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## State of New Mexico

Susana Martinez  
*Governor*

May 26, 2017

### SENATE EXECUTIVE MESSAGE NO. 3

The Honorable Mary Kay Papen, President Pro Tempore and  
Members of the New Mexico State Senate  
State Capitol Building  
Santa Fe, New Mexico 87501

Honorable President Pro Tempore Papen and Members of the Senate:

Pursuant to the Constitution of the State of New Mexico, Article IV, Section 22, I hereby VETO and return SENATE BILL 2, as amended, enacted by the Fifty-Third Legislature, First Special Session, 2017.

For over six years, we have worked in a bipartisan manner to diversify and strengthen our economy despite the significant headwinds of a national recession, federal sequestration, and the oil and gas downturn. Time and again, we rose to the challenge without taking more out of the pockets of New Mexicans. The taxes and fees levied through this legislation, however, are nothing more than an about-face to our successes to date, that would make life more expensive for New Mexicans, and yet another patch for structural weaknesses in our tax code and bloated state government. I understand that voting for this bill was an easier political path for many of the legislators, but it is a short-sighted and disappointing approach to the issues facing our state. This is not a solution; it is a double-down on a tax system that suppresses family income growth, business development, and opportunity for New Mexico families.

Economic development efforts rely upon consistent policy making as much as competitive tax and regulatory environments. We have recruited new companies to our state and aided homegrown ventures with the promise that we are predictable and practical, that we are serious about partnering with these entities to grow and succeed. The damage of dramatically changing the tax liabilities of businesses just after they have invested significant capital in our state could be irreparable. It impacts the ability of those companies to price competitively in national and global markets, and it also disrupts broader business plans and financing. Moreover, it signals to potential recruits that we do not always fulfill our end of the bargain. That risk will dissuade many from considering New Mexico when looking to relocate or expand operations.

Building a stronger economy necessitates understanding that policy decisions often cause ripple effects across many industries and sectors. Rather than tackle broad-based tax reform and

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redefine our tax system in a positive way, this bill compounds the detriments of tax and fee increases on the burgeoning industries of manufacturing, warehousing, and distribution in New Mexico. These highly-connected industries that have created many jobs in recent years—and brought significant investment dollars to our state—succeed and fail together. Yet, this bill dismisses assurances made to businesses that impact tax liability projections and budgeting, reinstates tax pyramiding on manufacturing, increases the taxes on gas and special fuels by 29% and 24%, and increases the Weight Distance Permit Fee by 900%—a perfect storm for those industries that grow and thrive within our industrial parks throughout the state.

The original version of this bill not only included sharp increases to the gas and special fuels taxes, it also included changes to the distribution of the petroleum products loading (PPL) fee that put other industries and environmental concerns in jeopardy. First, given the opportunity and means, consumers seek lower-cost, tax-exempt options for identical products. Second, the diversion of the PPL fee puts environmental protection efforts at risk. The majority of this fee is currently distributed to the state corrective action fund that we use to regulate petroleum storage tanks and fund important conservation and cleanup efforts. It is the means by which we protect groundwater all over the state. Diverting this fund results in the layoff of over 150 employees devoted to environmental protection and it completely halts the monitoring and cleanup of hundreds of different contaminated sites. Finally, a PPL fee distribution change also creates substantial new costs for gas station operators. The cost of liability insurance for operators is contingent upon a sizable corrective action fund. As the fund becomes fully expended, costs for insurance rise. It is possible the cost of insurance becomes so high that independent operators are forced to close.

While the PPL fee distribution change seems to be a simple accounting fix, its impact is significant and at the expense of business owners, environmental protection efforts, and everyday New Mexicans. By diverting this fee, the Legislature would have chosen to lessen storage tank oversight and limit environmental cleanup. That is reckless. Fortunately, my administration raised the troubling prospects of its passage in a public forum. Only then did legislators remove the provision. That mistake was the consequence of refusing to negotiate and the product of a haphazard approach to legislating.

