

1 SENATE BILL 131

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 John Arthur Smith and Roberto "Bobby" J. Gonzales

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10 AN ACT

11 RELATING TO TAXATION; INCREASING AND INDEXING THE GASOLINE AND
12 SPECIAL FUEL EXCISE TAXES; CREATING THE STATE ROAD MAINTENANCE
13 FUND; DISTRIBUTING ONE-HALF OF THE NEW REVENUE TO
14 MUNICIPALITIES AND COUNTIES FOR MAINTENANCE AND REPAIR OF
15 EXISTING TRANSPORTATION INFRASTRUCTURE; DISTRIBUTING ONE-HALF
16 OF THE NEW REVENUE TO THE TAX STABILIZATION RESERVE FOR UP TO
17 FIVE YEARS, THEN DISTRIBUTING ONE-HALF OF THE NEW REVENUE TO
18 THE STATE ROAD MAINTENANCE FUND; CONFORMING SECTION 67-3-28.2
19 NMSA 1978 (BEING LAWS 1986, CHAPTER 20, SECTION 125, AS
20 AMENDED); MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

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

25 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

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

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

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

17 D. A distribution pursuant to Section 7-1-6.1 NMSA
18 1978 shall be made to the state aviation fund from the net
19 receipts attributable to the gross receipts tax distributable
20 to the general fund in an amount equal to

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

23 ~~(2) one hundred sixty-seven thousand dollars~~
24 ~~(\$167,000) monthly from July 1, 2008 through June 30, 2009; and~~

25 ~~(3)]~~ two hundred fifty thousand dollars

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1 (\$250,000) [~~monthly after July 1, 2009~~]."

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

4 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A
5 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
6 made to the motorboat fuel tax fund in an amount equal to
7 [~~thirteen-hundredths of one~~] eighty-two thousandths percent of
8 the net receipts attributable to the gasoline tax."

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

11 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
12 MUNICIPALITIES AND COUNTIES.--

13 A. A distribution pursuant to Section 7-1-6.1 NMSA
14 1978 shall be made in an amount equal to [~~ten and thirty-eight~~]
15 six and fifty-five hundredths percent of the net receipts
16 attributable to the taxes, exclusive of penalties and interest,
17 imposed by the Gasoline Tax Act.

18 B. [~~Except as provided in Subsection D of this~~
19 ~~section~~] The amount determined in Subsection A of this section
20 shall be distributed as follows:

21 (1) ninety percent of the amount shall be paid
22 to the treasurers of municipalities and H class counties in the
23 proportion that the taxable motor fuel sales in each of the
24 municipalities and H class counties bears to the aggregate
25 taxable motor fuel sales in all of these municipalities and H

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1 class counties; and

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

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

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1 pledges.

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

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

8 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

9 A. A distribution pursuant to Section 7-1-6.1 NMSA
10 1978 shall be made to the state road fund in an amount equal to
11 the net receipts attributable to the taxes, surcharges,
12 penalties and interest imposed pursuant to the Gasoline Tax Act
13 and to the taxes, surtaxes, fees, penalties and interest
14 imposed pursuant to the Special Fuels Supplier Tax Act and the
15 Alternative Fuel Tax Act less:

16 (1) the amount distributed to the state
17 aviation fund pursuant to Subsection B of Section 7-1-6.7 NMSA
18 1978;

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

21 (3) the amount distributed to municipalities
22 and counties pursuant to [~~Subsection A of~~] Section 7-1-6.9 NMSA
23 1978 and Section 10 of this 2017 act;

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

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

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

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

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

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

15 (10) the amount distributed to the tax
16 stabilization reserve pursuant to Section 9 of this 2017 act;
17 and

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

20 B. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made to the state road fund in an amount equal to
22 the net receipts attributable to the taxes, interest and
23 penalties from the Weight Distance Tax Act."

