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HOUSE BILL 430

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

Daniel P. Silva

AN ACT

RELATING TO FINANCING OF HIGHWAY PROJECTS; INCREASING CERTAIN
FUEL TAXES AND FEES; PROVIDING FOR DISTRIBUTION OF CERTAIN
FEES AND TAX PROCEEDS; AUTHORIZING THE ISSUANCE OF STATE
HIGHWAY BONDS FOR VARIOUS HIGHWAY PROJECTS THROUGHOUT THE
STATE; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978 AND
AMENDING AND REPEALING SECTIONS OF LAWS 1995; MAKING
APPROPRIATIONS.

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

Section 1. Section 7-1-6.7 NMSA 1978 (being Laws 1994,
Chapter 5, Section 2, as amended by Laws 1995, Chapter 6,
Section 1 and also by Laws 1995, Chapter 36, Section 1) is
amended to read:

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

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

5 B. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 shall be made to the state aviation fund in an amount
7 equal to ~~[twenty-six hundredths of one percent]~~ the following
8 percentage of gasoline taxes, exclusive of penalties and
9 interest, collected pursuant to the Gasoline Tax Act:

10 (1) prior to August 1, 2000, twenty-six
11 hundredths of one percent;

12 (2) from August 1, 2000 through January 31,
13 2001, one-fourth of one percent;

14 (3) from February 1, 2001 through July 31,
15 2001, twenty-three hundredths of one percent;

16 (4) from August 1, 2001 through January 31,
17 2002, twenty-two hundredths of one percent;

18 (5) from February 1, 2002 through July 31,
19 2002, twenty-one hundredths of one percent; and

20 (6) after July 31, 2002, two-tenths of one
21 percent."

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

24 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A
25 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
made to the motorboat fuel tax fund in an amount equal to
~~[thirteen hundredths of one percent]~~ the following percentage

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1 of the net receipts attributable to the gasoline tax:

2 A. prior to August 1, 2000, thirteen hundredths of
3 one percent;

4 B. from August 1, 2000 through January 31, 2001,
5 twelve hundredths of one percent;

6 C. from February 1, 2001 through July 31, 2001,
7 twelve hundredths of one percent;

8 D. from August 1, 2001 through January 31, 2002,
9 eleven hundredths of one percent;

10 E. from February 1, 2002 through July 31, 2002,
11 eleven hundredths of one percent; and

12 F. after July 31, 2002, one-tenth of one percent."

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

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

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

22 (1) prior to August 1, 2000, ten and thirty-
23 eight hundredths percent;

24 (2) from August 1, 2000 through January 31,
25 2001, nine and eight-tenths percent;

(3) from February 1, 2001 through July 31,
2001, nine and twenty-nine hundredths percent;

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- 1 (4) from August 1, 2001 through January 31,
- 2 2002, eight and eighty-two hundredths percent;
- 3 (5) from February 1, 2002 through July 31,
- 4 2002, eight and four-tenths percent; and
- 5 (6) after July 31, 2002, eight and two
- 6 hundredths percent.

7 B. The amount determined in Subsection A of this

8 section shall be distributed as follows:

9 (1) ninety percent of the amount shall be

10 paid to the treasurers of municipalities and H class counties

11 in the proportion that the taxable motor fuel sales in each

12 of the municipalities and H class counties bears to the

13 aggregate taxable motor fuel sales in all of these

14 municipalities and H class counties; and

15 (2) ten percent of the amount shall be paid

16 to the treasurers of the counties, including H class

17 counties, in the proportion that the taxable motor fuel sales

18 outside of incorporated municipalities in each of the

19 counties bears to the aggregate taxable motor fuel sales

20 outside of incorporated municipalities in all of the

21 counties.

22 C. This distribution shall be paid into a separate

23 road fund in the municipal treasury or county road fund for

24 expenditure only for construction, reconstruction,

25 resurfacing or other improvement or maintenance of public

roads, streets, alleys or bridges, including right-of-way and

materials acquisition. Money distributed pursuant to this

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1 section may be used by a municipality or county to provide
2 matching funds for projects subject to cooperative agreements
3 entered into with the state highway and transportation
4 department pursuant to Section 67-3-28 NMSA 1978. Any
5 municipality or H class county that has created or that
6 creates a "street improvement fund" to which gasoline tax
7 revenues or distributions are irrevocably pledged under
8 Sections 3-34-1 through 3-34-4 NMSA 1978 or that has pledged
9 all or a portion of gasoline tax revenues or distributions to
10 the payment of bonds shall receive its proportion of the
11 distribution of revenues under this section impressed with
12 and subject to these pledges."