Let me be clear: taxes and fees imposed on businesses and products are paid for by consumers. When the goods produced, stored, or distributed in New Mexico become more expensive than elsewhere, those industries will leave and New Mexicans will opt to import. But the most troubling tax increases included in this legislation are the 33% increase in the motor vehicle excise tax and the 29% and 24% increases in the gas and special fuels taxes. The first is a sad example of government taking advantage of an uncompetitive market. The state cannot raise a tax just because those in surrounding states are higher. Doing this, and by keeping the additional costs to buyers lower than if they chose to make the same purchase elsewhere, is exploitive. The gas tax and special fuels tax increases unfairly hit New Mexico's families hardest. I have said since my first day in office that New Mexicans are overtaxed and state government overspends. Imposing this regressive tax on the people of our state, instead of rightsizing government, reforming entitlements, or modernizing our tax code, is a failure of leadership.

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The ability of the Legislature to in one breath decry the financial inequities in our state and in the next seek to take more from the pockets of New Mexicans is remarkable. This bill damages our recruitment efforts to create new jobs and bring new investment and economic activity to the state. It targets thriving industries that are essential to many of our communities. It exploits individuals purchasing cars by taking advantage of an uncompetitive regional market. It imposes a regressive tax, most affecting rural families commuting longer distances to school and work. The Legislature should not be so quick to levy new taxes and fees on New Mexicans without due consideration for their far-reaching consequences. Voters rejected such attempts less than a month ago; I reject them now.

For these reasons, I veto Senate Bill 2.

Respectfully yours,



Susana Martinez  
Governor

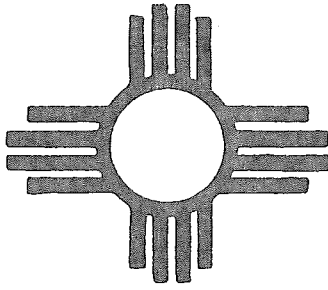
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Time: 4:39 a.m. (p.m.)  
Date: May 26<sup>th</sup>, 2017

By Anna [Signature]  
Secretary of State

Time: \_\_\_\_\_ a.m. p.m.  
Date: \_\_\_\_\_, 2017

By \_\_\_\_\_  
Chief Clerk of the Senate



The Legislature  
of the  
State of New Mexico

53rd Legislature, 1st Special Session

LAWS 2017

CHAPTER \_\_\_\_\_

SENATE BILL 2, as amended

Introduced by

SENATOR CLEMENTE SANCHEZ AND  
REPRESENTATIVE JIM R. TRUJILLO



VETOED

1 AN ACT

2 RELATING TO TAXATION; DELAYING REDUCTION OF THE CORPORATE  
3 INCOME TAX RATES; DELAYING SINGLE SALES APPORTIONMENT OF  
4 INCOME FOR MANUFACTURERS; INCREASING THE GASOLINE TAX, THE  
5 SPECIAL FUEL EXCISE TAX AND THE MOTOR VEHICLE EXCISE TAX;  
6 DISTRIBUTING REVENUE FROM THE INCREASES TO THE TAX  
7 STABILIZATION RESERVE UNTIL STATE RESERVE FUNDS REACH FIVE  
8 PERCENT, TO MUNICIPALITIES AND COUNTIES FOR MAINTENANCE AND  
9 REPAIR OF EXISTING TRANSPORTATION INFRASTRUCTURE AND TO THE  
10 STATE ROAD MAINTENANCE FUND; CREATING THE STATE ROAD  
11 MAINTENANCE FUND; IMPOSING A WEIGHT DISTANCE TAX  
12 IDENTIFICATION PERMIT TAX AND DISTRIBUTING THE REVENUE TO THE  
13 TAX STABILIZATION RESERVE UNTIL STATE RESERVE FUNDS REACH  
14 FIVE PERCENT; MAKING AN APPROPRIATION.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 7-1-2 NMSA 1978 (being Laws 1965,  
18 Chapter 248, Section 2, as amended) is amended to read:

19 "7-1-2. APPLICABILITY.--The Tax Administration Act  
20 applies to and governs:

21 A. the administration and enforcement of the  
22 following taxes or tax acts as they now exist or may  
23 hereafter be amended:

24 (1) Income Tax Act;

25 (2) Withholding Tax Act;

