

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR  
2 SENATE BILL 344

3 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

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9  
10 AN ACT

11 RELATING TO TAXATION; INCREASING THE TAX IMPOSED BY THE INCOME  
12 TAX ACT FOR CERTAIN INCOME LEVELS; LIMITING THE CAPITAL GAINS  
13 DEDUCTION; DISTRIBUTING A PORTION OF THE TAX IMPOSED BY THE  
14 INCOME TAX ACT TO PRE-KINDERGARTEN FUNDS FOR EARLY CHILDHOOD  
15 CARE AND EDUCATION SERVICES PROVIDED FOR PRENATAL CARE THROUGH  
16 THIRD GRADE AND TO THE PUBLIC SCHOOL STATE EQUALIZATION  
17 GUARANTEE DISTRIBUTION TO SUPPLEMENT THE NON-CATEGORICAL  
18 DISTRIBUTION; REPEALING AN OUTDATED VERSION OF SECTION 7-2-7  
19 NMSA 1978 (BEING LAWS 2005 (1ST S.S.), CHAPTER 3, SECTION 2);  
20 MAKING AN APPROPRIATION.

21  
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 SECTION 1. A new section of the Tax Administration Act is  
24 enacted to read:

25 "[NEW MATERIAL] DISTRIBUTION--INCOME TAX--PUBLIC

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1 PRE-KINDERGARTEN FUND AND CHILDREN, YOUTH AND FAMILIES  
2 PRE-KINDERGARTEN FUND--SUPPLEMENTAL PUBLIC SCHOOL STATE  
3 EQUALIZATION GUARANTEE DISTRIBUTION.--

4 A. Beginning July 1, 2019 and prior to July 1,  
5 2020, a distribution pursuant to Section 7-1-6.1 NMSA 1978  
6 shall be made to the public pre-kindergarten fund for early  
7 childhood care and education services provided for prenatal  
8 care through third grade in an amount equal to seventy-five  
9 hundredths percent of the net receipts attributable to the tax  
10 imposed by Section 7-2-3 NMSA 1978.

11 B. Beginning July 1, 2020, a distribution pursuant  
12 to Section 7-1-6.1 NMSA 1978 shall be made to the public pre-  
13 kindergarten fund for early childhood care and education  
14 services provided for prenatal care through third grade in an  
15 amount equal to one and one-half percent of the net receipts  
16 attributable to the tax imposed by Section 7-2-3 NMSA 1978.

17 C. Beginning July 1, 2019 and prior to July 1,  
18 2020, a distribution pursuant to Section 7-1-6.1 NMSA 1978  
19 shall be made to the children, youth and families pre-  
20 kindergarten fund for early childhood care and education  
21 services provided for prenatal care through third grade in an  
22 amount equal to seventy-five hundredths percent of the net  
23 receipts attributable to the tax imposed by Section 7-2-3 NMSA  
24 1978.

25 D. Beginning July 1, 2020, a distribution pursuant  
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1 to Section 7-1-6.1 NMSA 1978 shall be made to the children,  
2 youth and families pre-kindergarten fund for early childhood  
3 care and education services provided for prenatal care through  
4 third grade in an amount equal to one and one-half percent of  
5 the net receipts attributable to the tax imposed by Section  
6 7-2-3 NMSA 1978.

7 E. Beginning July 1, 2019 and prior to July 1,  
8 2020, a distribution pursuant to Section 7-1-6.1 NMSA 1978  
9 shall be made to the public school fund for the state  
10 equalization guarantee distribution, to supplement the non-  
11 categorical distribution, in an amount equal to four and one-  
12 half percent of the net receipts attributable to the tax  
13 imposed by Section 7-2-3 NMSA 1978.

14 F. Beginning July 1, 2020, a distribution pursuant  
15 to Section 7-1-6.1 NMSA 1978 shall be made to the public school  
16 fund for the state equalization guarantee distribution, to  
17 supplement the non-categorical distribution, in an amount equal  
18 to three percent of the net receipts attributable to the tax  
19 imposed by Section 7-2-3 NMSA 1978."