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

15 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

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

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

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

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1 (3) the amount distributed to municipalities
2 and counties pursuant to Subsection A of Section 7-1-6.9 NMSA
3 1978;

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

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

8 (6) the amount distributed to the
9 municipalities pursuant to Section 7-1-6.27 NMSA 1978; ~~[and]~~

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

13 (8) the amounts distributed to the highway
14 infrastructure fund pursuant to Sections 7-1-6.39 and
15 7-1-6.42 NMSA 1978.

16 B. A distribution pursuant to Section 7-1-6.1 NMSA
17 1978 shall be made to the state road fund in an amount equal
18 to the net receipts attributable to the taxes, fees, interest
19 and penalties from the Weight Distance Tax Act."

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

22 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND
23 CREATED.--

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

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

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1 amount equal to [~~five and seventy-six hundredths percent~~] the
2 following percentage of the net receipts attributable to the
3 gasoline tax:

4 (1) prior to August 1, 2000, five and
5 seventy-six hundredths percent;

6 (2) from August 1, 2000 through January 31,
7 2001, five and forty-four hundredths percent;

8 (3) from February 1, 2001 through July 31,
9 2001, five and fifteen hundredths percent;

10 (4) from August 1, 2001 through January 31,
11 2002, four and nine-tenths percent;

12 (5) from February 1, 2002 through July 31,
13 2002, four and sixty-six hundredths percent; and

14 (6) after July 31, 2002, four and forty-five
15 hundredths percent."

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

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

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

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1 B. to the highway infrastructure fund an amount
2 equal to the net receipts attributable to a fee of seventy
3 dollars (\$70.00) per load; and

4 [B-] C. to the corrective action fund the balance,
5 if any, of the net receipts."

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

8 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

9 A. A distribution pursuant to Section 7-1-6.1 NMSA
10 1978 shall be made to municipalities for the purposes and
11 amounts specified in this section in an aggregate amount
12 equal to [~~five and seventy-six hundredths percent~~] the
13 following percentage of the net receipts attributable to the
14 gasoline tax:

- 15 (1) prior to August 1, 2000, five and
16 seventy-six hundredths percent;
- 17 (2) from August 1, 2000 through January 31,
18 2001, five and forty-four hundredths percent;
- 19 (3) from February 1, 2001 through July 31,
20 2001, five and fifteen hundredths percent;
- 21 (4) from August 1, 2001 through January 31,
22 2002, four and nine-tenths percent;
- 23 (5) from February 1, 2002 through July 31,
24 2002, four and sixty-six hundredths percent; and
- 25 (6) after July 31, 2002, four and forty-five
hundredths percent.

B. The distribution authorized in this section

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1 shall be used for the following purposes:

2 (1) reconstructing, resurfacing,
3 maintaining, repairing or otherwise improving existing
4 alleys, streets, roads or bridges, or any combination of the
5 foregoing; or laying off, opening, constructing or otherwise
6 acquiring new alleys, streets, roads or bridges, or any
7 combination of the foregoing; provided that any of the
8 foregoing improvements may include, but are not limited to,
9 the acquisition of rights of way;

10 (2) to provide matching funds for projects
11 subject to cooperative agreements with the state highway and
12 transportation department pursuant to Section 67-3-28 NMSA
13 1978; and

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

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1 for the acquisition and the conduct of the business of public
2 transportation.

3 C. For the purposes of this section:

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

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

11 (3) "floor municipality" means a
12 municipality whose computed distribution amount is less than
13 the floor amount; and

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

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

21 (1) the floor amount; or

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

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1 period.

