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SENATE BILL 380

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

BEN D. ALTAMIRANO

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE.

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

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

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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4
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6 February 13, 1998
7

8 Mr. President:
9

10 Your FINANCE COMMITTEE, to whom has been referred
11

12 SENATE BILL 380
13

14 has had it under consideration and reports same with
15 recommendation that it DO NOT PASS, but that
16

17
18 SENATE FINANCE COMMITTEE SUBSTITUTE FOR
19 SENATE BILL 380
20

21 DO PASS, and thence referred to the COMMITTEES' COMMITTEE.
22

23 Respectfully submitted,
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Underscored material = new
[bracketed material] = delete

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Ben D. Altamirano, Chairman

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

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Aragon, Carraro, Eisenstadt, Ingle, McKibben

Absent: None

S0380FC1

SENATE FINANCE COMMITTEE SUBSTITUTE
FOR SENATE BILL 380

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AMENDING THE GASOLINE TAX ACT TO CHANGE AND CLARIFY WHEN
GASOLINE IS RECEIVED FOR PURPOSES OF THE IMPOSITION OF THE
GASOLINE TAX; PROVIDING DEDUCTIONS AGAINST A CERTAIN AMOUNT OF
GASOLINE RECEIVED BY CERTAIN INDIAN TRIBAL DISTRIBUTORS;
PROVIDING FOR DISTRIBUTIONS OF TAX REVENUE TO THE INDIAN ROAD
FUND; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. 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,

. 123205. 1

underscored material = new
[bracketed material] = delete

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 Tax Act, the Special Fuels Supplier Tax Act and the Alternative Fuel Tax Act less:

(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;

(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; [and]

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

(8) the amount distributed to the Indian road fund pursuant to Section 7-1-6.42 NMSA 1978.

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, fees, interest and penalties from the Weight Distance Tax Act. "

Section 2. A new Section 7-1-6.42 NMSA 1978 is enacted to read:

"7-1-6.42. [NEW MATERIAL] DISTRIBUTION--INDIAN ROAD FUND.--

. 123205. 1

1 A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
2 made to the Indian road fund in an amount equal to the net
3 receipts attributable to the gasoline tax paid by or on behalf of
4 registered Indian tribal distributors. "

5 Section 3. Section 7-13-2 NMSA 1978 (being Laws 1971,
6 Chapter 207, Section 2, as amended) is amended to read:

7 "7-13-2. DEFINITIONS. -- As used in the Gasoline Tax Act:

8 A. "aviation gasoline" means gasoline sold for use in
9 aircraft propelled by engines other than turbo-prop or jet-type
10 engines;

11 B. "department" means the taxation and revenue
12 department, the secretary of taxation and revenue or any employee
13 of the department exercising authority lawfully delegated to that
14 employee by the secretary;

15 C. "distributor" means any person, not including the
16 United States of America or any of its agencies except to the
17 extent now or hereafter permitted by the constitution and laws
18 thereof, who receives gasoline in this state. "Distributor"
19 shall be construed so that a person simultaneously may be both a
20 distributor and a retailer or importer. "Distributor" includes a
21 registered Indian tribal distributor;

22 D. "drip gasoline" means a combustible hydrocarbon
23 liquid formed as a product of condensation from either associated
24 or nonassociated natural or casing head gas and that remains a
25 liquid at room temperature and pressure;

1 E. "ethanol blended fuel" means gasoline containing a
2 minimum of ten percent by volume of denatured ethanol, of at
3 least one hundred ninety-nine proof, exclusive of denaturants;

4 F. "fuel supply tank" means any tank or other
5 receptacle in which or by which fuel may be carried and supplied
6 to the fuel-furnishing device or apparatus of the propulsion
7 mechanism of a motor vehicle when the tank or receptacle either
8 contains gasoline or gasoline is delivered into it;

9 G. "gallon" means the quantity of liquid necessary to
10 fill a standard United States gallon liquid measure or that same
11 quantity adjusted to a temperature of sixty degrees fahrenheit at
12 the election of any distributor, but a distributor shall report
13 on the same basis for a period of at least one year;

14 H. "gasoline" means any flammable liquid hydrocarbon
15 used primarily as fuel for the propulsion of motor vehicles,
16 motorboats or aircraft except for diesel engine fuel, kerosene,
17 liquefied petroleum gas, compressed or liquefied natural gas and
18 products specially prepared and sold for use in aircraft
19 propelled by turbo-prop or jet-type engines;