- 1 (3) Venture Capital Investment Act;
- 2 (4) Gross Receipts and Compensating Tax Act
- 3 and any state gross receipts tax;
- 4 (5) Liquor Excise Tax Act;
- 5 (6) Local Liquor Excise Tax Act;
- 6 (7) any municipal local option gross
- 7 receipts tax;
- 8 (8) any county local option gross receipts
- 9 tax;
- 10 (9) Special Fuels Supplier Tax Act;
- 11 (10) Gasoline Tax Act;
- 12 (11) petroleum products loading fee, which
- 13 fee shall be considered a tax for the purpose of the Tax
- 14 Administration Act;
- 15 (12) Alternative Fuel Tax Act;
- 16 (13) Cigarette Tax Act;
- 17 (14) Estate Tax Act;
- 18 (15) Railroad Car Company Tax Act;
- 19 (16) Investment Credit Act, rural job tax
- 20 credit, Laboratory Partnership with Small Business Tax Credit
- 21 Act, Technology Jobs and Research and Development Tax Credit
- 22 Act, Film Production Tax Credit Act, Affordable Housing Tax
- 23 Credit Act and high-wage jobs tax credit;
- 24 (17) Corporate Income and Franchise Tax Act;
- 25 (18) Uniform Division of Income for Tax

1 Purposes Act;

2 (19) Multistate Tax Compact;

3 (20) Tobacco Products Tax Act;

4 (21) the telecommunications relay service  
5 surcharge imposed by Section 63-9F-11 NMSA 1978, which  
6 surcharge shall be considered a tax for the purposes of the  
7 Tax Administration Act; and

8 (22) the permit tax imposed pursuant to  
9 Paragraph (1) of Subsection A of Section 7-15A-13 NMSA 1978;

10 B. the administration and enforcement of the  
11 following taxes, surtaxes, advanced payments or tax acts as  
12 they now exist or may hereafter be amended:

13 (1) Resources Excise Tax Act;

14 (2) Severance Tax Act;

15 (3) any severance surtax;

16 (4) Oil and Gas Severance Tax Act;

17 (5) Oil and Gas Conservation Tax Act;

18 (6) Oil and Gas Emergency School Tax Act;

19 (7) Oil and Gas Ad Valorem Production Tax

20 Act;

21 (8) Natural Gas Processors Tax Act;

22 (9) Oil and Gas Production Equipment Ad

23 Valorem Tax Act;

24 (10) Copper Production Ad Valorem Tax Act;

25 (11) any advance payment required to be made

1 by any act specified in this subsection, which advance  
2 payment shall be considered a tax for the purposes of the Tax  
3 Administration Act;

4 (12) Enhanced Oil Recovery Act;

5 (13) Natural Gas and Crude Oil Production  
6 Incentive Act; and

7 (14) intergovernmental production tax credit  
8 and intergovernmental production equipment tax credit;

9 C. the administration and enforcement of the  
10 following taxes, surcharges, fees or acts as they now exist  
11 or may hereafter be amended:

12 (1) Weight Distance Tax Act;

13 (2) the workers' compensation fee authorized  
14 by Section 52-5-19 NMSA 1978, which fee shall be considered a  
15 tax for purposes of the Tax Administration Act;

16 (3) Uniform Unclaimed Property Act (1995);

17 (4) 911 emergency surcharge and the network  
18 and database surcharge, which surcharges shall be considered  
19 taxes for purposes of the Tax Administration Act;

20 (5) the solid waste assessment fee  
21 authorized by the Solid Waste Act, which fee shall be  
22 considered a tax for purposes of the Tax Administration Act;

23 (6) the water conservation fee imposed by  
24 Section 74-1-13 NMSA 1978, which fee shall be considered a  
25 tax for the purposes of the Tax Administration Act; and



1 (7) the gaming tax imposed pursuant to the  
2 Gaming Control Act; and

3 D. the administration and enforcement of all other  
4 laws, with respect to which the department is charged with  
5 responsibilities pursuant to the Tax Administration Act, but  
6 only to the extent that the other laws do not conflict with  
7 the Tax Administration Act."

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

10 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

11 A. A distribution pursuant to Section 7-1-6.1 NMSA  
12 1978 shall be made to the state aviation fund in an amount  
13 equal to four and seventy-nine hundredths percent of the  
14 taxable gross receipts attributable to the sale of fuel  
15 specially prepared and sold for use in turboprop or jet-type  
16 engines as determined by the department.

17 B. A distribution pursuant to Section 7-1-6.1 NMSA  
18 1978 shall be made to the state aviation fund in an amount  
19 equal to two hundred one thousandths percent of gasoline  
20 taxes, exclusive of penalties and interest, collected  
21 pursuant to the Gasoline Tax Act.

