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SENATE BILL 2

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

INTRODUCED BY

Clemente Sanchez and Jim R. Trujillo

AN ACT

RELATING TO TAXATION; DELAYING REDUCTION OF THE CORPORATE
INCOME TAX RATES; DELAYING SINGLE SALES APPORTIONMENT OF INCOME
FOR MANUFACTURERS; INCREASING THE GASOLINE TAX, THE SPECIAL
FUEL EXCISE TAX AND THE MOTOR VEHICLE EXCISE TAX; DISTRIBUTING
REVENUE FROM THE INCREASES TO THE TAX STABILIZATION RESERVE
UNTIL STATE RESERVE FUNDS REACH FIVE PERCENT, TO MUNICIPALITIES
AND COUNTIES FOR MAINTENANCE AND REPAIR OF EXISTING
TRANSPORTATION INFRASTRUCTURE AND TO THE STATE ROAD MAINTENANCE
FUND; CREATING THE STATE ROAD MAINTENANCE FUND; SETTING THE
PETROLEUM PRODUCTS LOADING FEE AT ONE HUNDRED FIFTY DOLLARS
(\$150) AND DISTRIBUTING A PORTION OF THE FEE TO THE TAX
STABILIZATION RESERVE UNTIL STATE RESERVE FUNDS REACH FIVE
PERCENT; IMPOSING A WEIGHT DISTANCE TAX IDENTIFICATION PERMIT
TAX AND DISTRIBUTING THE REVENUE TO THE TAX STABILIZATION
RESERVE UNTIL STATE RESERVE FUNDS REACH FIVE PERCENT; MAKING AN

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1 APPROPRIATION.

2

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

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

6 "7-1-2. APPLICABILITY.--The Tax Administration Act
7 applies to and governs:

8 A. the administration and enforcement of the
9 following taxes or tax acts as they now exist or may hereafter
10 be amended:

- 11 (1) Income Tax Act;
- 12 (2) Withholding Tax Act;
- 13 (3) Venture Capital Investment Act;
- 14 (4) Gross Receipts and Compensating Tax Act
15 and any state gross receipts tax;
- 16 (5) Liquor Excise Tax Act;
- 17 (6) Local Liquor Excise Tax Act;
- 18 (7) any municipal local option gross receipts
19 tax;
- 20 (8) any county local option gross receipts
21 tax;
- 22 (9) Special Fuels Supplier Tax Act;
- 23 (10) Gasoline Tax Act;
- 24 (11) petroleum products loading fee, which fee
25 shall be considered a tax for the purpose of the Tax

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1 Administration Act;

2 (12) Alternative Fuel Tax Act;

3 (13) Cigarette Tax Act;

4 (14) Estate Tax Act;

5 (15) Railroad Car Company Tax Act;

6 (16) Investment Credit Act, rural job tax
7 credit, Laboratory Partnership with Small Business Tax Credit
8 Act, Technology Jobs and Research and Development Tax Credit
9 Act, Film Production Tax Credit Act, Affordable Housing Tax
10 Credit Act and high-wage jobs tax credit;

11 (17) Corporate Income and Franchise Tax Act;

12 (18) Uniform Division of Income for Tax
13 Purposes Act;

14 (19) Multistate Tax Compact;

15 (20) Tobacco Products Tax Act; ~~and~~

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

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

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

25 (1) Resources Excise Tax Act;