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

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

3 A. There is created in the state treasury the
4 "county government road fund".

5 B. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 shall be made to the county government road fund in an
7 amount equal to [~~five and seventy-six~~] three and sixty-three
8 hundredths percent of the net receipts attributable to the
9 gasoline tax."

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

12 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

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

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

20 (1) reconstructing, resurfacing, maintaining,
21 repairing or otherwise improving existing alleys, streets,
22 roads or bridges, or any combination of the foregoing; or
23 laying off, opening, constructing or otherwise acquiring new
24 alleys, streets, roads or bridges, or any combination of the
25 foregoing; provided that any of the foregoing improvements may

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1 include [~~but are not limited to~~] the acquisition of rights of
2 way;

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

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

22 C. For the purposes of this section:

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

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1 to any adjustments to the amount due to the provisions of
2 Subsections E and F of this section;

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

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

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

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

15 (1) the floor amount; or

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

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

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

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

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

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

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

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

18 SECTION 9. A new section of the Tax Administration Act is
19 enacted to read:

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

21 A. A distribution pursuant to Section 7-1-6.1 NMSA
22 1978 shall be made to the tax stabilization reserve in an
23 amount equal to eighteen and five hundred eight thousandths
24 percent of the net receipts attributable to the gasoline tax
25 and in an amount equal to sixteen and thirteen-hundredths

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1 percent of the net receipts attributable to the special fuel
2 excise tax until July 1, 2022 or the month following a
3 certification by the state board of finance to the secretary of
4 taxation and revenue that the total amount in state general
5 fund reserves at the end of the prior fiscal year, according to
6 the general fund financial summary that is prepared by the
7 department of finance and administration in August of each
8 year, was at least five percent of the total general fund
9 appropriations for the prior fiscal year, whichever occurs
10 first.

11 B. As used in this section, "state reserve funds"
12 means the general fund operating reserve, the appropriation
13 contingency fund, the tax stabilization reserve and the tobacco
14 settlement permanent fund."

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

17 "[NEW MATERIAL] ADDITIONAL DISTRIBUTION OF THE GASOLINE
18 TAX AND THE SPECIAL FUEL EXCISE TAX TO MUNICIPALITIES AND
19 COUNTIES.--

20 A. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made in an amount equal to eighteen and five
22 hundred eight thousandths percent of the net receipts
23 attributable to the gasoline tax and sixteen and thirteen-
24 hundredths percent of the net receipts attributable to the
25 special fuel excise tax. Except as provided in Subsection C of
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1 this section, this distribution shall be paid into a
2 maintenance and repair road fund in the municipal treasury or
3 county road fund for expenditure only for reconstruction,
4 resurfacing or other improvement or maintenance of existing
5 public roads, streets, alleys or bridges, including right-of-
6 way and materials acquisition.

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

9 (1) sixty-six and seven-tenths percent of the
10 amount shall be paid to the treasurers of municipalities and H
11 class counties in the proportion that the taxable motor fuel
12 sales in each of the municipalities and H class counties bears
13 to the aggregate taxable motor fuel sales in all of these
14 municipalities and H class counties; and

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

21 C. The distributions made pursuant to this section
22 may be paid into a separate road fund or the general fund of
23 the municipality or county if the municipality has a population
24 less than three thousand or the county has a population less
25 than four thousand.

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1 D. Money from the distribution made pursuant to
2 this section shall not be pledged for the payment of bonds or
3 debentures or expended to pay the principal or interest of
4 outstanding bonds or debentures."

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

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

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

12 B. One month after the last distribution is made to
13 the tax stabilization reserve pursuant to Section 9 of this
14 2017 act, a distribution pursuant to Section 7-1-6.1 NMSA 1978
15 shall be made to the state road maintenance fund in an amount
16 equal to eighteen and five hundred eight thousandths percent of
17 the net receipts attributable to the gasoline tax and sixteen
18 and thirteen-hundredths percent of the net receipts
19 attributable to the special fuel excise tax.

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

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1 materials acquisition.