20 I. "government-licensed vehicle" means a motor vehicle
21 lawfully displaying a registration plate, as defined in the Motor
22 Vehicle Code, issued by the United States or any state,
23 identifying the motor vehicle as belonging to the United States
24 or any of its agencies or instrumentalities or an Indian nation,
25 tribe or pueblo or any of its political subdivisions, agencies or

1 instrumentalities;

2 J. "highway" means every road, highway, thoroughfare,
3 street or way, including toll roads, generally open to the use of
4 the public as a matter of right for the purpose of motor vehicle
5 travel regardless of whether it is temporarily closed for the
6 purpose of construction, reconstruction, maintenance or repair;

7 K. "motor vehicle" means any self-propelled vehicle or
8 device that is either subject to registration under Section 66-3-
9 1 NMSA 1978 or used or that may be used on the public highways in
10 whole or in part for the purpose of transporting persons or
11 property and includes any connected trailer or semitrailer;

12 L. "person" means an individual or any other entity,
13 including, to the extent permitted by law, any federal, state or
14 other government or any department, agency, instrumentality or
15 political subdivision of any federal, state or other government;

16 M "rack operator" means the operator of a refinery in
17 this state or the owner of gasoline stored at a pipeline terminal
18 in this state;

19 ~~[N. "received" means:~~

20 ~~(1)~~

21 ~~(a) gasoline that is produced, refined,~~
22 ~~manufactured, blended or compounded at a refinery in this state~~
23 ~~or stored at a pipeline terminal in this state by any person is~~
24 ~~"received" by such person when it is loaded there into tank cars,~~
25 ~~tank trucks, tank wagons or other types of transportation~~

underscored material = new
[bracketed material] = delete

1 ~~equipment or when it is placed into any tank or other container~~
2 ~~from which sales or deliveries not involving transportation are~~
3 ~~made;~~

4 ~~(b) when, however, such gasoline is delivered~~
5 ~~at the refinery or pipeline terminal to another person registered~~
6 ~~as a distributor under the Gasoline Tax Act, then it is~~
7 ~~"received" by the distributor to whom it is so delivered;~~

8 ~~(c) when such gasoline is delivered at the~~
9 ~~refinery or pipeline terminal to another person not registered as~~
10 ~~a distributor under the Gasoline Tax Act for the account of a~~
11 ~~person that is so registered, it is "received" by the distributor~~
12 ~~for whose account it is delivered; and~~

13 ~~(d) when gasoline is shipped to a distributor,~~
14 ~~or for the account of a distributor, away from the refinery or~~
15 ~~pipeline terminal, it is "received" by the distributor where it~~
16 ~~is unloaded;~~

17 ~~(2) notwithstanding the provisions of Paragraph (1)~~
18 ~~of this subsection, when gasoline is shipped or delivered from a~~
19 ~~refinery or pipeline terminal to another refinery or pipeline~~
20 ~~terminal, such gasoline is not "received" by reason of such~~
21 ~~shipment or delivery;~~

22 ~~(3) any product other than gasoline that is blended~~
23 ~~to produce gasoline other than at a refinery or pipeline terminal~~
24 ~~in this state is "received" by a person who is the owner thereof~~
25 ~~at the time and place the blending is completed; and~~

1 ~~(4) except as otherwise provided, gasoline is~~
2 ~~"received" at the time and place it is first unloaded in this~~
3 ~~state and by the person who is the owner thereof immediately~~
4 ~~preceding the unloading, unless the owner immediately after the~~
5 ~~unloading is a registered distributor, in which case such~~
6 ~~registered distributor is considered as having received the~~
7 ~~gasoline;]~~

8 N. "registered Indian tribal distributor" means an
9 Indian nation, tribe or pueblo recognized by the United States
10 whose reservation or pueblo grant is located in whole or in part
11 in this state, or a corporation or other enterprise wholly owned
12 by such an Indian nation, tribe or pueblo, that is registered
13 with the department as a distributor pursuant to the Gasoline Tax
14 Act.