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- 1 (2) Severance Tax Act;
- 2 (3) any severance surtax;
- 3 (4) Oil and Gas Severance Tax Act;
- 4 (5) Oil and Gas Conservation Tax Act;
- 5 (6) Oil and Gas Emergency School Tax Act;
- 6 (7) Oil and Gas Ad Valorem Production Tax Act;
- 7 (8) Natural Gas Processors Tax Act;
- 8 (9) Oil and Gas Production Equipment Ad
- 9 Valorem Tax Act;
- 10 (10) Copper Production Ad Valorem Tax Act;
- 11 (11) any advance payment required to be made
- 12 by any act specified in this subsection, which advance payment
- 13 shall be considered a tax for the purposes of the Tax
- 14 Administration Act;
- 15 (12) Enhanced Oil Recovery Act;
- 16 (13) Natural Gas and Crude Oil Production
- 17 Incentive Act; and
- 18 (14) intergovernmental production tax credit
- 19 and intergovernmental production equipment tax credit;
- 20 C. the administration and enforcement of the
- 21 following taxes, surcharges, fees or acts as they now exist or
- 22 may hereafter be amended:
- 23 (1) Weight Distance Tax Act;
- 24 (2) the workers' compensation fee authorized
- 25 by Section 52-5-19 NMSA 1978, which fee shall be considered a

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1 tax for purposes of the Tax Administration Act;

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

3 (4) 911 emergency surcharge and the network
4 and database surcharge, which surcharges shall be considered
5 taxes for purposes of the Tax Administration Act;

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

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

12 (7) the gaming tax imposed pursuant to the
13 Gaming Control Act; and

14 D. the administration and enforcement of all other
15 laws, with respect to which the department is charged with
16 responsibilities pursuant to the Tax Administration Act, but
17 only to the extent that the other laws do not conflict with the
18 Tax Administration Act."

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

21 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

22 A. A distribution pursuant to Section 7-1-6.1 NMSA
23 1978 shall be made to the state aviation fund in an amount
24 equal to four and seventy-nine hundredths percent of the
25 taxable gross receipts attributable to the sale of fuel

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1 specially prepared and sold for use in turboprop or jet-type
2 engines as determined by the department.

3 B. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to the state aviation fund in an amount
5 equal to [~~twenty-six hundredths~~] two hundred one thousandths
6 percent of gasoline taxes, exclusive of penalties and interest,
7 collected pursuant to the Gasoline Tax Act.

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

13 D. A distribution pursuant to Section 7-1-6.1 NMSA
14 1978 shall be made to the state aviation fund from the net
15 receipts attributable to the gross receipts tax distributable
16 to the general fund in an amount equal to

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

19 ~~(2) one hundred sixty-seven thousand dollars~~
20 ~~(\$167,000) monthly from July 1, 2008 through June 30, 2009; and~~

21 ~~(3)] two hundred fifty thousand dollars~~
22 ~~(\$250,000) [monthly after July 1, 2009]."~~

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

25 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A

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1 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
2 made to the motorboat fuel tax fund in an amount equal to
3 [~~thirteen-hundredths of one~~] one-tenth percent of the net
4 receipts attributable to the gasoline tax."

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

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

9 A. A distribution pursuant to Section 7-1-6.1 NMSA
10 1978 shall be made in an amount equal to [~~ten and thirty-eight~~
11 ~~hundredths~~] eight and twenty-one thousandths percent of the net
12 receipts attributable to the taxes, exclusive of penalties and
13 interest, imposed by the Gasoline Tax Act.

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

16 (1) ninety percent of the amount shall be paid
17 to the treasurers of municipalities and H class counties in the
18 proportion that the taxable motor fuel sales in each of the
19 municipalities and H class counties bears to the aggregate
20 taxable motor fuel sales in all of these municipalities and H
21 class counties; and

22 (2) ten percent of the amount shall be paid to
23 the treasurers of the counties, including H class counties, in
24 the proportion that the taxable motor fuel sales outside of
25 incorporated municipalities in each of the counties bears to

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1 the aggregate taxable motor fuel sales outside of incorporated
2 municipalities in all of the counties.

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

21 D. This distribution may be paid into a separate
22 road fund or the general fund of the municipality or county if
23 the municipality has a population less than three thousand or
24 the county has a population less than four thousand."

