

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILLS 95 & 131

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO TAXATION; INCREASING THE GASOLINE, SPECIAL FUEL AND
MOTOR VEHICLE EXCISE TAXES; DISTRIBUTING THE REVENUE FROM THE
INCREASES TO THE GASOLINE AND MOTOR VEHICLE EXCISE TAXES AND A
PORTION OF THE INCREASE TO 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; CONFORMING SECTION 67-3-28.2 NMSA
1978 (BEING LAWS 1986, CHAPTER 20, SECTION 125, AS AMENDED).

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

.207660.5

underscored material = new
[bracketed material] = delete

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

3 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

4 A. A distribution pursuant to Section 7-1-6.1 NMSA
5 1978 shall be made to the state aviation fund in an amount
6 equal to four and seventy-nine hundredths percent of the
7 taxable gross receipts attributable to the sale of fuel
8 specially prepared and sold for use in turboprop or jet-type
9 engines as determined by the department.

10 B. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 shall be made to the state aviation fund in an amount
12 equal to [~~twenty-six hundredths~~] one hundred sixty-four
13 thousandths percent of gasoline taxes, exclusive of penalties
14 and interest, collected pursuant to the Gasoline Tax Act.

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

20 D. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made to the state aviation fund from the net
22 receipts attributable to the gross receipts tax distributable
23 to the general fund in an amount equal to

24 ~~[(1) eighty thousand dollars (\$80,000) monthly~~
25 ~~from July 1, 2007 through June 30, 2008;~~

.207660.5

1 ~~(2) one hundred sixty-seven thousand dollars~~
2 ~~(\$167,000) monthly from July 1, 2008 through June 30, 2009; and~~
3 ~~(3)] two hundred fifty thousand dollars~~
4 ~~(\$250,000) [monthly after July 1, 2009]."~~

5 SECTION 2. Section 7-1-6.8 NMSA 1978 (being Laws 1983,
6 Chapter 211, Section 13, as amended) is amended to read:

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

12 SECTION 3. Section 7-1-6.9 NMSA 1978 (being Laws 1991,
13 Chapter 9, Section 11, as amended) is amended to read:

14 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
15 MUNICIPALITIES AND COUNTIES.--

16 A. A distribution pursuant to Section 7-1-6.1 NMSA
17 1978 shall be made in an amount equal to [~~ten and thirty-eight~~
18 ~~hundredths~~] six and five hundred thirty-six thousandths percent
19 of the net receipts attributable to the taxes, exclusive of
20 penalties and interest, imposed by the Gasoline Tax Act.

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

24 (1) ninety percent of the amount shall be paid
25 to the treasurers of municipalities and H class counties in the

.207660.5

1 proportion that the taxable motor fuel sales in each of the
2 municipalities and H class counties bears to the aggregate
3 taxable motor fuel sales in all of these municipalities and H
4 class counties; and

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

11 C. Except as provided in Subsection D of this
12 section, this distribution shall be paid into a separate road
13 fund in the municipal treasury or county road fund for
14 expenditure only for construction, reconstruction, resurfacing
15 or other improvement or maintenance of public roads, streets,
16 alleys or bridges, including right-of-way and materials
17 acquisition. Money distributed pursuant to this section may be
18 used by a municipality or county to provide matching funds for
19 projects subject to cooperative agreements entered into with
20 the [~~state highway and~~ department of transportation
21 [~~department~~] pursuant to Section 67-3-28 NMSA 1978. Any
22 municipality or H class county that has created or that creates
23 a "street improvement fund" to which gasoline tax revenues or
24 distributions are irrevocably pledged under Sections 3-34-1
25 through 3-34-4 NMSA 1978 or that has pledged all or a portion

.207660.5

1 of gasoline tax revenues or distributions to the payment of
 2 bonds shall receive its proportion of the distribution of
 3 revenues under this section impressed with and subject to these
 4 pledges.