15 O. "retailer" means a person who sells gasoline
16 generally in quantities of thirty-five gallons or less and
17 delivers such gasoline into the fuel supply tanks of motor
18 vehicles. "Retailer" shall be construed so that a person
19 simultaneously may be both a retailer and a distributor or
20 wholesaler;

21 P. "secretary" means the secretary of taxation and
22 revenue or the secretary's delegate;

23 Q. "taxpayer" means a person required to pay gasoline
24 tax;

25 R. "unloaded" means removal of gasoline from tank cars,

1 tank trucks, tank wagons or other types of transportation
2 equipment into a nonmobile container at the place at which the
3 unloading takes place; and

4 S. "wholesaler" means a person who is not a distributor
5 and who sells gasoline in quantities of thirty-five gallons or
6 more and does not deliver such gasoline into the fuel supply
7 tanks of motor vehicles. "Wholesaler" shall be construed so that
8 a person simultaneously may be a wholesaler and a retailer. "

9 Section 4. Section 7-13-4 NMSA 1978 (being Laws 1991,
10 Chapter 9, Section 32, as amended) is amended to read:

11 "7-13-4. DEDUCTIONS--GASOLINE TAX. --In computing the
12 gasoline tax due, the following amounts of gasoline may be
13 deducted from the total amount of gasoline received in New Mexico
14 during the tax period, provided [~~that~~] satisfactory proof thereof
15 is furnished to the department:

16 A. gasoline received in New Mexico, but exported from
17 this state by a rack operator, distributor or wholesaler other
18 than in the fuel supply tank of a motor vehicle or sold for
19 export by a rack operator or distributor; provided that, in
20 either case:

21 (1) the person exporting the gasoline is registered
22 in or licensed by the destination state to pay that state's
23 gasoline or equivalent fuel tax;

24 (2) proof is submitted that the destination state's
25 gasoline or equivalent fuel tax has been paid or is not due with

1 respect to the gasoline; or

2 (3) the destination state's gasoline or equivalent
3 fuel tax is paid to New Mexico in accordance with the terms of an
4 agreement entered into pursuant to Section 9-11-12 NMSA 1978 with
5 the destination state;

6 B. gasoline received in New Mexico sold to the United
7 States or any agency or instrumentality thereof for the exclusive
8 use of the United States or any agency or instrumentality
9 thereof. Gasoline sold to the United States includes gasoline
10 delivered into the supply tank of a government-licensed vehicle
11 of the United States; [~~and~~]

12 C. gasoline received in New Mexico sold to an Indian
13 nation, tribe or pueblo or any political subdivision, agency or
14 instrumentality of that Indian nation, tribe or pueblo for the
15 exclusive use of the Indian nation, tribe or pueblo or any
16 political subdivision, agency or instrumentality thereof.

17 Gasoline sold to an Indian nation, tribe or pueblo includes
18 gasoline delivered into the supply tank of a government-licensed
19 vehicle of the Indian nation, tribe or pueblo; and

20 D. gasoline received in New Mexico by a registered
21 Indian tribal distributor; provided that the total amount of
22 gasoline deducted per month by a distributor pursuant to this
23 subsection shall not exceed one and sixteen hundredths multiplied
24 by the difference between the gallons received in August 1997 by
25 the distributor and the gallons deducted pursuant to this section

1 in August 1997 by that distributor. "

2 Section 5. A new section of the Gasoline Tax Act is enacted
3 to read:

4 "[NEW MATERIAL] WHEN GASOLINE IS RECEIVED. --

5 A. Gasoline that is produced, refined, manufactured,
6 blended or compounded at a refinery in this state or stored at a
7 pipeline terminal in this state by any person is received by the
8 person when it is loaded there into tank cars, tank trucks, tank
9 wagons or other types of transportation equipment or when it is
10 placed into any tank or other container from which sales or
11 deliveries not involving transportation are made; however:

12 (1) when the gasoline is delivered at the refinery
13 or pipeline terminal to another person registered as a
14 distributor pursuant to the Gasoline Tax Act, then it is received
15 at that time and place by the distributor to whom it is so
16 delivered; and

17 (2) when the gasoline is delivered at the refinery
18 or pipeline terminal to another person not registered as a
19 distributor pursuant to the Gasoline Tax Act for the account of a
20 person that is registered as a distributor, then it is received
21 at that time and place by the distributor for whose account it is
22 delivered.

23 B. Any product other than gasoline that is blended to
24 produce gasoline other than at a refinery or pipeline terminal in
25 this state is received by a person who is the owner thereof at

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1 the time and place the blending is completed.

2 C. Gasoline imported into New Mexico by any means other
3 than in the fuel supply tank of a motor vehicle or by pipeline is
4 received at the time and place it is imported into this state.