20 **SECTION 2.** Section 7-2-7 NMSA 1978 (being Laws 2005,  
21 Chapter 104, Section 4) is amended to read:

22 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by  
23 Section 7-2-3 NMSA 1978 shall be at the following rates for any  
24 taxable year beginning on or after January 1, 2008:

25 A. For married individuals filing separate returns:

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| 1  | If the taxable income is:                   | The tax shall be:             |
|----|---|-------------------------------|
| 2  | Not over \$4,000                            | 1.7% of taxable income        |
| 3  | Over \$4,000 but not over \$8,000           | \$68.00 plus 3.2% of          |
| 4  |   | excess over \$4,000           |
| 5  | Over \$8,000 but not over \$12,000          | \$196 plus 4.7% of excess     |
| 6  |   | over \$8,000                  |
| 7  | Over \$12,000 <u>but not over \$125,000</u> | \$384 plus 4.9% of excess     |
| 8  |   | over \$12,000                 |
| 9  | <u>Over \$125,000</u>                       | <u>\$5,921 plus 6.4% of</u>   |
| 10 |   | <u>excess over \$125,000.</u> |

11 B. For heads of household, surviving spouses and  
12 married individuals filing joint returns:

| 13 | If the taxable income is:                   | The tax shall be:             |
|----|---|-------------------------------|
| 14 | Not over \$8,000                            | 1.7% of taxable income        |
| 15 | Over \$8,000 but not over \$16,000          | \$136 plus 3.2% of excess     |
| 16 |   | over \$8,000                  |
| 17 | Over \$16,000 but not over \$24,000         | \$392 plus 4.7% of excess     |
| 18 |   | over \$16,000                 |
| 19 | Over \$24,000 <u>but not over \$250,000</u> | \$768 plus 4.9% of excess     |
| 20 |   | over \$24,000                 |
| 21 | <u>Over \$250,000</u>                       | <u>\$11,842 plus 6.4% of</u>  |
| 22 |   | <u>excess over \$250,000.</u> |

23 C. For single individuals and for estates and  
24 trusts:

| 25 | If the taxable income is: | The tax shall be: |
|----|---------------------------|-------------------|
|----|---------------------------|-------------------|

|    |                                     |                                  |
|----|-------------------------------------|----------------------------------|
| 1  | Not over \$5,500                    | 1.7% of taxable income           |
| 2  | Over \$5,500 but not over \$11,000  | \$93.50 plus 3.2% of             |
| 3  |                                     | excess over \$5,500              |
| 4  | Over \$11,000 but not over \$16,000 | \$269.50 plus 4.7% of            |
| 5  |                                     | excess over \$11,000             |
| 6  | Over \$16,000 <u>but not over</u>   |                                  |
| 7  | <u>\$166,666.67</u>                 | \$504.50 plus 4.9% of            |
| 8  |                                     | excess over \$16,000             |
| 9  | <u>Over \$166,666.67</u>            | <u>\$7,887.17 plus 6.4% of</u>   |
| 10 |                                     | <u>excess over \$166,666.67.</u> |

11 D. The tax on the sum of any lump-sum amounts  
 12 included in net income is an amount equal to five multiplied by  
 13 the difference between:

14 (1) the amount of tax due on the taxpayer's  
 15 taxable income; and

16 (2) the amount of tax that would be due on an  
 17 amount equal to the taxpayer's taxable income and twenty  
 18 percent of the taxpayer's lump-sum amounts included in net  
 19 income."