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

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

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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 ~~forty-four hundredths percent~~] the following percentage of
10 the net receipts attributable to the gasoline tax:

11 A. prior to August 1, 2000, one and forty-four
12 hundredths percent;

13 B. from August 1, 2000 through January 31, 2001,
14 one and thirty-six hundredths percent;

15 C. from February 1, 2001 through July 31, 2001,
16 one and twenty-nine hundredths percent;

17 D. from August 1, 2001 through January 31, 2002,
18 one and twenty-two hundredths percent;

19 E. from February 1, 2002 through July 31, 2002,
20 one and seventeen hundredths percent; and

21 F. after July 31, 2002, one and eleven hundredths
22 percent."

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

25 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO
THE LOCAL GOVERNMENTS ROAD FUND AND THE HIGHWAY
INFRASTRUCTURE FUND.--A distribution pursuant to Section 7-1-

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1 6.1 NMSA 1978 shall be made [~~to the local governments road~~
2 ~~fund in an amount equal to eleven and eleven hundredths~~
3 ~~percent of]~~ from the net receipts attributable to the taxes,
4 exclusive of penalties and interest, from the special fuel
5 excise tax imposed by the Special Fuels Supplier Tax Act in
6 the following amounts to the following funds:

7 A. to the local governments road fund:

- 8 (1) prior to August 1, 2000, eleven and
9 eleven hundredths percent;
10 (2) from August 1, 2000 through January 31,
11 2001, ten and fifty-three hundredths percent;
12 (3) from February 1, 2001 through July 31,
13 2001, ten percent;
14 (4) from August 1, 2001 through January 31,
15 2002, nine and fifty-two hundredths percent;
16 (5) from February 1, 2002 through July 31,
17 2002, nine and one-tenth percent; and
18 (6) after July 31, 2002, eight and seven-
19 tenths percent; and

20 B. to the highway infrastructure fund:

- 21 (1) from August 1, 2000 through January 31,
22 2001, five and twenty-six hundredths percent;
23 (2) from February 1, 2001 through July 31,
24 2001, ten percent;
25 (3) from August 1, 2001 through January 31,
2002, fourteen and twenty-nine hundredths percent;
(4) from February 1, 2002 through July 31,

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1 2002, eighteen and eighteen-hundredths percent; and
2 (5) after July 31, 2002, twenty-one and
3 seventy-four hundredths percent."

4 Section 10. A new section of the Tax Administration
5 Act, Section 7-1-6.42 NMSA 1978, is enacted to read:

6 "7-1-6.42. [NEW MATERIAL] DISTRIBUTION--HIGHWAY
7 INFRASTRUCTURE FUND.--A distribution pursuant to Section
8 7-1-6.1 NMSA 1978 shall be made to the highway infrastructure
9 fund in an amount equal to the following percentage of the
10 net receipts attributable to the taxes imposed pursuant to
11 the Gasoline Tax Act:

12 A. for the period from August 1, 2000 through
13 January 31, 2001, five and fifty-six hundredths percent;

14 B. from February 1, 2001 through July 31, 2001,
15 ten and fifty-three hundredths percent;

16 C. from August 1, 2002 through January 31, 2002,
17 fifteen percent;

18 D. from February 1, 2002 through July 31, 2002,
19 nineteen and five hundredths percent; and

20 E. after July 31, 2002, twenty-two and seventy-
21 three hundredths percent."

22 Section 11. Section 7-13-3 NMSA 1978 (being Laws 1971,
23 Chapter 207, Section 3, as amended) is amended to read:

24 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
25 "GASOLINE TAX".--

A. For the privilege of receiving gasoline in this
state, there is imposed an excise tax at a rate provided in

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1 Subsection B of this section on each gallon of gasoline
2 received in New Mexico.

3 B. The tax imposed by Subsection A of this section
4 shall be [~~seventeen cents (\$.17)~~] at the following rate per
5 gallon received in New Mexico:

6 (1) prior to July 1, 2000, seventeen cents
7 (\$.17);

8 (2) from July 1, 2000 through December 31,
9 2000, eighteen cents (\$.18);

10 (3) from January 1, 2001 through June 30,
11 2001, nineteen cents (\$.19);

12 (4) from July 1, 2001 through December 31,
13 2001, twenty cents (\$.20);

14 (5) from January 1, 2002 through June 30,
15 2002, twenty-one cents (\$.21); and

16 (6) after June 30, 2002, twenty-two cents
17 (\$.22).

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

20 Section 12. Section 7-13A-3 NMSA 1978 (being Laws 1990,
21 Chapter 124, Section 16, as amended) is amended to read:

22 "7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS
23 "PETROLEUM PRODUCTS LOADING FEE".--

24 A. For the privilege of loading gasoline or
25 special fuel from a rack at a refinery or pipeline terminal
in this state into a cargo tank, there is imposed a fee on
the distributor at [~~a~~] the rate provided in Subsection C of

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1 this section on each gallon of gasoline or special fuel
2 loaded in New Mexico on which the petroleum products loading
3 fee has not been previously paid.