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

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

9 SECTION 12. Section 7-13-3 NMSA 1978 (being Laws 1971,
10 Chapter 207, Section 3, as amended) is amended to read:

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

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

17 B. The tax imposed by Subsection A of this section
18 shall be [~~seventeen cents (\$.17)~~]:

19 (1) prior to July 1, 2019, twenty-seven cents
20 (\$.27) per gallon received in New Mexico; and

21 (2) on and after July 1, 2019, the rate
22 determined pursuant to Subsection C of this section.

23 C. No later than April 30, 2019 and April 30 of
24 each subsequent year, the department shall calculate the rate
25 of gasoline tax to be imposed as of July 1 of that year. The

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1 rate of the gasoline tax per gallon shall be equal to the
2 product, rounded down to the nearest whole cent, of twenty-
3 seven cents (\$.27) multiplied by a fraction with a numerator
4 equal to the chained price index for the previous calendar year
5 and a denominator equal to the chained price index for the most
6 current calendar year available; provided that the rate of the
7 tax shall not be less than twenty-seven cents (\$.27) or greater
8 than forty cents (\$.40).

9 [~~G-~~] D. The tax imposed by this section may be
10 called the "gasoline tax".

11 E. As used in this section, "chained price index"
12 means the chained price index for nonresidential construction
13 calculated by the United States bureau of economic analysis."

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

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

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

22 B. The tax imposed by Subsection A of this section
23 shall be [~~twenty-one cents (\$.21)~~]:

24 (1) prior to July 1, 2019, thirty-one cents
25 (\$.31) per gallon of special fuel received or used in New

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1 Mexico; and

2 (2) on and after July 1, 2019, the rate
3 determined pursuant to Subsection C of this section.

4 C. No later than April 30, 2019 and April 30 of
5 each subsequent year, the department shall calculate the rate
6 of special fuel excise tax to be imposed as of July 1 of that
7 year. The rate of the special fuel excise tax per gallon shall
8 be equal to the product, rounded down to the nearest whole
9 cent, of thirty-one cents (\$.31) multiplied by a fraction with
10 a numerator equal to the chained price index for the previous
11 calendar year and a denominator equal to the chained price
12 index for the most current calendar year available; provided
13 that the rate of the tax shall not be less than thirty-one
14 cents (\$.31) or greater than forty-four cents (\$.44).

15 [~~G.~~] D. The tax imposed by this section may be
16 called the "special fuel excise tax".

17 E. As used in this section, "chained price index"
18 means the chained price index for nonresidential construction
19 calculated by the United States bureau of economic analysis."

20 **SECTION 14.** Section 67-3-28.2 NMSA 1978 (being Laws 1986,
21 Chapter 20, Section 125, as amended) is amended to read:

22 "67-3-28.2. LOCAL GOVERNMENTS ROAD FUND CREATED--
23 USES.--

24 A. There is created in the state treasury the
25 "local governments road fund" to be administered by the

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1 department. All income received from investment of the fund
2 shall be credited to the fund. No money in the fund shall be
3 used by the department to administer any program, and except as
4 provided in Subsection E of this section, no entity receiving a
5 distribution pursuant to a program requiring matching funds
6 shall use another distribution made pursuant to this section to
7 meet the match required.

8 B. No more than five hundred thousand dollars
9 (\$500,000) annually from the local governments road fund shall
10 be used by the department to purchase at fair market value, for
11 municipalities and counties that can demonstrate financial
12 hardship as determined by the department, automotive, major
13 road and miscellaneous equipment that would otherwise be sold
14 at auction by the department as unusable for department
15 purposes. The department shall adopt rules setting the
16 procedure to carry out the purposes of this subsection.