25 SECTION 5. Section 7-1-6.10 NMSA 1978 (being Laws 1983,

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1 Chapter 211, Section 15, as amended) is amended to read:

2 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

3 A. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to the state road fund in an amount equal to
5 the net receipts attributable to the taxes, surcharges,
6 penalties and interest imposed pursuant to the Gasoline Tax Act
7 and to the taxes, surtaxes, fees, penalties and interest
8 imposed pursuant to the Special Fuels Supplier Tax Act and the
9 Alternative Fuel Tax Act less:

10 (1) the amount distributed to the state
11 aviation fund pursuant to Subsection B of Section 7-1-6.7 NMSA
12 1978;

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

15 (3) the amount distributed to municipalities
16 and counties pursuant to [~~Subsection A of~~] Section 7-1-6.9 NMSA
17 1978 and Section 12 of this 2017 act;

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

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

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

24 (7) the amount distributed to the municipal
25 arterial program of the local governments road fund pursuant to

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1 Section 7-1-6.28 NMSA 1978;

2 (8) the amount distributed to a qualified
3 tribe pursuant to [~~a gasoline tax sharing agreement entered~~
4 ~~into between the secretary of transportation and the qualified~~
5 ~~tribe pursuant to the provisions]~~ Subsection A of Section
6 [~~67-3-8.1~~] 7-1-6.44 NMSA 1978; [~~and~~]

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

9 (10) the amount distributed to the tax
10 stabilization reserve pursuant to Section 11 of this 2017 act;
11 and

12 (11) the amount distributed to the state road
13 maintenance fund pursuant to Section 13 of this 2017 act.

14 B. A distribution pursuant to Section 7-1-6.1 NMSA
15 1978 shall be made to the state road fund in an amount equal to
16 the net receipts attributable to the taxes, interest and
17 penalties from the Weight Distance Tax Act."

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

20 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND
21 CREATED.--

22 A. There is created in the state treasury the
23 "county government road fund".

24 B. A distribution pursuant to Section 7-1-6.1 NMSA
25 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~~] four and four
2 hundred fifty-one thousandths percent of the net receipts
3 attributable to the gasoline tax."

4 SECTION 7. Section 7-1-6.25 NMSA 1978 (being Laws 1988,
5 Chapter 70, Section 9, as amended) is amended to read:

6 "7-1-6.25. DISTRIBUTION OF PETROLEUM PRODUCTS LOADING
7 FEE--CORRECTIVE ACTION FUND--LOCAL GOVERNMENTS ROAD FUND.--A
8 distribution pursuant to Section 7-1-6.1 NMSA 1978 of the net
9 receipts attributable to the petroleum products loading fee
10 shall be made to each of the following funds in the following
11 amounts:

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

15 B. to the tax stabilization reserve, an amount
16 equal to the net receipts attributable to a fee of one hundred
17 ten dollars (\$110) per load, prior to and including the last
18 month a distribution to the tax stabilization reserve is made
19 pursuant to Section 11 of this 2017 act; and

20 C. beginning one month after the last distribution
21 is made to the tax stabilization reserve pursuant to Section 11
22 of this 2017 act, to the corrective action fund, the balance,
23 if any, of the net receipts."

24 SECTION 8. Section 7-1-6.27 NMSA 1978 (being Laws 1991,
25 Chapter 9, Section 20, as amended) is amended to read:

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

2 A. A distribution pursuant to Section 7-1-6.1 NMSA
3 1978 shall be made to municipalities for the purposes and
4 amounts specified in this section in an aggregate amount equal
5 to [~~five and seventy six hundredths~~] four and four hundred
6 fifty-one thousandths percent of the net receipts attributable
7 to the gasoline tax.