4 B. For the privilege of importing gasoline or
5 special fuel into this state for resale or consumption in
6 this state there is imposed a fee [~~determined~~] as provided in
7 Subsection C of this section on each load of gasoline or
8 special fuel imported into New Mexico for resale or
9 consumption on which the petroleum products loading fee has
10 not been previously paid. For the purposes of this section,
11 "load" means eight thousand gallons of gasoline or special
12 fuel. To determine how many loads a person is to report
13 under the provisions of this section, the person shall divide
14 by eight thousand the total gallons of gasoline reported for
15 the purposes of Section 7-13-3 NMSA 1978 as adjusted under
16 the provisions of Section 7-13-4 NMSA 1978 and the total
17 gallons of special [~~fuels~~] fuel received in New Mexico less
18 any gallons exempted under Section 7-13A-4 NMSA 1978. Loads
19 shall be calculated to the nearest one-hundredth of a load.

20 C. The fee imposed by this section is and may be
21 referred to as the "petroleum products loading fee" and shall
22 be one hundred fifty dollars (\$150) per load [~~or whichever of~~
23 ~~the following applies:~~

24 (1) ~~in the event the secretary of~~
25 ~~environment certifies that the unobligated balance of the~~
~~corrective action fund at the end of the prior fiscal year~~
~~equals or exceeds eighteen million dollars (\$18,000,000), the~~

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1 ~~fee shall be set at forty dollars (\$40.00) per load;~~

2 ~~(2) in the event the secretary of~~
3 ~~environment certifies that the unobligated balance of the~~
4 ~~corrective action fund at the end of the prior fiscal year~~
5 ~~exceeds twelve million dollars (\$12,000,000) but is less than~~
6 ~~eighteen million dollars (\$18,000,000), the fee shall be set~~
7 ~~at eighty dollars (\$80.00) per load;~~

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

14 ~~(4) in the event the secretary of~~
15 ~~environment certifies that the unobligated balance of the~~
16 ~~corrective action fund at the end of the prior fiscal year is~~
17 ~~less than six million dollars (\$6,000,000), the fee shall be~~
18 ~~set at one hundred fifty dollars (\$150) per load.~~

19 ~~D. The amount of the petroleum products loading~~
20 ~~fee set pursuant to Paragraph (1), (2), (3) or (4) of~~
21 ~~Subsection C of this section shall be imposed on the first~~
22 ~~day of the month following expiration of ninety days after~~
23 ~~the end of the fiscal year for which the certification was~~
24 ~~made.~~

25 ~~E. As used in this section, "unobligated balance~~
~~of the corrective action fund" means corrective action fund~~
~~equity less all known or anticipated liabilities against the~~

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1 fund]."

2 Section 13. Section 7-16A-3 NMSA 1978 (being Laws 1992,
3 Chapter 51, Section 3, as amended) is amended to read:

4 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
5 SPECIAL FUEL EXCISE TAX.--

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

10 B. The tax imposed by Subsection A of this section
11 shall be [~~eighteen cents (\$.18)~~] at the following rate per
12 gallon of special fuel received or used in New Mexico:

13 (1) prior to July 1, 2000, eighteen cents
14 (\$.18);

15 (2) from July 1, 2000 through December 31,
16 2000, nineteen cents (\$.19);

17 (3) from January 1, 2001 through June 30,
18 2001, twenty cents (\$.20);

19 (4) from July 1, 2001 through December 31,
20 2001, twenty-one cents (\$.21);

21 (5) from January 1, 2002 through June 30,
22 2002, twenty-two cents (\$.22); and

23 (6) after June 30, 2002, twenty-three cents
24 (\$.23).

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

Section 14. Section 67-3-59.1 NMSA 1978 (being Laws

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1 1989, Chapter 157, Section 1, as amended) is amended to read:

2 "67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--
3 LIMITS--APPROVAL--COUPONS.--

4 A. In order to provide funds to finance state
5 highway projects, including state highway projects that are
6 required for the waste isolation pilot project and are
7 eligible for federal reimbursement or payment as authorized
8 by federal legislation, the state highway commission is
9 authorized, subject to the limitations of this section, to
10 issue bonds from time to time, payable from federal funds not
11 otherwise obligated that are paid into the state road fund,
12 the proceeds of the collection of taxes and fees that are
13 required by law to be paid into the state road fund and not
14 otherwise pledged solely to the payment of outstanding bonds
15 and debentures.

