lines 17 and 18, insert the following new section:

"SECTION 33. Section 7-14-10 NMSA 1978 (being Laws 1988, Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from the tax and any associated interest and penalties shall be deposited in the "motor vehicle suspense fund", hereby created in the state treasury. As of the end of each month, the net receipts attributable to the tax and associated penalties and interest shall be distributed as follows:

A. seventy-five percent to the general fund; and

B. twenty-five percent to the:

(1) tax stabilization reserve prior to and including the last month a distribution to the tax stabilization reserve is made pursuant to Section 13 of

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this 2017 act; and

(2) state road maintenance fund beginning one month after the last distribution is made pursuant to Section 13 of this 2017 act."

19. On page 48, lines 1 and 2, strike "ninety dollars (\$90.00)" and insert in lieu thereof "fifty-five dollars (\$55.00)".

20. On page 48, between lines 19 and 20 and prior to Item 5 of House Floor Amendment number 1, insert the following new section:

"SECTION 35. Section 7-16A-3 NMSA 1978 (being Laws 1992, Chapter 51, Section 3, as amended) is amended to read:

"7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS SPECIAL FUEL EXCISE TAX.--

A. For the privilege of receiving or using special fuel in this state, there is imposed an excise tax at a rate provided in Subsection B of this section on each gallon of special fuel received in New Mexico.

B. The tax imposed by Subsection A of this section shall be [~~twenty-one cents (\$.21)~~] twenty-six cents (\$.26) per gallon of special fuel received or used in New Mexico.

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C. The tax imposed by this section may be called the "special fuel excise tax".

21. On page 48, between lines 19 and 20 and after Item 5 of House Floor Amendment number 1, insert the following new section:

"SECTION 38. TEMPORARY PROVISION--UNDERESTIMATING CORPORATE INCOME TAX--FORGIVING PENALTIES AND INTEREST.--A taxpayer that estimated corporate income tax to the state pursuant to Section 7-2A-9.1 NMSA 1978 for corporate income tax liabilities for taxable year 2017 but underpaid due to the changes made to Sections 7-2A-5 and 7-4-10 NMSA 1978 pursuant to this act shall not be subject to the penalties and interest provisions of the Tax Administration Act; provided that the underestimation is solely attributable to the changes made to Sections 7-2A-5 and 7-4-10 NMSA 1978 pursuant to this act."

22. On page 49, lines 4 through 7, strike Section 20 in its entirety and insert in lieu thereof the following new sections:

"SECTION 40. REPEAL.--Sections 7-1-6.57 and 7-9-96.1 NMSA 1978 (being Laws 2007, Chapter 361, Sections 1 and 7) are repealed.

SECTION 41. APPLICABILITY.--The provisions of Section 33 of this act apply to receipts of the motor vehicle excise tax and any associated interest and penalties that are collected on and after July 1, 2017."

23. Renumber sections to correspond with these amendments.

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Respectfully submitted,

John Arthur Smith, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 11 For 0 Against

Yes: 11

No: 0

Excused: Burt

Absent: None

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