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

10 (1) reconstructing, resurfacing, maintaining,
11 repairing or otherwise improving existing alleys, streets,
12 roads or bridges, or any combination of the foregoing; or
13 laying off, opening, constructing or otherwise acquiring new
14 alleys, streets, roads or bridges, or any combination of the
15 foregoing; provided that any of the foregoing improvements may
16 include [~~but are not limited to~~] the acquisition of rights of
17 way;

18 (2) to provide matching funds for projects
19 subject to cooperative agreements with the [~~state highway and~~]
20 department of transportation [~~department~~] pursuant to Section
21 67-3-28 NMSA 1978; and

22 (3) for expenses of purchasing, maintaining
23 and operating transit operations and facilities, for the
24 operation of a transit authority established by the Municipal
25 Transit Law and for the operation of a vehicle emission

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1 inspection program. A municipality may engage in the business
2 of the transportation of passengers and property within the
3 political subdivision by whatever means the municipality may
4 decide and may acquire cars, trucks, motor buses and other
5 equipment necessary for operating the business. A municipality
6 may acquire land, erect buildings and equip the buildings with
7 all the necessary machinery and facilities for the operation,
8 maintenance, modification, repair and storage of the cars,
9 trucks, motor buses and other equipment needed. A municipality
10 may do all things necessary for the acquisition and the conduct
11 of the business of public transportation.

12 C. For the purposes of this section:

13 (1) "computed distribution amount" means the
14 distribution amount calculated for a municipality for a month
15 pursuant to Paragraph (2) of Subsection D of this section prior
16 to any adjustments to the amount due to the provisions of
17 Subsections E and F of this section;

18 (2) "floor amount" means four hundred
19 seventeen dollars (\$417);

20 (3) "floor municipality" means a municipality
21 whose computed distribution amount is less than the floor
22 amount; and

23 (4) "full distribution municipality" means a
24 municipality whose population at the last federal decennial
25 census was at least two hundred thousand.

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1 D. Subject to the provisions of Subsections E and F
2 of this section, each municipality shall be distributed a
3 portion of the aggregate amount distributable under this
4 section in an amount equal to the greater of:

5 (1) the floor amount; or

6 (2) eighty-five percent of the aggregate
7 amount distributable under this section times a fraction, the
8 numerator of which is the municipality's reported taxable
9 gallons of gasoline for the immediately preceding state fiscal
10 year and the denominator of which is the reported total taxable
11 gallons for all municipalities for the same period.

12 E. Fifteen percent of the aggregate amount
13 distributable under this section shall be referred to as the
14 "redistribution amount". Beginning in August 1990, and each
15 month thereafter, from the redistribution amount there shall be
16 taken an amount sufficient to increase the computed
17 distribution amount of every floor municipality to the floor
18 amount. In the event that the redistribution amount is
19 insufficient for this purpose, the computed distribution amount
20 for each floor municipality shall be increased by an amount
21 equal to the redistribution amount times a fraction, the
22 numerator of which is the difference between the floor amount
23 and the municipality's computed distribution amount and the
24 denominator of which is the difference between the product of
25 the floor amount multiplied by the number of floor

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1 municipalities and the total of the computed distribution
2 amounts for all floor municipalities.

3 F. If a balance remains after the redistribution
4 amount has been reduced pursuant to Subsection E of this
5 section, there shall be added to the computed distribution
6 amount of each municipality that is neither a full distribution
7 municipality nor a floor municipality an amount that equals the
8 balance of the redistribution amount times a fraction, the
9 numerator of which is the computed distribution amount of the
10 municipality and the denominator of which is the sum of the
11 computed distribution amounts of all municipalities that are
12 neither full distribution municipalities nor floor
13 municipalities."

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

16 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF
17 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
18 Section 7-1-6.1 NMSA 1978 shall be made to the municipal
19 arterial program of the local governments road fund created in
20 Section 67-3-28.2 NMSA 1978 in an amount equal to one and
21 [~~forty-four hundredths~~] one hundred thirteen thousandths
22 percent of the net receipts attributable to the gasoline tax."