16 B. Except as provided in Subsections C and D of
17 this section, the total aggregate outstanding principal
18 amount of bonds issued from time to time pursuant to this
19 section, secured by or payable from federal funds not
20 otherwise obligated that are paid into the state road fund
21 and the proceeds from the collection of taxes and fees
22 required by law to be paid into the state road fund, shall
23 not, without additional authorization of the state
24 legislature, exceed one hundred fifty million dollars
25 (\$150,000,000) at any given time, subject to the following
provisions:

- (1) the total aggregate outstanding

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1 principal amount of bonds issued for state highway projects
2 that are required for the waste isolation pilot project and
3 are eligible for federal reimbursement or payment as
4 authorized by federal legislation shall not exceed one
5 hundred million dollars (\$100,000,000); and

6 (2) the total aggregate outstanding
7 principal amount of bonds issued for state highway projects
8 other than state highway projects that are required for the
9 waste isolation pilot project and are eligible for federal
10 reimbursement or payment as authorized by federal legislation
11 shall not exceed fifty million dollars (\$50,000,000).

12 C. Upon specific authorization and appropriation
13 by the legislature, and subject to the limitations of
14 Subsection D of this section, an additional amount of bonds
15 may be issued pursuant to this section for state highway
16 projects, to be secured by or payable from taxes or fees
17 required by law to be paid into the state road fund and
18 federal funds not otherwise obligated that are paid into the
19 state road fund, and, as applicable, taxes or fees required
20 by law to be paid into the highway infrastructure fund, as
21 follows:

22 (1) an aggregate outstanding principal
23 amount of bonds, not to exceed six hundred twenty-four
24 million dollars (\$624,000,000), for major highway
25 infrastructure projects for which the department has, prior
to January 1, 1998, submitted or initiated the process of
submitting a plan to the federal highway administration for

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1 innovative financing pursuant to 23 USCA Sections 122 and
2 307;

3 (2) an aggregate outstanding principal
4 amount of bonds, not to exceed one hundred million dollars
5 (\$100,000,000), for state highway projects that are required
6 for the waste isolation pilot project and are eligible for
7 federal reimbursement; and

8 (3) an aggregate outstanding principal
9 amount of bonds, not to exceed [~~four hundred million dollars~~
10 ~~(\$400,000,000)~~] one billion three hundred fifty million
11 dollars (\$1,350,000,000), for other state highway projects.

12 D. The total amount of bonds that may be issued by
13 the state highway commission for state highway projects
14 pursuant to Subsection C of this section shall not exceed a
15 total aggregate outstanding principal amount of:

16 (1) three hundred million dollars
17 (\$300,000,000) prior to July 1, 1999;

18 (2) six hundred million dollars
19 (\$600,000,000) from July 1, 1999 through June 30, 2000;

20 (3) nine hundred million dollars
21 (\$900,000,000) from July 1, 2000 through June 30, 2001; and

22 (4) [~~one billion one hundred twenty-four~~
23 ~~million dollars (\$1,124,000,000)~~] two billion seventy-four
24 million dollars (\$2,074,000,000) after June 30, 2001.

25 E. The state highway commission may issue bonds to
refund other bonds issued pursuant to this section by
exchange or current or advance refunding.

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F. Each series of bonds shall have a maturity of no more than twenty-five years from the date of issuance. The state highway commission shall determine all other terms, covenants and conditions of the bonds; provided that the bonds shall not be issued pursuant to this section unless the state board of finance approves the issuance of the bonds and the principal amount of and interest rate or maximum net effective interest rate on the bonds.

G. The bonds shall be executed with the manual or facsimile signature of the chairman of the state highway commission, countersigned by the state treasurer and attested to by the secretary of the state highway commission, with the seal of the state highway commission imprinted or otherwise affixed to the bonds.

H. Proceeds of the bonds may be used to pay expenses incurred in the preparation, issuance and sale of the bonds and, together with the earnings on the proceeds of the bonds, may be used to pay rebate, penalty, interest and other obligations relating to the bonds and the proceeds of the bonds under the Internal Revenue Code of 1986, as amended.