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

9 SECTION 4. Section 7-1-6.10 NMSA 1978 (being Laws 1983,
 10 Chapter 211, Section 15, as amended) is amended to read:

11 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

12 A. A distribution pursuant to Section 7-1-6.1 NMSA
 13 1978 shall be made to the state road fund in an amount equal to
 14 the net receipts attributable to the taxes, surcharges,
 15 penalties and interest imposed pursuant to the Gasoline Tax Act
 16 and to the taxes, surtaxes, fees, penalties and interest
 17 imposed pursuant to the Special Fuels Supplier Tax Act and the
 18 Alternative Fuel Tax Act less:

19 (1) the amount distributed to the state
 20 aviation fund pursuant to Subsection B of Section 7-1-6.7 NMSA
 21 1978;

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

24 (3) the amount distributed to municipalities
 25 and counties pursuant to [~~Subsection A of~~] Section 7-1-6.9 NMSA

.207660.5

1 1978 and Section 11 of this 2017 act;

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

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

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

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

11 (8) the amount distributed to a qualified
12 tribe pursuant to [~~a gasoline tax sharing agreement entered
13 into between the secretary of transportation and the qualified
14 tribe pursuant to the provisions]~~ Subsection A of Section
15 [~~67-3-8.1]~~ 7-1-6.44 NMSA 1978; [~~and~~]

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

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

21 (11) the amount distributed to the state road
22 maintenance fund pursuant to Section 12 of this 2017 act.

23 B. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 shall be made to the state road fund in an amount equal to
25 the net receipts attributable to the taxes, interest and

.207660.5

1 penalties from the Weight Distance Tax Act."

2 SECTION 5. Section 7-1-6.19 NMSA 1978 (being Laws 1991,
3 Chapter 9, Section 15, as amended) is amended to read:

4 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND
5 CREATED.--

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

8 B. A distribution pursuant to Section 7-1-6.1 NMSA
9 1978 shall be made to the county government road fund in an
10 amount equal to [~~five and seventy-six hundredths~~] three and six
11 hundred twenty-seven thousandths percent of the net receipts
12 attributable to the gasoline tax."

13 SECTION 6. Section 7-1-6.25 NMSA 1978 (being Laws 1988,
14 Chapter 70, Section 9, as amended) is amended to read:

15 "7-1-6.25. DISTRIBUTION OF PETROLEUM PRODUCTS LOADING
16 FEE--CORRECTIVE ACTION FUND--LOCAL GOVERNMENTS ROAD FUND.--A
17 distribution pursuant to Section 7-1-6.1 NMSA 1978 of the net
18 receipts attributable to the petroleum products loading fee
19 shall be made to each of the following funds in the following
20 amounts:

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

24 B. an amount equal to the net receipts attributable
25 to a fee of one hundred ten dollars (\$110) per load to the tax

.207660.5

1 stabilization reserve until the last distribution to the tax
2 stabilization reserve is made pursuant to Section 10 of this
3 2017 act; and

4 C. one month after the last distribution is made to
5 the tax stabilization reserve pursuant to Section 10 of this
6 2017 act, to the corrective action fund, the balance, if any,
7 of the net receipts."

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

10 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

11 A. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made to municipalities for the purposes and
13 amounts specified in this section in an aggregate amount equal
14 to [~~five and seventy-six hundredths~~] three and six hundred
15 twenty-seven thousandths percent of the net receipts
16 attributable to the gasoline tax.