5 The person who owns the gasoline at the time of importation
6 receives the gasoline and shall pay the gasoline tax.

7 D. If gasoline is received within the exterior
8 boundaries of an Indian reservation or pueblo grant and the
9 person receiving the gasoline is immune from state taxation, then
10 the gasoline is also received when the gasoline is transported
11 off that reservation or pueblo grant by any means other than in
12 the fuel supply tank of a motor vehicle. Any person who owns the
13 gasoline, other than in the fuel supply tank of a motor vehicle,
14 after the transportation off that reservation or pueblo grant
15 receives the gasoline and shall pay the gasoline tax unless the
16 gasoline tax has been paid by a previous owner.

17 E. If gasoline is received outside the exterior
18 boundaries of an Indian reservation or pueblo grant but still
19 within Indian country, as defined by federal law, of that
20 reservation or pueblo grant and the person receiving the gasoline
21 is immune from state taxation, the gasoline is also received when
22 the gasoline is transported off that Indian country by any means
23 other than in the fuel supply tank of a motor vehicle. Any
24 person who owns the gasoline, other than in the fuel supply tank
25 of a motor vehicle, after the transportation off that Indian

underscored material = new
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1 country receives the gasoline and shall pay the gasoline tax
2 unless the gasoline tax has been paid by a previous owner. "

3 Section 6. [NEW MATERIAL] INDIAN ROAD FUND--EXPENDITURE. --

4 The "Indian road fund" is created within the state treasury. The
5 Indian road fund shall be expended by the state highway and
6 transportation department only for maintenance, construction and
7 improvement of the public highways located within New Mexico and
8 either within the exterior boundaries of an Indian reservation or
9 pueblo grant or within Indian country, as defined by federal law,
10 of an Indian reservation or pueblo grant.

11 Section 7. SEVERABILITY.--If any part or application of this
12 act is held invalid, the remainder or its application to other
13 situations or persons shall not be affected.

14 Section 8. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 1998.

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SFC/SB 380

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 15, 1998

Mr. President:

Your COMMITTEES' COMMITTEE, to whom has been referred

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 380

has had it under consideration and finds same to be GERMANE, in
accordance with constitutional provisions, and further recommends that
it now be referred to the WAYS & MEANS COMMITTEE.

Respectfully submitted,

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Manny M. Aragon, Chairman

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

Date _____

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SFC/SB 380

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 16, 1998

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been referred

SENATE BILL 380

has had it under consideration and reports same with recommendation
that it DO NOT PASS, but that

SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR
SENATE FINANCE COMMITTEE SUBSTITUTE
FOR SENATE BILL 380

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DO PASS.

Respectfully submitted,

Carlos R. Cisneros, Chairman

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

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Duran, Kidd, Leavell, Wilson

Absent: None

S0380WMI

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[bracketed material] = delete

SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR
FOR SENATE BILL 380

SENATE FINANCE COMMITTEE SUBSTITUTE
43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AMENDING THE GASOLINE TAX ACT TO CHANGE AND CLARIFY WHEN
GASOLINE IS RECEIVED FOR PURPOSES OF THE IMPOSITION OF THE
GASOLINE TAX; PROVIDING FOR DISTRIBUTIONS OF TAX REVENUE TO THE
INDIAN ROAD FUND; AMENDING AND ENACTING SECTIONS OF THE NMSA
1978; MAKING AN APPROPRIATION.

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

Section 1. [NEW MATERIAL] INDIAN ROAD FUND-- EXPENDITURE. -

-The "Indian road fund" is created within the state treasury.
The Indian road fund shall be expended by the state highway and
transportation department only for maintenance, construction
and improvement of the public highways located within New
Mexico and either within the exterior boundaries of an Indian
reservation or pueblo grant or within Indian country, as

underscored material = new
[bracketed material] = delete

defined by federal law, of an Indian reservation or pueblo grant.

Section 2. 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 Tax Act, the Special Fuels Supplier Tax Act and the Alternative Fuel Tax Act less:

(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;

(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; [and]

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

(8) the amount distributed to the Indian road fund pursuant to Section 7-1-6.42 NMSA 1978.

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

5 Section 3. A new Section 7-1-6.42 NMSA 1978 is enacted to
6 read:

7 "7-1-6.42. [NEW MATERIAL] DISTRIBUTIONS--INDIAN ROAD FUND. --

8 A. A distribution pursuant to Section 7-1-6.1 NMSA 1978
9 shall be made to the Indian road fund in an amount equal to the
10 net receipts attributable to the gasoline tax paid by or on
11 behalf of registered Indian tribal distributors.