I. The bonds may be sold at a public or negotiated sale at, above or below par or through the New Mexico finance authority. Any negotiated sale shall be made with one or more investment ~~[banker]~~ bankers whose services are obtained through a competitive proposal process. For any sale, the state highway commission or the New Mexico finance authority

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1 shall also procure the services of any financial advisor or
2 bond counsel through a competitive proposal process. If sold
3 at public sale, a notice of the time and place of sale shall
4 be published in a newspaper of general circulation in the
5 state, and in any other newspaper determined in the
6 resolution authorizing the issuance of the bonds, once each
7 week for two consecutive weeks prior to the date of sale.
8 The bonds may be purchased by the state treasurer or state
9 investment officer.

10 J. This section is full authority for the issuance
11 and sale of the bonds, and the bonds shall not be invalid for
12 any irregularity or defect in the proceedings for their
13 issuance and sale and shall be incontestable in the hands of
14 bona fide purchasers or holders of the bond for value.

15 K. The bonds shall be legal investments for any
16 person or board charged with the investment of public funds
17 and may be accepted as security for any deposit of public
18 money and, with the interest thereon, are exempt from
19 taxation by the state and any political subdivision or agency
20 of the state.

21 L. Any law authorizing the imposition or
22 distribution of taxes or fees paid into the state road fund
23 or the highway infrastructure fund or that affects those
24 taxes and fees shall not be amended or repealed or otherwise
25 directly or indirectly modified so as to impair any
outstanding bonds secured by a pledge of revenues from those
taxes and fees paid into the state road fund or the highway

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1 infrastructure fund, unless the bonds have been discharged in
2 full or provisions have been made for a full discharge. In
3 addition, while any bonds issued by the state highway
4 commission pursuant to the provisions of this section remain
5 outstanding, the powers or duties of the commission shall not
6 be diminished or impaired in any manner that will affect
7 adversely the interests and rights of the holder of such
8 bonds.

9 M. In contracting for state highway projects to be
10 paid in whole or in part with proceeds of bonds authorized by
11 this section, the department shall require that any sand,
12 gravel, caliche or similar material needed for the project
13 shall, if practicable, be mined from state lands. Each
14 contract shall provide that the contractor notify the
15 commissioner of public lands of the need for the material and
16 that, through lease or purchase, the material shall be mined
17 from state lands if:

18 (1) the material needed is available from
19 state lands in the vicinity of the project;

20 (2) the commissioner determines that the
21 lease or purchase is in the best interest of the state land
22 trust beneficiaries; and

23 (3) the cost to the contractor for the
24 material, including the costs of transportation, is
25 competitive with other available material from non-state
lands.

N. Bonds issued pursuant to this section shall be

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1 paid solely from federal funds not otherwise obligated and
2 taxes and fees deposited into the state road fund and, as
3 applicable, the highway infrastructure fund, and shall not
4 constitute a general obligation of the state."

5 Section 15. Section 67-3-59.2 NMSA 1978 (being Laws
6 1999 (1st S.S.), Chapter 9, Section 3) is amended to read:

7 "67-3-59.2. HIGHWAY INFRASTRUCTURE FUND CREATED--
8 PURPOSE.--

9 A. The "highway infrastructure fund" is created in
10 the state treasury and shall be administered by the
11 department. The fund shall consist of money from various
12 fees and taxes distributed to the fund. Earnings on
13 investment of the fund shall be credited to the fund.
14 Balances in the fund at the end of any fiscal year shall not
15 revert and shall remain in the fund for the purposes
16 authorized in this section.

17 B. Money in the fund shall be used solely for
18 acquisition of rights of way or planning, design,
19 engineering, construction or improvement of state highway
20 projects authorized pursuant to the provisions of Laws 1998,
21 Chapter 84, ~~[and]~~ Subsections C through H of Section 1 of
22 Chapter 85 of Laws 1998 and Section 16 of this 2000 act and
23 is appropriated to the department for expenditure for those
24 purposes.

25 C. The taxes and fees required by law to be
distributed to the highway infrastructure fund may be pledged
for the payment of state highway bonds issued pursuant to

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1 Section 67-3-59.1 NMSA 1978 for the highway projects
2 authorized in the laws specified in Subsection B of this
3 section."