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

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

.207660.5

1 way;

2 (2) to provide matching funds for projects
3 subject to cooperative agreements with the [~~state highway and~~
4 department of transportation [~~department~~] pursuant to Section
5 67-3-28 NMSA 1978; and

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

21 C. For the purposes of this section:

22 (1) "computed distribution amount" means the
23 distribution amount calculated for a municipality for a month
24 pursuant to Paragraph (2) of Subsection D of this section prior
25 to any adjustments to the amount due to the provisions of

.207660.5

1 Subsections E and F of this section;

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

4 (3) "floor municipality" means a municipality
5 whose computed distribution amount is less than the floor
6 amount; and

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

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

14 (1) the floor amount; or

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

21 E. Fifteen percent of the aggregate amount
22 distributable under this section shall be referred to as the
23 "redistribution amount". Beginning in August 1990, and each
24 month thereafter, from the redistribution amount there shall be
25 taken an amount sufficient to increase the computed

.207660.5

1 distribution amount of every floor municipality to the floor
 2 amount. In the event that the redistribution amount is
 3 insufficient for this purpose, the computed distribution amount
 4 for each floor municipality shall be increased by an amount
 5 equal to the redistribution amount times a fraction, the
 6 numerator of which is the difference between the floor amount
 7 and the municipality's computed distribution amount and the
 8 denominator of which is the difference between the product of
 9 the floor amount multiplied by the number of floor
 10 municipalities and the total of the computed distribution
 11 amounts for all floor municipalities.

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

23 SECTION 8. Section 7-1-6.28 NMSA 1978 (being Laws 1991,
 24 Chapter 9, Section 22, as amended) is amended to read:

25 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF

.207660.5

1 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
2 Section 7-1-6.1 NMSA 1978 shall be made to the municipal
3 arterial program of the local governments road fund created in
4 Section 67-3-28.2 NMSA 1978 in an amount equal to [~~one and~~
5 ~~forty-four hundredths~~] nine hundred seven thousandths percent
6 of the net receipts attributable to the gasoline tax."

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

9 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO
10 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
11 Section 7-1-6.1 NMSA 1978 shall be made to the local
12 governments road fund in an amount equal to [~~nine and fifty-~~
13 ~~two~~] seven and sixty-nine hundredths percent of the net
14 receipts attributable to the taxes, exclusive of penalties and
15 interest, from the special fuel excise tax imposed by the
16 Special Fuels Supplier Tax Act."

17 SECTION 10. A new section of the Tax Administration Act
18 is enacted to read:

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

20 A. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made to the tax stabilization reserve in an
22 amount equal to eighteen and fifty-two hundredths percent of
23 the net receipts attributable to the gasoline tax and in an
24 amount equal to nine and sixty-one hundredths percent of the
25 net receipts attributable to the special fuel excise tax until

1 the month following a certification by the state board of
 2 finance to the secretary that the total amount in state reserve
 3 funds at the end of the prior fiscal year, according to the
 4 general fund financial summary that is prepared by the
 5 department of finance and administration in August of each
 6 year, was at least five percent of the total general fund
 7 appropriations for the prior fiscal year.

8 B. As used in this section, "state reserve funds"
 9 means the general fund operating reserve, the appropriation
 10 contingency fund, the tax stabilization reserve, the taxpayers
 11 divided fund and the tobacco settlement permanent fund."

12 SECTION 11. A new section of the Tax Administration Act
 13 is enacted to read:

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

17 A. A distribution pursuant to Section 7-1-6.1 NMSA
 18 1978 shall be made to municipalities and counties, subject to
 19 the requirements of Subsection B of this section, in the
 20 following amounts:

21 (1) prior to when the last distribution is
 22 made pursuant to Section 10 of this 2017 act:

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

.207660.5

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

4 (2) one month after the last distribution is
5 made to the tax stabilization reserve pursuant to Section 10 of
6 this 2017 act, in an amount equal to:

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

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

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

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

22 (1) sixty-six and seven-tenths percent of the
23 amount shall be paid to the treasurers of municipalities and H
24 class counties in the proportion that the taxable motor fuel
25 sales in each of the municipalities and H class counties bears

.207660.5

underscored material = new
~~[bracketed material]~~ = delete

1 to the aggregate taxable motor fuel sales in all of these
2 municipalities and H class counties; and

3 (2) thirty-three and three-tenths percent of
4 the amount shall be paid to the treasurers of the counties,
5 including H class counties, in the proportion that the taxable
6 motor fuel sales outside of incorporated municipalities in each
7 of the counties bears to the aggregate taxable motor fuel sales
8 outside of incorporated municipalities in all of the counties.