23 SECTION 10. Section 7-1-6.39 NMSA 1978 (being Laws 1995,
24 Chapter 6, Section 9, as amended) is amended to read:

25 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO

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1 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
2 Section 7-1-6.1 NMSA 1978 shall be made to the local
3 governments road fund in an amount equal to [~~nine and fifty-~~
4 ~~two~~] seven and sixty-nine hundredths percent of the net
5 receipts attributable to the taxes, exclusive of penalties and
6 interest, from the special fuel excise tax imposed by the
7 Special Fuels Supplier Tax Act."

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

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

11 A. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made to the tax stabilization reserve in amounts
13 equal to eleven and thirty-six hundredths percent of the net
14 receipts attributable to the gasoline tax, eight and sixty-five
15 hundredths percent of the net receipts attributable to the
16 special fuel excise tax and the net receipts attributable to
17 the tax imposed pursuant to Paragraph (1) of Subsection A of
18 Section 7-15A-13 NMSA 1978 until the month following a
19 certification by the state board of finance to the secretary
20 that the total amount in state reserve funds at the end of the
21 prior fiscal year, according to the general fund financial
22 summary that is prepared by the department of finance and
23 administration in August of each year, was at least five
24 percent of the total general fund appropriations for the prior
25 fiscal year.

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1 B. As used in this section, "state reserve funds"
2 means the general fund operating reserve, the appropriation
3 contingency fund, the tax stabilization reserve, the taxpayers
4 dividend fund and the tobacco settlement permanent fund."

5 **SECTION 12.** A new section of the Tax Administration Act
6 is enacted to read:

7 "[NEW MATERIAL] ADDITIONAL DISTRIBUTION OF THE GASOLINE
8 TAX AND THE SPECIAL FUEL EXCISE TAX TO MUNICIPALITIES AND
9 COUNTIES.--

10 A. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 shall be made to municipalities and counties, subject to
12 the requirements of Subsection B of this section, in the
13 following amounts:

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

16 (a) five and sixty-eight hundredths
17 percent of the net receipts attributable to the gasoline tax;
18 and

19 (b) four and thirty-three hundredths
20 percent of the net receipts attributable to the special fuel
21 excise tax; and

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

25 (a) eleven and three hundred sixty-four

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1 thousandths percent of the net receipts attributable to the
2 gasoline tax; and

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

6 B. Except as provided in Subsection D of this
7 section, this distribution shall be paid into a maintenance and
8 repair road fund in the municipal treasury or county road fund
9 for expenditure only for reconstruction, resurfacing or other
10 improvement or maintenance of existing public roads, streets,
11 alleys or bridges, including right-of-way and materials
12 acquisition.

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

15 (1) sixty-six and seven-tenths percent of the
16 amount shall be paid to the treasurers of municipalities and H
17 class counties in the proportion that the taxable motor fuel
18 sales in each of the municipalities and H class counties bears
19 to the aggregate taxable motor fuel sales in all of these
20 municipalities and H class counties; and

21 (2) thirty-three and three-tenths percent of
22 the amount shall be paid to the treasurers of the counties,
23 including H class counties, in the proportion that the taxable
24 motor fuel sales outside of incorporated municipalities in each
25 of the counties bears to the aggregate taxable motor fuel sales

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1 outside of incorporated municipalities in all of the counties.

2 D. The distributions made pursuant to this section
3 may be paid into a separate road fund or the general fund of
4 the municipality or county if the municipality has a population
5 less than three thousand or the county has a population less
6 than four thousand.

7 E. Money from the distribution made pursuant to
8 this section shall not be pledged for the payment of bonds or
9 debentures or expended to pay the principal or interest of
10 outstanding bonds or debentures."