12 B. A distribution pursuant to Section 7-1-6.1 NMSA 1978
13 shall be made to the Indian road fund in the amount of four
14 hundred sixteen thousand six hundred sixty-seven dollars
15 (\$416,667) of the net receipts attributable to the gross receipts
16 tax imposed pursuant to the Gross Receipts and Compensating Tax
17 Act. "

18 Section 4. Section 7-13-2 NMSA 1978 (being Laws 1971,
19 Chapter 207, Section 2, as amended) is amended to read:

20 "7-13-2. DEFINITIONS.--As used in the Gasoline Tax Act:

21 A. "aviation gasoline" means gasoline sold for use in
22 aircraft propelled by engines other than turbo-prop or jet-type
23 engines;

24 B. "department" means the taxation and revenue
25 department, the secretary of taxation and revenue or any employee

1 of the department exercising authority lawfully delegated to that
 2 employee by the secretary;

3 C. "distributor" means any person, not including the
 4 United States of America or any of its agencies except to the
 5 extent now or hereafter permitted by the constitution and laws
 6 thereof, who receives gasoline in this state. "Distributor"
 7 shall be construed so that a person simultaneously may be both a
 8 distributor and a retailer or importer;

9 D. "drip gasoline" means a combustible hydrocarbon
 10 liquid formed as a product of condensation from either associated
 11 or nonassociated natural or casing head gas and that remains a
 12 liquid at room temperature and pressure;

13 E. "ethanol blended fuel" means gasoline containing a
 14 minimum of ten percent by volume of denatured ethanol, of at
 15 least one hundred ninety-nine proof, exclusive of denaturants;

16 F. "fuel supply tank" means any tank or other
 17 receptacle in which or by which fuel may be carried and supplied
 18 to the fuel-furnishing device or apparatus of the propulsion
 19 mechanism of a motor vehicle when the tank or receptacle either
 20 contains gasoline or gasoline is delivered into it;

21 G. "gallon" means the quantity of liquid necessary to
 22 fill a standard United States gallon liquid measure or that same
 23 quantity adjusted to a temperature of sixty degrees fahrenheit at
 24 the election of any distributor, but a distributor shall report
 25 on the same basis for a period of at least one year;

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 [bracketed material] = delete

1 H. "gasoline" means any flammable liquid hydrocarbon
2 used primarily as fuel for the propulsion of motor vehicles,
3 motorboats or aircraft except for diesel engine fuel, kerosene,
4 liquefied petroleum gas, compressed or liquefied natural gas and
5 products specially prepared and sold for use in aircraft
6 propelled by turbo-prop or jet-type engines;

7 I. "government-licensed vehicle" means a motor vehicle
8 lawfully displaying a registration plate, as defined in the Motor
9 Vehicle Code, issued by the United States or any state,
10 identifying the motor vehicle as belonging to the United States
11 or any of its agencies or instrumentalities or an Indian nation,
12 tribe or pueblo or any of its political subdivisions, agencies or
13 instrumentalities;

14 J. "highway" means every road, highway, thoroughfare,
15 street or way, including toll roads, generally open to the use of
16 the public as a matter of right for the purpose of motor vehicle
17 travel regardless of whether it is temporarily closed for the
18 purpose of construction, reconstruction, maintenance or repair;

19 K. "motor vehicle" means any self-propelled vehicle or
20 device that is either subject to registration under Section 66-3-
21 1 NMSA 1978 or used or that may be used on the public highways in
22 whole or in part for the purpose of transporting persons or
23 property and includes any connected trailer or semitrailer;

24 L. "person" means an individual or any other entity,
25 including, to the extent permitted by law, any federal, state or

1 other government or any department, agency, instrumentality or
2 political subdivision of any federal, state or other government;

3 M "rack operator" means the operator of a refinery in
4 this state or the owner of gasoline stored at a pipeline terminal
5 in this state;

6 [N. ~~"received" means:~~

7 ~~(1)~~

8 ~~(a) gasoline that is produced, refined,~~
9 ~~manufactured, blended or compounded at a refinery in this state~~
10 ~~or stored at a pipeline terminal in this state by any person is~~
11 ~~"received" by such person when it is loaded there into tank cars,~~
12 ~~tank trucks, tank wagons or other types of transportation~~
13 ~~equipment or when it is placed into any tank or other container~~
14 ~~from which sales or deliveries not involving transportation are~~
15 ~~made;~~