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

1 the gross receipts tax distributable to the general fund.

2 D. A distribution pursuant to Section 7-1-6.1 NMSA  
3 1978 shall be made to the state aviation fund from the net  
4 receipts attributable to the gross receipts tax distributable  
5 to the general fund in an amount equal to two hundred fifty  
6 thousand dollars (\$250,000)."

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

9 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A  
10 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
11 made to the motorboat fuel tax fund in an amount equal to  
12 one-tenth percent of the net receipts attributable to the  
13 gasoline tax."

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

16 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO  
17 MUNICIPALITIES AND COUNTIES.--

18 A. A distribution pursuant to Section 7-1-6.1 NMSA  
19 1978 shall be made in an amount equal to eight and twenty-one  
20 thousandths percent of the net receipts attributable to the  
21 taxes, exclusive of penalties and interest, imposed by the  
22 Gasoline Tax Act.

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

25 (1) ninety percent of the amount shall be

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

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

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

1 irrevocably pledged under Sections 3-34-1 through 3-34-4 NMSA  
2 1978 or that has pledged all or a portion of gasoline tax  
3 revenues or distributions to the payment of bonds shall  
4 receive its proportion of the distribution of revenues under  
5 this section impressed with and subject to these pledges.

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

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

12 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

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

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

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

25 (3) the amount distributed to municipalities

1 and counties pursuant to Section 7-1-6.9 NMSA 1978 and  
2 Section 11 of this 2017 act;

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

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

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

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

12 (8) the amount distributed to a qualified  
13 tribe pursuant to Subsection A of Section 7-1-6.44 NMSA 1978;

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

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

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

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

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

3 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND  
4 CREATED.--

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

7 B. A distribution pursuant to Section 7-1-6.1 NMSA  
8 1978 shall be made to the county government road fund in an  
9 amount equal to four and four hundred fifty-one thousandths  
10 percent of the net receipts attributable to the gasoline  
11 tax."

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

14 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

15 A. A distribution pursuant to Section 7-1-6.1 NMSA  
16 1978 shall be made to municipalities for the purposes and  
17 amounts specified in this section in an aggregate amount  
18 equal to four and four hundred fifty-one thousandths percent  
19 of the net receipts attributable to the gasoline tax.

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

22 (1) reconstructing, resurfacing,  
23 maintaining, repairing or otherwise improving existing  
24 alleys, streets, roads or bridges, or any combination of the  
25 foregoing; or laying off, opening, constructing or otherwise

1 acquiring new alleys, streets, roads or bridges, or any  
2 combination of the foregoing; provided that any of the  
3 foregoing improvements may include the acquisition of rights  
4 of way;

5 (2) to provide matching funds for projects  
6 subject to cooperative agreements with the department of  
7 transportation pursuant to Section 67-3-28 NMSA 1978; and

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

24 C. For the purposes of this section:

25 (1) "computed distribution amount" means the

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

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

7 (3) "floor municipality" means a  
8 municipality whose computed distribution amount is less than  
9 the floor amount; and

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

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

17 (1) the floor amount; or

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

25 E. Fifteen percent of the aggregate amount



1 distributable under this section shall be referred to as the  
2 "redistribution amount". Beginning in August 1990, and each  
3 month thereafter, from the redistribution amount there shall  
4 be taken an amount sufficient to increase the computed  
5 distribution amount of every floor municipality to the floor  
6 amount. In the event that the redistribution amount is  
7 insufficient for this purpose, the computed distribution  
8 amount for each floor municipality shall be increased by an  
9 amount equal to the redistribution amount times a fraction,  
10 the numerator of which is the difference between the floor  
11 amount and the municipality's computed distribution amount  
12 and the denominator of which is the difference between the  
13 product of the floor amount multiplied by the number of floor  
14 municipalities and the total of the computed distribution  
15 amounts for all floor municipalities.

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

1 municipalities nor floor municipalities."

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

4 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF  
5 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to  
6 Section 7-1-6.1 NMSA 1978 shall be made to the municipal  
7 arterial program of the local governments road fund created  
8 in Section 67-3-28.2 NMSA 1978 in an amount equal to one and  
9 one hundred thirteen thousandths percent of the net receipts  
10 attributable to the gasoline tax."