11 SECTION 13. A new section of the Tax Administration Act
12 is enacted to read:

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

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

18 B. A distribution pursuant to Section 7-1-6.1 NMSA
19 1978 shall be made to the state road maintenance fund in the
20 following amounts:

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

23 (a) five and sixty-eight hundredths
24 percent of the net receipts attributable to the gasoline tax;
25 and

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1 (b) four and thirty-three hundredths
2 percent of the net receipts attributable to the special fuel
3 excise tax; and

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

7 (a) eleven and three hundred sixty-four
8 thousandths percent of the net receipts attributable to the
9 gasoline tax; and

10 (b) eight and sixty-five hundredths
11 percent of the net receipts attributable to the special fuel
12 excise tax.

13 C. The department of transportation shall
14 administer the fund, and money in the fund is subject to
15 appropriation by the legislature only to the department of
16 transportation for expenditure for reconstruction, resurfacing
17 or other improvement or maintenance of existing public roads,
18 streets, alleys or bridges, including right-of-way and
19 materials acquisition.

20 D. Money in the fund shall not be pledged for the
21 payment of bonds or debentures or expended to pay the principal
22 or interest of outstanding bonds or debentures.

23 E. Money in the fund shall be disbursed on warrants
24 signed by the secretary of finance and administration pursuant
25 to vouchers signed by the secretary of transportation or the

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1 secretary's authorized representative."

2 SECTION 14. Section 7-2A-5 NMSA 1978 (being Laws 1981,
3 Chapter 37, Section 38, as amended) is amended to read:

4 "7-2A-5. CORPORATE INCOME TAX RATES.--The corporate
5 income tax imposed on corporations by Section 7-2A-3 NMSA 1978
6 shall be at the rates specified in the following tables:

7 A. For taxable years beginning prior to January 1,
8 2014:

9	If the net income is:	The tax shall be:
10	Not over \$500,000	4.8% of net income
11	Over \$500,000 but not	
12	over \$1,000,000	\$24,000 plus 6.4% of
13		excess over \$500,000
14	Over \$1,000,000	\$56,000 plus 7.6% of
15		excess over
16		\$1,000,000.

17 B. For taxable years beginning on or after January 1,
18 2014 and prior to January 1, 2015:

19	If the net income is:	The tax shall be:
20	Not over \$500,000	4.8% of net income
21	Over \$500,000 but not	
22	over \$1,000,000	\$24,000 plus 6.4% of
23		excess over \$500,000
24	Over \$1,000,000	\$56,000 plus 7.3% of
25		excess over

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1 \$1,000,000.

2 C. For taxable years beginning on or after January 1,
3 2015 and prior to January 1, 2016:

4	If the net income is:	The tax shall be:
5	Not over \$500,000	4.8% of net income
6	Over \$500,000 but not	
7	over \$1,000,000	\$24,000 plus 6.4% of
8		excess over \$500,000
9	Over \$1,000,000	\$56,000 plus 6.9% of
10		excess over
11		\$1,000,000.

12 D. For taxable years beginning on or after January 1,
13 2016 and prior to January 1, [2017] 2019:

14	If the net income is:	The tax shall be:
15		
16	Not over \$500,000	4.8% of net income
17	Over \$500,000 but not	
18	over \$1,000,000	\$24,000 plus 6.4% of
19		excess over \$500,000
20	Over \$1,000,000	\$56,000 plus 6.6% of
21		excess over
22		\$1,000,000.

23 ~~[E. For taxable years beginning on or after January~~
24 ~~1, 2017 and prior to January 1, 2018:~~

25 ~~If the net income is: The tax shall be:~~

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1 ~~Not over \$500,000~~ 4.8% of net income
2 ~~Over \$500,000~~ \$24,000 plus 6.2% of
3 ~~excess over \$500,000.~~

4 F.] E. For taxable years beginning on or after
5 January 1, [~~2018~~] 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 \$24,000 plus 5.9% of
9 excess over
10 \$500,000."

11 SECTION 15. Section 7-4-10 NMSA 1978 (being Laws 1993,
12 Chapter 153, Section 1, as amended) is amended to read:

13 "7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

14 A. Except as provided in Subsections B and C of this
15 section, all business income shall be apportioned to this state
16 by multiplying the income by a fraction, the numerator of which
17 is the property factor plus the payroll factor plus the sales
18 factor and the denominator of which is three.