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

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

18 SECTION 12. A new section of the Tax Administration Act
19 is enacted to read:

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

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

25 B. A distribution pursuant to Section 7-1-6.1 NMSA

.207660.5

1 1978 shall be made to the state road maintenance fund in the
2 following amounts:

3 (1) prior to when the last distribution is
4 made pursuant to Section 10 of this 2017 act:

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

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

11 (2) one month after the last distribution is
12 made to the tax stabilization reserve pursuant to Section 10 of
13 this 2017 act, in an amount equal to:

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

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

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

.207660.5

1 materials acquisition.

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

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

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

11 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
12 "GASOLINE TAX".--

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

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

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

22 SECTION 14. Section 7-13A-3 NMSA 1978 (being Laws 1990,
23 Chapter 124, Section 16, as amended) is amended to read:

24 "7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS
25 "PETROLEUM PRODUCTS LOADING FEE".--

.207660.5

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

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

16 C. To determine how many loads a person is to
17 report under the provisions of this section, the person shall
18 divide by eight thousand the total gallons of gasoline reported
19 for the purposes of Section 7-13-3 NMSA 1978 as adjusted
20 [~~under~~] pursuant to the provisions of Section 7-13-4 NMSA 1978
21 and the total gallons of special [~~fuels~~] fuel received in New
22 Mexico less any gallons exempted under Section 7-13A-4 NMSA
23 1978. Loads shall be calculated to the nearest one-hundredth
24 of a load.

25 [~~G.~~] D. The fee imposed by this section [~~is and~~]

.207660.5

1 may be referred to as the "petroleum products loading fee" and
2 shall be:

3 (1) one hundred fifty dollars (\$150) per load
4 [~~or~~] until the last distribution to the tax stabilization
5 reserve is made pursuant to Section 10 of this 2017 act; and

6 (2) one month after the last distribution to
7 the tax stabilization reserve is made pursuant Section 10 of
8 this 2017 act, whichever of the following applies:

9 [~~(1) in the event~~] (a) forty dollars
10 (\$40.00) per load if, as certified by the secretary of
11 environment, [~~certifies that~~] the unobligated balance of the
12 corrective action fund at the end of the prior fiscal year
13 equals or exceeds eighteen million dollars (\$18,000,000); [~~the~~
14 fee shall be set at forty dollars (\$40.00) per load

15 [~~(2) in the event~~] (b) eighty dollars
16 (\$80.00) per load if, as certified by the secretary of
17 environment, [~~certifies that~~] the unobligated balance of the
18 corrective action fund at the end of the prior fiscal year
19 exceeds twelve million dollars (\$12,000,000) but is less than
20 eighteen million dollars (\$18,000,000); [~~the fee shall be set~~
21 at eighty dollars (\$80.00) per load;

22 [~~(3) in the event~~] (c) one hundred
23 twenty dollars (\$120) per load if, as certified by the
24 secretary of environment, [~~certifies that~~] the unobligated
25 balance of the corrective action fund at the end of the prior

.207660.5

1 fiscal year exceeds six million dollars (\$6,000,000) but is
2 less than twelve million dollars (\$12,000,000); [~~the fee shall~~
3 ~~be set at one hundred twenty dollars (\$120) per load; and~~
4 ~~(4) in the event] or
5 (d) one hundred fifty dollars (\$150)
6 if, as certified by the secretary of environment, [certifies
7 ~~that]~~ the unobligated balance of the corrective action fund at
8 the end of the prior fiscal year is less than six million
9 dollars (\$6,000,000). [~~the fee shall be set at one hundred~~
10 ~~fifty dollars (\$150) per load.~~~~

11 ~~D.]~~ E. The amount of the petroleum products loading
12 fee [~~set]~~ determined pursuant to Paragraph [~~(1)]~~ (2) [~~(3) or~~
13 ~~(4)]~~ of Subsection [~~(6)]~~ D of this section shall be imposed on
14 the first day of the month following expiration of ninety days
15 after the end of the fiscal year for which the certification
16 was made.