16 ~~(b) when, however, such gasoline is delivered~~
17 ~~at the refinery or pipeline terminal to another person registered~~
18 ~~as a distributor under the Gasoline Tax Act, then it is~~
19 ~~"received" by the distributor to whom it is so delivered;~~

20 ~~(c) when such gasoline is delivered at the~~
21 ~~refinery or pipeline terminal to another person not registered as~~
22 ~~a distributor under the Gasoline Tax Act for the account of a~~
23 ~~person that is so registered, it is "received" by the distributor~~
24 ~~for whose account it is delivered; and~~

25 ~~(d) when gasoline is shipped to a distributor,~~

1 ~~or for the account of a distributor, away from the refinery or~~
2 ~~pipeline terminal, it is "received" by the distributor where it~~
3 ~~is unloaded;~~

4 ~~(2) notwithstanding the provisions of Paragraph (1)~~
5 ~~of this subsection, when gasoline is shipped or delivered from a~~
6 ~~refinery or pipeline terminal to another refinery or pipeline~~
7 ~~terminal, such gasoline is not "received" by reason of such~~
8 ~~shipment or delivery;~~

9 ~~(3) any product other than gasoline that is blended~~
10 ~~to produce gasoline other than at a refinery or pipeline terminal~~
11 ~~in this state is "received" by a person who is the owner thereof~~
12 ~~at the time and place the blending is completed; and~~

13 ~~(4) except as otherwise provided, gasoline is~~
14 ~~"received" at the time and place it is first unloaded in this~~
15 ~~state and by the person who is the owner thereof immediately~~
16 ~~preceding the unloading, unless the owner immediately after the~~
17 ~~unloading is a registered distributor, in which case such~~
18 ~~registered distributor is considered as having received the~~
19 ~~gasoline;]~~

20 N. "registered Indian tribal distributor" means an
21 Indian nation, tribe or pueblo recognized by the United States
22 whose reservation or pueblo grant is located in whole or in part
23 in the state, or a corporation or other enterprise wholly owned
24 by the Indian nation, tribe or pueblo or a corporation or other
25 enterprise wholly owned by a member of that Indian nation, tribe

1 or pueblo, that is registered with the department as a
2 distributor pursuant to the Gasoline Tax Act;

3 O. "retailer" means a person who sells gasoline
4 generally in quantities of thirty-five gallons or less and
5 delivers such gasoline into the fuel supply tanks of motor
6 vehicles. "Retailer" shall be construed so that a person
7 simultaneously may be both a retailer and a distributor or
8 wholesaler;

9 P. "secretary" means the secretary of taxation and
10 revenue or the secretary's delegate;

11 Q. "taxpayer" means a person required to pay gasoline
12 tax;

13 R. "unloaded" means removal of gasoline from tank cars,
14 tank trucks, tank wagons or other types of transportation
15 equipment into a nonmobile container at the place at which the
16 unloading takes place; and

17 S. "wholesaler" means a person who is not a distributor
18 and who sells gasoline in quantities of thirty-five gallons or
19 more and does not deliver such gasoline into the fuel supply
20 tanks of motor vehicles. "Wholesaler" shall be construed so that
21 a person simultaneously may be a wholesaler and a retailer.

22 Section 5. A new section of the Gasoline Tax Act is enacted
23 to read:

24 "[NEW MATERIAL] GASOLINE-- RECEIVED-- EXCEPTION. --

25 A. Gasoline that is produced, refined, manufactured,

1 blended or compounded at a refinery in this state or stored at a
2 pipeline terminal in this state by any person is received by that
3 person when it is loaded into tank cars, tank trucks, tank wagons
4 or other types of transportation equipment, or when it is placed
5 into any tank or other container from which sales or deliveries
6 not involving transportation are made; however:

7 (1) when gasoline is delivered at the refinery or
8 pipeline terminal to another person registered as a distributor
9 pursuant to the Gasoline Tax Act, then it is received by the
10 distributor to whom it is delivered at the time and place of the
11 delivery;

12 (2) when gasoline is delivered at the refinery or
13 pipeline terminal to a person not registered as a distributor
14 pursuant to the Gasoline Tax Act for the account of a person that
15 is registered as a distributor, it is received by the distributor
16 for whose account it is delivered at the time and place of
17 delivery;

18 (3) when gasoline is shipped to a registered Indian
19 tribal distributor, or for the account of that distributor, away
20 from the refinery or pipeline terminal, it is received by the
21 registered Indian tribal distributor where it is unloaded; and

22 (4) when gasoline is shipped to or for the account
23 of a distributor other than a registered Indian tribal
24 distributor away from the refinery or pipeline terminal, it is
25 received by the distributor at the time and place of shipment.