19 B. A taxpayer whose principal business activity in
20 New Mexico is manufacturing may elect to have business income
21 apportioned to this state:

22 (1) in the taxable year beginning on or after
23 January 1, 2014 and prior to January 1, 2015, by multiplying
24 the income by a fraction, the numerator of which is twice the
25 sales factor plus the property factor plus the payroll factor

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1 and the denominator of which is four;

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

7 (3) in the taxable [~~year~~] years beginning on or
8 after January 1, 2016 and prior to January 1, [~~2017~~] 2019, by
9 multiplying the income by a fraction, the numerator of which is
10 seven multiplied by the sales factor plus one and one-half
11 multiplied by the property factor plus one and one-half
12 multiplied by the payroll factor and the denominator of which
13 is ten; and

14 [~~(4) in the taxable year beginning on or after~~
15 ~~January 1, 2017 and prior to January 1, 2018, by multiplying~~
16 ~~the income by a fraction, the numerator of which is eight~~
17 ~~multiplied by the sales factor plus the property factor plus~~
18 ~~the payroll factor and the denominator of which is ten; and~~

19 ~~(5)]~~ (4) in taxable years beginning on or after
20 January 1, [~~2018~~] 2019, by multiplying the income by a
21 fraction, the numerator of which is the total sales of the
22 taxpayer in New Mexico during the taxable year and the
23 denominator of which is the total sales of the taxpayer from
24 any location within or outside of the state during the taxable
25 year.

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

9 D. To elect the method of apportionment provided by
10 Subsection B or C of this section, the taxpayer shall notify
11 the department of the election, in writing, no later than the
12 date on which the taxpayer files the return for the first
13 taxable year to which the election will apply. The election
14 will apply to that taxable year and to each taxable year
15 thereafter until the taxpayer notifies the department, in
16 writing, that the election is terminated, except that the
17 taxpayer shall not terminate the election until the method of
18 apportioning business income provided by Subsection B or C of
19 this section has been used by the taxpayer for at least three
20 consecutive taxable years, including a total of at least
21 thirty-six calendar months. The election will apply to the
22 separately filed return of the taxpayer or the combined or
23 consolidated return the taxpayer has elected to be included
24 pursuant to Section 7-2A-8.3 or 7-2A-8.4 NMSA 1978.

25 E. For purposes of this section:

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~~[bracketed material] = delete~~

1 (1) "headquarters operation" means:

2 (a) the center of operations of a business:

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

17 (b) the center of operations of a business:

18 1) the function and purpose of which is to manage and direct
19 most aspects of one or more centralized functions; and 2) from
20 which final authority over one or more centralized functions is
21 issued; and

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

25 (a) construction;

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- 1 (b) farming;
- 2 (c) power generation, except for electricity
3 generation at a facility other than one for which both location
4 approval and a certificate of convenience and necessity are
5 required prior to commencing construction or operation of the
6 facility, pursuant to the Public Utility Act; or
- 7 (d) processing natural resources, including
8 hydrocarbons."

9 SECTION 16. 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)~~] twenty-two cents (\$.22) per
19 gallon received in New Mexico.

20 C. The tax imposed by this section may be called the
21 "gasoline tax".

22 SECTION 17. Section 7-13A-3 NMSA 1978 (being Laws 1990,
23 Chapter 124, Section 16, as amended) is amended to read:

24 "7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS
25 "PETROLEUM PRODUCTS LOADING FEE".--

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1 A. For the privilege of loading gasoline or special
2 fuel from a rack at a refinery or pipeline terminal in this
3 state into a cargo tank, there is imposed a fee on the
4 distributor at a rate provided in Subsection [G] D of this
5 section on each gallon of gasoline or special fuel loaded in
6 New Mexico on which the petroleum products loading fee has not
7 been previously paid.