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

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

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

23 "DISTRIBUTION--TAX STABILIZATION RESERVE.--

24 A. A distribution pursuant to Section 7-1-6.1 NMSA  
25 1978 shall be made to the tax stabilization reserve in

1 amounts equal to eleven and thirty-six hundredths percent of  
2 the net receipts attributable to the gasoline tax, eight and  
3 sixty-five hundredths percent of the net receipts  
4 attributable to the special fuel excise tax and the net  
5 receipts attributable to the tax imposed pursuant to  
6 Paragraph (1) of Subsection A of Section 7-15A-13 NMSA 1978  
7 until the month following a certification by the state board  
8 of finance to the secretary that the total amount in state  
9 reserve funds at the end of the prior fiscal year, according  
10 to the general fund financial summary that is prepared by the  
11 department of finance and administration in August of each  
12 year, was at least five percent of the total general fund  
13 appropriations for the prior fiscal year.

14 B. As used in this section, "state reserve funds"  
15 means the general fund operating reserve, the appropriation  
16 contingency fund, the tax stabilization reserve, the  
17 taxpayers dividend fund and the tobacco settlement permanent  
18 fund."

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

21 "ADDITIONAL DISTRIBUTION OF THE GASOLINE TAX AND THE  
22 SPECIAL FUEL EXCISE TAX TO MUNICIPALITIES AND COUNTIES.--

23 A. A distribution pursuant to Section 7-1-6.1 NMSA  
24 1978 shall be made to municipalities and counties, subject to  
25 the requirements of Subsection B of this section, in the

1 following amounts:

2 (1) prior to and including the last month a  
3 distribution is made pursuant to Section 10 of this 2017 act:

4 (a) five and sixty-eight hundredths  
5 percent of the net receipts attributable to the gasoline tax;  
6 and

7 (b) four and thirty-three hundredths  
8 percent of the net receipts attributable to the special fuel  
9 excise tax; and

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

14 (a) eleven and three hundred sixty-four  
15 thousandths percent of the net receipts attributable to the  
16 gasoline tax; and

17 (b) eight and sixty-five hundredths  
18 percent of the net receipts attributable to the special fuel  
19 excise tax.

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

1 materials acquisition.

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

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

10 (2) thirty-three and three-tenths percent of  
11 the amount shall be paid to the treasurers of the counties,  
12 including H class counties, in the proportion that the  
13 taxable motor fuel sales outside of incorporated  
14 municipalities in each of the counties bears to the aggregate  
15 taxable motor fuel sales outside of incorporated  
16 municipalities in all of the counties.

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

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

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

3 "DISTRIBUTION OF THE GASOLINE TAX AND THE SPECIAL FUEL  
4 EXCISE TAX--STATE ROAD MAINTENANCE FUND.--

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

8 B. A distribution pursuant to Section 7-1-6.1 NMSA  
9 1978 shall be made to the state road maintenance fund in the  
10 following amounts:

11 (1) prior to and including the last month a  
12 distribution is made pursuant to Section 10 of this 2017 act:

13 (a) five and sixty-eight hundredths  
14 percent of the net receipts attributable to the gasoline tax;  
15 and

16 (b) four and thirty-three hundredths  
17 percent of the net receipts attributable to the special fuel  
18 excise tax; and

19 (2) beginning one month after the last  
20 distribution is made to the tax stabilization reserve  
21 pursuant to Section 10 of this 2017 act, in an amount equal  
22 to:

23 (a) eleven and three hundred sixty-four  
24 thousandths percent of the net receipts attributable to the  
25 gasoline tax; and

1 (b) eight and sixty-five hundredths  
2 percent of the net receipts attributable to the special fuel  
3 excise tax.

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

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

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

19 SECTION 13. Section 7-2A-5 NMSA 1978 (being Laws 1981,  
20 Chapter 37, Section 38, as amended) is amended to read:

21 "7-2A-5. CORPORATE INCOME TAX RATES.--The corporate  
22 income tax imposed on corporations by Section 7-2A-3 NMSA  
23 1978 shall be at the rates specified in the following tables:

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

1	If the net income is:	The tax shall be:
2	Not over \$500,000	4.8% of net income
3	Over \$500,000 but not	
4	over \$1,000,000	\$24,000 plus 6.4% of
5		excess over \$500,000
6	Over \$1,000,000	\$56,000 plus 7.6% of
7		excess over
8		\$1,000,000.