17 C. Except for the amounts in Subsections B and E of
18 this section and amounts distributed pursuant to the municipal
19 arterial program pursuant to Section 7-1-6.28 NMSA 1978, money
20 in the local governments road fund shall be distributed in the
21 following amounts for the specified purposes:

22 (1) forty-two percent for the cooperative
23 agreements program, to be used solely for the cooperative
24 agreements entered into pursuant to Section 67-3-28 NMSA 1978
25 and in accordance with the match authorized pursuant to Section

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1 67-3-32 NMSA 1978; provided, however, that distribution amounts
2 made pursuant to this paragraph in each year shall be based on
3 the following allocations:

4 (a) thirty-three percent for agreements
5 entered into with counties;

6 (b) forty-nine percent for agreements
7 entered into with municipalities;

8 (c) fourteen percent for agreements
9 entered into with school districts; and

10 (d) four percent for agreements entered
11 into with other entities;

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

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1 (3) sixteen percent for school bus routes, to
2 be used solely for cooperative agreements entered into pursuant
3 to Section 67-3-28 NMSA 1978 and in accordance with the match
4 authorized pursuant to Section 67-3-32 NMSA 1978 for acquiring
5 rights of way and constructing, maintaining, repairing,
6 improving and paving school bus routes and public school
7 parking lots; and

8 (4) twenty-six percent for the county arterial
9 program, to be used for project development, construction,
10 reconstruction, improvement, maintenance, repair and right-of-
11 way and material acquisition of and for county roads for which
12 individual counties have prioritized road projects. Prior to
13 entering into any agreements for projects with the counties for
14 the following fiscal year, in June of each year the department
15 shall determine and certify the amount to which each county is
16 entitled pursuant to the following schedule:

Road Mileage Category Based on	
Number of Miles Maintained	
By a County:	Entitlement to County:
400 miles or under	\$250 for each mile
401 to 800 miles	\$100,000 plus \$200 for each mile over 400 miles
801 to 1,200 miles	\$180,000 plus \$150 for each mile over 800 miles
1,201 to 1,600 miles	\$240,000 plus \$100 for each

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1 mile over 1,200 miles
2 Over 1,600 miles \$300,000 plus \$50 for each
3 mile over 1,600 miles.

4 If in any year there is an insufficient amount in the fund
5 of the county arterial program to certify the total amount to
6 which all counties are entitled, the department shall decrease
7 the entitlement amount due to each county in the same
8 proportion as the insufficiency is to the total entitlements to
9 all counties. Distribution of an entitlement amount and an
10 agreement entered into with a county for any of the purposes
11 for which the money may be spent requires an amount from the
12 county equal to at least twenty-five percent of the
13 entitlement. The county contribution may be made through funds
14 received pursuant to Subsection E of this section. Any
15 uncommitted or unencumbered balance remaining in the county
16 arterial program fund at the end of a fiscal year shall be
17 transferred to the cooperative agreements program specified in
18 Paragraph (1) of this subsection for additional funding of that
19 program in the next fiscal year.

20 D. The department may transfer funds from the state
21 road fund to the local governments road fund to facilitate cash
22 flow for the funding of these local governments road projects.
23 The administrator of the local governments road fund shall
24 reimburse the state road fund in a timely manner for any such
25 transfers.

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1 E. The department may distribute up to one million
2 dollars (\$1,000,000) per calendar year of the money in the
3 local governments road fund to municipalities and counties that
4 can demonstrate financial hardship, for use as all or a portion
5 of the municipality's or county's matching fund requirements
6 pursuant to this section. In order to qualify for matching
7 funds under this subsection, a county or municipality shall
8 provide the department with a financial hardship qualification
9 certificate issued by the department of finance and
10 administration."

11 **SECTION 15. EFFECTIVE DATE.--**

12 A. If this act takes effect on or before April 1,
13 2017, the effective date of the provisions of this act is April
14 1, 2017.

15 B. If this act takes effect after April 1, 2017,
16 the effective date of the provisions of this act is the first
17 day of the month following the date this act takes effect.

18 **SECTION 16. EMERGENCY.--**It is necessary for the public
19 peace, health and safety that this act take effect immediately.