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

22 **SECTION 15.** Section 7-14-4 NMSA 1978 (being Laws 1988,
23 Chapter 73, Section 14) is amended to read:

24 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE
25 TAX.--The rate of the motor vehicle excise tax is [~~three]~~ four

underscored material = new
[bracketed material] = delete

1 percent and is applied to the price paid for the vehicle. If
 2 the price paid does not represent the value of the vehicle in
 3 the condition that existed at the time it was acquired, the tax
 4 rate shall be applied to the reasonable value of the vehicle in
 5 such condition at such time. However, allowances granted for
 6 vehicle trade-ins may be deducted from the price paid or the
 7 reasonable value of the vehicle purchased."

8 SECTION 16. Section 7-14-10 NMSA 1978 (being Laws 1988,
 9 Chapter 73, Section 20, as amended) is amended to read:

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

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

17 B. twenty-five percent to the:

18 (1) tax stabilization reserve until the last
 19 distribution to the tax stabilization reserve is made pursuant
 20 to Section 10 of this 2017 act; and

21 (2) state road maintenance fund one month
 22 after the last distribution is made pursuant to Section 10 of
 23 this 2017 act."

24 SECTION 17. Section 7-16A-3 NMSA 1978 (being Laws 1992,
 25 Chapter 51, Section 3, as amended) is amended to read:

.207660.5

1 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
2 SPECIAL FUEL EXCISE TAX.--

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

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

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

12 SECTION 18. Section 67-3-28.2 NMSA 1978 (being Laws 1986,
13 Chapter 20, Section 125, as amended) is amended to read:

14 "67-3-28.2. LOCAL GOVERNMENTS ROAD FUND CREATED--
15 USES.--

16 A. There is created in the state treasury the
17 "local governments road fund" to be administered by the
18 department. All income received from investment of the fund
19 shall be credited to the fund. No money in the fund shall be
20 used by the department to administer any program, and except as
21 provided in Subsection E of this section, no entity receiving a
22 distribution pursuant to a program requiring matching funds
23 shall use another distribution made pursuant to this section to
24 meet the match required.

25 B. No more than five hundred thousand dollars

1 (\$500,000) annually from the local governments road fund shall
 2 be used by the department to purchase at fair market value, for
 3 municipalities and counties that can demonstrate financial
 4 hardship as determined by the department, automotive, major
 5 road and miscellaneous equipment that would otherwise be sold
 6 at auction by the department as unusable for department
 7 purposes. The department shall adopt rules setting the
 8 procedure to carry out the purposes of this subsection.

9 C. Except for the amounts in Subsections B and E of
 10 this section and amounts distributed pursuant to the municipal
 11 arterial program pursuant to Section 7-1-6.28 NMSA 1978, money
 12 in the local governments road fund shall be distributed in the
 13 following amounts for the specified purposes:

14 (1) forty-two percent for the cooperative
 15 agreements program, to be used solely for the cooperative
 16 agreements entered into pursuant to Section 67-3-28 NMSA 1978
 17 and in accordance with the match authorized pursuant to Section
 18 67-3-32 NMSA 1978; provided, however, that distribution amounts
 19 made pursuant to this paragraph in each year shall be based on
 20 the following allocations:

21 (a) thirty-three percent for agreements
 22 entered into with counties;

23 (b) forty-nine percent for agreements
 24 entered into with municipalities;

25 (c) fourteen percent for agreements

.207660.5

1 entered into with school districts; and

2 (d) four percent for agreements entered
3 into with other entities;