1 B. Any product other than gasoline that is blended to
2 produce gasoline other than at a refinery or pipeline terminal in
3 this state is received by a person who is the owner of the
4 gasoline at the time and place the blending is completed.

5 C. Gasoline imported into New Mexico by any means other
6 than in the fuel supply tank of a motor vehicle or by pipeline is
7 received at the time and place it is first unloaded in this state
8 and by the person who owns the gasoline immediately preceding the
9 first unloading, unless the owner immediately after the unloading
10 is a registered distributor, in which case the registered
11 distributor is deemed to have received the gasoline.

12 D. Subject to the provisions of Subsection F of this
13 section, if gasoline is received by a registered Indian tribal
14 distributor at a location within the exterior boundaries of its
15 Indian reservation or pueblo grant in this state and the gasoline
16 is transported off that reservation or pueblo grant by any means
17 other than in the fuel supply tank of a motor vehicle, then the
18 gasoline is also received at the time and place it is unloaded
19 outside that reservation or pueblo grant and by the person who is
20 the owner of the gasoline immediately preceding the unloading,
21 unless the owner immediately after the unloading is a registered
22 distributor, in which case the registered distributor is
23 considered as having received the gasoline.

24 E. Subject to the provisions of Subsection F of this
25 section, if gasoline is received by a registered Indian tribal

1 distributor at a location outside the exterior boundaries of its
2 Indian reservation or pueblo grant in this state but still within
3 its Indian country, as defined by federal law, and the gasoline
4 is transported off that Indian country by any means other than in
5 the fuel supply tank of a motor vehicle, then the gasoline is
6 also received at the time and place it is unloaded outside that
7 Indian country and by the person who is the owner thereof
8 immediately preceding the unloading, unless the owner immediately
9 after the unloading is a registered distributor, in which case
10 the registered distributor is considered to have received the
11 gasoline.

12 F. Notwithstanding anything to the contrary in any
13 other provision of the Gasoline Tax Act, if gasoline is received
14 by a registered Indian tribal distributor at a location within
15 its reservation or pueblo grant located in this state, and that
16 registered Indian tribal distributor was registered as a gasoline
17 distributor prior to January 1, 1998, was regularly engaged in
18 the wholesale distribution of gasoline to purchasers outside of
19 its reservation or pueblo grant prior to January 1, 1998 and
20 reported that wholesale distribution to the department prior to
21 January 1, 1998, no gasoline tax shall be due from any person on
22 the following gallons of gasoline sold by that registered Indian
23 tribal distributor for resale outside of its reservation or
24 pueblo grant:

25 (1) from July 1, 1998 through June 30, 1999, the

1 first one million two hundred fifty thousand gallons per month;

2 (2) from July 1, 1999 through June 30, 2001, the
3 first one million five hundred thousand gallons per month; and

4 (3) after June 30, 2001, the first one million
5 eight hundred seventy-five thousand gallons per month. "

6 Section 6. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 1998.

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underscored material = new
[bracketed material] = delete

1 **SWMC/SFC/SB 380**

2
3 **FORTY-THIRD LEGISLATURE**
4 **SECOND SESSION**
5

6
7 **February 17, 1998**
8

9
10 **SENATE FLOOR AMENDMENT number _____ to SENATE WAYS AND MEANS**
11 **COMMITTEE SUBSTITUTE FOR**
12 **SENATE FINANCE COMMITTEE**
13 **SUBSTITUTE FOR SENATE BILL**
14 **380**
15

16 **Amendment sponsored by Senator Phil A. Griego**
17

18
19 **1. On page 8, line 7, strike "or other", strike all of line 8**
20 **and on line 9, strike "or pueblo,".**
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25 **123559. 1**

underscored material = new
[bracketed material] = delete

FORTY-THIRD LEGISLATURE
SECOND SESSION

SF1/SWMC/SFC/SB 380

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Phil A. Griego

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

Date _____

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