20 SECTION 3. Section 7-2-34 NMSA 1978 (being Laws 1999,  
 21 Chapter 205, Section 1, as amended) is amended to read:

22 "7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

23 A. Except as provided in Subsection C of this  
 24 section, a taxpayer may claim a deduction from net income in an  
 25 amount equal to ~~the greater of~~

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1                   ~~(1)~~ the taxpayer's net capital gain income for  
2 the taxable year for which the deduction is being claimed, but  
3 not to exceed one thousand dollars (\$1,000) ~~or~~

4                   ~~(2) the following percentage of the taxpayer's~~  
5 ~~net capital gain income for the taxable year for which the~~  
6 ~~deduction is being claimed:~~

7                   ~~(a) for a taxable year beginning in~~  
8 ~~2003, ten percent;~~

9                   ~~(b) for a taxable year beginning in~~  
10 ~~2004, twenty percent;~~

11                   ~~(c) for a taxable year beginning in~~  
12 ~~2005, thirty percent;~~

13                   ~~(d) for a taxable year beginning in~~  
14 ~~2006, forty percent; and~~

15                   ~~(e) for taxable years beginning on or~~  
16 ~~after January 1, 2007, fifty percent].~~

17                   B. ~~[A husband and wife]~~ Married individuals who  
18 file separate returns for a taxable year in which they could  
19 have filed a joint return may each claim only one-half of the  
20 deduction provided by this section that would have been allowed  
21 on the joint return.

22                   C. A taxpayer may not claim the deduction provided  
23 in Subsection A of this section if the taxpayer has claimed the  
24 credit provided in Section 7-2D-8.1 NMSA 1978.

25                   D. As used in this section, "net capital gain"

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1 means "net capital gain" as defined in Section 1222 (11) of the  
2 Internal Revenue Code."

3 SECTION 4. Section 32A-23-8 NMSA 1978 (being Laws 2005,  
4 Chapter 170, Section 8) is amended to read:

5 "32A-23-8. FUNDS CREATED--ADMINISTRATION.--

6 A. The "public pre-kindergarten fund" is created as  
7 a nonreverting fund in the state treasury. The fund shall  
8 consist of appropriations, income from investment of the fund,  
9 gifts, grants and donations. The fund shall be administered by  
10 the public education department, and money in the fund is  
11 appropriated to the department to carry out the provisions of  
12 the Pre-Kindergarten Act; provided that the distributions made  
13 pursuant to Subsections A and B of Section 1 of this 2017 act  
14 shall be used for early childhood care and education services  
15 provided for prenatal care through third grade. Disbursements  
16 from the fund shall be by warrant of the secretary of finance  
17 and administration upon vouchers signed by the secretary of  
18 public education or the secretary's authorized representative.  
19 The department may use up to ten percent of the money in the  
20 fund each year for administrative expenses.

21 B. The "children, youth and families pre-  
22 kindergarten fund" is created as a nonreverting fund in the  
23 state treasury. The fund shall consist of appropriations,  
24 income from investment of the fund, gifts, grants and  
25 donations. The fund shall be administered by the children,

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1 youth and families department, and money in the fund is  
2 appropriated to the department to carry out the provisions of  
3 the Pre-Kindergarten Act; provided that the distributions made  
4 pursuant to Subsections C and D of Section 1 of this 2017 act  
5 shall be used for early childhood care and education services  
6 provided for prenatal care through third grade. Disbursements  
7 from the fund shall be by warrant of the secretary of finance  
8 and administration upon vouchers signed by the secretary of  
9 children, youth and families or the secretary's authorized  
10 representative. The department may use up to ten percent of  
11 the money in the fund each year for administrative expenses."

12 SECTION 5. REPEAL.--That version of Section 7-2-7 NMSA  
13 1978 (being Laws 2005 (1st S.S.), Chapter 3, Section 2) is  
14 repealed.

15 SECTION 6. APPLICABILITY.--The provisions of Sections 2  
16 and 3 of this act apply to taxable years beginning on or after  
17 January 1, 2018.

18 SECTION 7. EFFECTIVE DATE.--The effective date of the  
19 provisions of Sections 1 and 4 of this act is January 1, 2019.