4 Section 16. STATE HIGHWAY BONDS--PURPOSES FOR WHICH
5 ISSUED--APPROPRIATION OF PROCEEDS.--

6 A. The state highway commission may issue and sell
7 state highway bonds in compliance with the provisions of
8 Section 67-3-59.1 NMSA 1978 in an amount not to exceed the
9 total of the amounts authorized for purposes specified in
10 this section when the commission determines the need for the
11 issuance of the bonds. The state highway commission shall
12 schedule the issuance and sale of the bonds in the most
13 expeditious and economic manner possible upon a finding by
14 the commission that the project has been developed
15 sufficiently to justify the issuance and that the project can
16 proceed to contract within a reasonable time. The proceeds
17 from the sale of the bonds are appropriated to the state
18 highway and transportation department in the following
19 amounts for the following purposes:

20 (1) eleven million dollars (\$11,000,000) for the
21 four-lane construction of state highway 18 from Jal south to
22 the Texas state line;

23 (2) sixty-five million dollars (\$65,000,000) for
24 the four-lane construction of United States highway 62/180
25 from Carlsbad south to the Texas state line;

(3) thirty million dollars (\$30,000,000) for the
four-lane construction of United States highway 666 from

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- 1 Shiprock to the Colorado state line;
- 2 (4) one hundred million dollars (\$100,000,000) for
- 3 the four-lane construction of United States highway 54 from
- 4 Tucumcari east to the Texas state line;
- 5 (5) eighty million dollars (\$80,000,000) for the
- 6 four-lane construction of United States highway 180 from
- 7 Deming to Silver City;
- 8 (6) one hundred forty-four million dollars
- 9 (\$144,000,000) for the four-lane construction of state
- 10 highway 87 from Clayton to Raton;
- 11 (7) fifteen million dollars (\$15,000,000) for the
- 12 improvement and extension of 98th street to Rio Bravo
- 13 boulevard in Bernalillo county;
- 14 (8) fifteen million dollars (\$15,000,000) for the
- 15 improvement of Isleta boulevard in Bernalillo county;
- 16 (9) eighty million dollars (\$80,000,000) for the
- 17 construction of Paseo del Volcan from state highway 44 to
- 18 interstate 40 in Sandoval and Bernalillo counties;
- 19 (10) sixty-five million dollars (\$65,000,000) for
- 20 the two-lane construction of the northwest loop from state
- 21 highway 44 to interstate 40 in Sandoval and Bernalillo
- 22 counties;
- 23 (11) eleven million dollars (\$11,000,000) for the
- 24 reconstruction of the east Deming interchange;
- 25 (12) twelve million dollars (\$12,000,000) for the
- reconstruction of the Edgewood interchange;
- (13) seventeen million dollars (\$17,000,000) for

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1 construction of the Richards avenue interchange in Santa Fe;

2 (14) seventy-five million dollars (\$75,000,000)

3 for the six-lane construction of interstate 25 from the
4 Bernalillo county line to the town of Bernalillo;

5 (15) eighteen million dollars (\$18,000,000) for
6 improvement of the Espanola relief route; and

7 (16) two hundred twelve million dollars
8 (\$212,000,000) for funding of construction projects
9 authorized in Subsections A and D of Section 1 of Chapter 84
10 of Laws 1998 and Subsections F and G of Section 1 of Chapter
11 85 of Laws 1998.

12 B. For the purpose of this section, "construction"
13 and "improvement" include planning, designing, engineering,
14 constructing and acquiring rights-of-way.

15 Section 17. Laws 1995, Chapter 6, Section 23 is amended
16 to read:

17 "Section 23. EFFECTIVE DATE.--

18 A. The effective date of the provisions of
19 Sections 10 and 12 through 14 of this act is July 1, 1995.

20 B. The effective date of the provisions of
21 Sections 1 through 9 and 21 of this act is August 1, 1995.

22 ~~[C. The effective date of the provisions of~~
23 ~~Section 11 of this act is July 1, 2003 or the July 1 or~~
24 ~~January 1 immediately following any earlier date on which the~~
25 ~~obligations for payment of principal and interest on the~~
~~series 1993 state highway debentures have been defeased.]"~~

Section 18. REPEAL.--Laws 1995, Chapter 6, Section 11

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is repealed.

Section 19. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

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