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

11	If the net income is:	The tax shall be:
12	Not over \$500,000	4.8% of net income
13	Over \$500,000 but not	
14	over \$1,000,000	\$24,000 plus 6.4% of
15		excess over \$500,000
16	Over \$1,000,000	\$56,000 plus 7.3% of
17		excess over
18		\$1,000,000.

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

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



1 Over \$1,000,000 \$56,000 plus 6.9% of  
2 excess over  
3 \$1,000,000.

4 D. For taxable years beginning on or after  
5 January 1, 2016 and prior to January 1, 2019:

6	If the net income is:	The tax shall be:
7	Not over \$500,000	4.8% of net income
8	Over \$500,000 but not	
9	over \$1,000,000	\$24,000 plus 6.4% of
10		excess over \$500,000
11	Over \$1,000,000	\$56,000 plus 6.6% of
12		excess over
13		\$1,000,000.

14 E. For taxable years beginning on or after  
15 January 1, 2019:

16	If the net income is:	The tax shall be:
17	Not over \$500,000	4.8% of net income
18	Over \$500,000	\$24,000 plus 5.9% of
19		excess over
20		\$500,000."

21 SECTION 14. Section 7-4-10 NMSA 1978 (being Laws 1993,  
22 Chapter 153, Section 1, as amended) is amended to read:

23 "7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

24 A. Except as provided in Subsections B and C of  
25 this section, all business income shall be apportioned to

1 this state by multiplying the income by a fraction, the  
2 numerator of which is the property factor plus the payroll  
3 factor plus the sales factor and the denominator of which is  
4 three.

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

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

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

18 (3) in the taxable years beginning on or after  
19 January 1, 2016 and prior to January 1, 2019, by multiplying  
20 the income by a fraction, the numerator of which is seven  
21 multiplied by the sales factor plus one and one-half  
22 multiplied by the property factor plus one and one-half  
23 multiplied by the payroll factor and the denominator of which  
24 is ten; and

25 (4) in taxable years beginning on or after

1 January 1, 2019, by multiplying the income by a fraction, the  
2 numerator of which is the total sales of the taxpayer in New  
3 Mexico during the taxable year and the denominator of which  
4 is the total sales of the taxpayer from any location within  
5 or outside of the state during the taxable year.

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

14 D. To elect the method of apportionment provided by  
15 Subsection B or C of this section, the taxpayer shall notify  
16 the department of the election, in writing, no later than the  
17 date on which the taxpayer files the return for the first  
18 taxable year to which the election will apply. The election  
19 will apply to that taxable year and to each taxable year  
20 thereafter until the taxpayer notifies the department, in  
21 writing, that the election is terminated, except that the  
22 taxpayer shall not terminate the election until the method of  
23 apportioning business income provided by Subsection B or C of  
24 this section has been used by the taxpayer for at least three  
25 consecutive taxable years, including a total of at least

1 thirty-six calendar months. The election will apply to the  
2 separately filed return of the taxpayer or the combined or  
3 consolidated return the taxpayer has elected to be included  
4 pursuant to Section 7-2A-8.3 or 7-2A-8.4 NMSA 1978.

5 E. For purposes of this section:

6 (1) "headquarters operation" means:

7 (a) the center of operations of a  
8 business: 1) where corporate staff employees are physically  
9 employed; 2) where centralized functions are performed,  
10 including administrative, planning, managerial, human  
11 resources, purchasing, information technology and accounting,  
12 but not including operating a call center; 3) the function  
13 and purpose of which is to manage and direct most aspects and  
14 functions of the business operations within a subdivided area  
15 of the United States; 4) from which final authority over  
16 regional or subregional offices, operating facilities and any  
17 other offices of the business are issued; and 5) including  
18 national and regional headquarters if the national  
19 headquarters is subordinate only to the ownership of the  
20 business or its representatives and the regional headquarters  
21 is subordinate to the national headquarters; or

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

1 centralized functions is issued; and

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

6 (a) construction;

7 (b) farming;