4 (2) sixteen percent for the municipal arterial
5 program, to be used solely for the necessary project
6 development, construction, reconstruction, improvement,
7 maintenance, repair and right-of-way and material acquisition
8 of and for those streets that are principal extensions of rural
9 state highways and of other streets not on the state highway
10 system but that qualify under the designated criteria
11 established by the department. In entering into agreements
12 with municipalities to provide funds for any project qualifying
13 for the municipal arterial program, the department shall give
14 preference to municipalities that contribute an amount equal to
15 at least twenty-five percent of the project cost, including a
16 contribution made through funding received pursuant to
17 Subsection E of this section;

18 (3) sixteen percent for school bus routes, to
19 be used solely for cooperative agreements entered into pursuant
20 to Section 67-3-28 NMSA 1978 and in accordance with the match
21 authorized pursuant to Section 67-3-32 NMSA 1978 for acquiring
22 rights of way and constructing, maintaining, repairing,
23 improving and paving school bus routes and public school
24 parking lots; and

25 (4) twenty-six percent for the county arterial

1 program, to be used for project development, construction,
 2 reconstruction, improvement, maintenance, repair and right-of-
 3 way and material acquisition of and for county roads for which
 4 individual counties have prioritized road projects. Prior to
 5 entering into any agreements for projects with the counties for
 6 the following fiscal year, in June of each year the department
 7 shall determine and certify the amount to which each county is
 8 entitled pursuant to the following schedule:

9 Road Mileage Category Based on

10 Number of Miles Maintained

11 By a County:	Entitlement to County:
12 400 miles or under	\$250 for each mile
13 401 to 800 miles	\$100,000 plus \$200 for each 14 mile over 400 miles
15 801 to 1,200 miles	\$180,000 plus \$150 for each 16 mile over 800 miles
17 1,201 to 1,600 miles	\$240,000 plus \$100 for each 18 mile over 1,200 miles
19 Over 1,600 miles	\$300,000 plus \$50 for each 20 mile over 1,600 miles.

21 If in any year there is an insufficient amount in the fund
 22 of the county arterial program to certify the total amount to
 23 which all counties are entitled, the department shall decrease
 24 the entitlement amount due to each county in the same
 25 proportion as the insufficiency is to the total entitlements to

.207660.5

1 all counties. Distribution of an entitlement amount and an
2 agreement entered into with a county for any of the purposes
3 for which the money may be spent requires an amount from the
4 county equal to at least twenty-five percent of the
5 entitlement. The county contribution may be made through funds
6 received pursuant to Subsection E of this section. Any
7 uncommitted or unencumbered balance remaining in the county
8 arterial program fund at the end of a fiscal year shall be
9 transferred to the cooperative agreements program specified in
10 Paragraph (1) of this subsection for additional funding of that
11 program in the next fiscal year.

12 D. The department may transfer funds from the state
13 road fund to the local governments road fund to facilitate cash
14 flow for the funding of these local governments road projects.
15 The administrator of the local governments road fund shall
16 reimburse the state road fund in a timely manner for any such
17 transfers.

18 E. The department may distribute up to one million
19 dollars (\$1,000,000) per calendar year of the money in the
20 local governments road fund to municipalities and counties that
21 can demonstrate financial hardship, for use as all or a portion
22 of the municipality's or county's matching fund requirements
23 pursuant to this section. In order to qualify for matching
24 funds under this subsection, a county or municipality shall
25 provide the department with a financial hardship qualification

.207660.5

1 certificate issued by the department of finance and
2 administration."

3 SECTION 19. APPLICABILITY.--The provisions of Section 16
4 of this act apply to receipts of the motor vehicle excise tax
5 and any associated interest and penalties that are collected on
6 and after July 1, 2017.

7 SECTION 20. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2017.

9 - 27 -

underscored material = new
[bracketed material] = delete

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