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

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

16 SECTION 15. Section 7-13-3 NMSA 1978 (being Laws 1971,  
17 Chapter 207, Section 3, as amended) is amended to read:

18 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
19 "GASOLINE TAX".--

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

24 B. The tax imposed by Subsection A of this section  
25 shall be twenty-two cents (\$.22) per gallon received in New

1 Mexico.

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

4 SECTION 16. Section 7-14-4 NMSA 1978 (being Laws 1988,  
5 Chapter 73, Section 14) is amended to read:

6 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE  
7 TAX.--The rate of the motor vehicle excise tax is four  
8 percent and is applied to the price paid for the vehicle. If  
9 the price paid does not represent the value of the vehicle in  
10 the condition that existed at the time it was acquired, the  
11 tax rate shall be applied to the reasonable value of the  
12 vehicle in such condition at such time. However, allowances  
13 granted for vehicle trade-ins may be deducted from the price  
14 paid or the reasonable value of the vehicle purchased."

15 SECTION 17. Section 7-14-10 NMSA 1978 (being Laws 1988,  
16 Chapter 73, Section 20, as amended) is amended to read:

17 "7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from  
18 the tax and any associated interest and penalties shall be  
19 deposited in the "motor vehicle suspense fund", hereby  
20 created in the state treasury. As of the end of each month,  
21 the net receipts attributable to the tax and associated  
22 penalties and interest shall be distributed as follows:

- 23 A. seventy-five percent to the general fund; and
- 24 B. twenty-five percent to the:

25 (1) tax stabilization reserve prior to and

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

4 (2) state road maintenance fund beginning one  
5 month after the last distribution is made pursuant to Section  
6 10 of this 2017 act."

7 SECTION 18. Section 7-15A-13 NMSA 1978 (being Laws 2003  
8 (1st S.S.), Chapter 3, Section 7) is amended to read:

9 "7-15A-13. WEIGHT DISTANCE TAX IDENTIFICATION PERMIT  
10 TAX--ADMINISTRATIVE FEE.--

11 A. A person that obtains a weight distance tax  
12 identification permit shall pay to the department, in  
13 addition to a weight distance tax, special fuel excise tax  
14 and other use fee imposed for the use of public highways of  
15 this state:

16 (1) a permit tax in the amount of fifty-five  
17 dollars (\$55.00); and

18 (2) an administrative fee for the reasonable  
19 and necessary expense that the department incurs for  
20 processing and issuing a weight distance tax identification  
21 permit in an amount determined by the department by rule, but  
22 not more than ten dollars (\$10.00).

23 B. The department shall deposit proceeds from  
24 administrative fees collected by the department pursuant to  
25 Paragraph (2) of Subsection A of this section to the weight

1 distance tax identification permit fund.

2 C. Revenue from the permit tax imposed pursuant to  
3 Paragraph (1) of Subsection A of this section shall be  
4 distributed pursuant to Section 10 of this 2017 act and  
5 Section 7-1-6.1 NMSA 1978."

6 SECTION 19. Section 7-16A-3 NMSA 1978 (being Laws 1992,  
7 Chapter 51, Section 3, as amended) is amended to read:

8 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
9 SPECIAL FUEL EXCISE TAX.--

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

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

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

19 SECTION 20. TEMPORARY PROVISION--UNDERESTIMATING  
20 CORPORATE INCOME TAX--FORGIVING PENALTIES AND INTEREST.--A  
21 taxpayer that estimated corporate income tax to the state  
22 pursuant to Section 7-2A-9.1 NMSA 1978 for corporate income  
23 tax liabilities for taxable year 2017 but underpaid due to  
24 the changes made to Section 7-2A-5 or 7-4-10 NMSA 1978  
25 pursuant to this act shall not be subject to the penalties



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and interest provisions of the Tax Administration Act;  
provided that the underestimation is solely attributable to  
the changes made to Section 7-2A-5 or 7-4-10 NMSA 1978  
pursuant to this act.

SECTION 21. EFFECTIVE DATE.--The effective date of the  
provisions of this act is January 1, 2018. \_\_\_\_\_

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s/John A. Sanchez  
John A. Sanchez, President  
Senate

s/Lenore M. Naranjo  
Lenore M. Naranjo, Chief Clerk  
Senate

s/Brian Egolf  
Brian Egolf, Speaker  
House of Representatives

s/Lisa M. Ortiz McCutcheon  
Lisa M. Ortiz McCutcheon, Chief Clerk  
House of Representatives

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017

s/Governor Susana Martinez  
Governor Susana Martinez  
State of New Mexico