8 B. For the privilege of importing gasoline or special
9 fuel into this state for resale or consumption in this state
10 there is imposed a fee determined as provided in Subsection [G]
11 D of this section on each load of gasoline or special fuel
12 imported into New Mexico for resale or consumption on which the
13 petroleum products loading fee has not been previously paid.
14 [~~For the purposes of this section, "load" means eight thousand~~
15 ~~gallons of gasoline or special fuel.~~]

16 C. To determine how many loads a person is to report
17 under the provisions of this section, the person shall divide
18 by eight thousand the total gallons of gasoline reported for
19 the purposes of Section 7-13-3 NMSA 1978 as adjusted [~~under~~]
20 pursuant to the provisions of Section 7-13-4 NMSA 1978 and the
21 total gallons of special [~~fuels~~] fuel received in New Mexico
22 less any gallons exempted under Section 7-13A-4 NMSA 1978.
23 Loads shall be calculated to the nearest one-hundredth of a
24 load.

25 [~~G.~~] D. The fee imposed by this section [~~is and~~] may

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1 be referred to as the "petroleum products loading fee" and
2 shall be:

3 (1) one hundred fifty dollars (\$150) per load
4 prior to and including the last month a distribution to the tax
5 stabilization reserve is made pursuant to Section 11 of this
6 2017 act; and

7 (2) beginning one month after the last
8 distribution to the tax stabilization reserve is made pursuant
9 Section 11 of this 2017 act, one hundred fifty dollars (\$150)
10 per load or whichever of the following applies:

11 ~~[(1) in the event]~~ (a) forty dollars
12 (\$40.00) per load if, as certified by the secretary of
13 environment, [certifies that] the unobligated balance of the
14 corrective action fund at the end of the prior fiscal year
15 equals or exceeds eighteen million dollars (\$18,000,000); [the
16 fee shall be set at forty dollars (\$40.00) per load

17 ~~(2) in the event]~~ (b) eighty dollars
18 (\$80.00) per load if, as certified by the secretary of
19 environment, [certifies that] the unobligated balance of the
20 corrective action fund at the end of the prior fiscal year
21 exceeds twelve million dollars (\$12,000,000) but is less than
22 eighteen million dollars (\$18,000,000); [the fee shall be set
23 at eighty dollars (\$80.00) per load;

24 ~~(3) in the event]~~ (c) one hundred twenty
25 dollars (\$120) per load if, as certified by the secretary of

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1 environment, [~~certifies that~~] the unobligated balance of the
2 corrective action fund at the end of the prior fiscal year
3 exceeds six million dollars (\$6,000,000) but is less than
4 twelve million dollars (\$12,000,000); [~~the fee shall be set at~~
5 ~~one hundred twenty dollars (\$120) per load; and~~

6 ~~(4) in the event] or~~

7 (d) one hundred fifty dollars (\$150) per
8 load if, as certified by the secretary of environment,
9 [~~certifies that~~] the unobligated balance of the corrective
10 action fund at the end of the prior fiscal year is less than
11 six million dollars (\$6,000,000). [~~the fee shall be set at one~~
12 ~~hundred fifty dollars (\$150) per load.~~

13 ~~D.]~~ E. The amount of the petroleum products loading
14 fee [~~set~~] determined pursuant to Paragraph [~~(1)~~] (2) [~~(3)~~ or
15 ~~(4)~~] of Subsection [~~G~~] D of this section shall be imposed on
16 the first day of the month following expiration of ninety days
17 after the end of the fiscal year for which the certification
18 was made, except as provided in Paragraph (2) of Subsection D
19 of this section.

20 [~~E.]~~ F. As used in this section, [~~"unobligated~~
21 ~~balance of the corrective action fund"~~ means corrective action
22 ~~fund equity less all known or anticipated liabilities against~~
23 ~~the fund]~~ "load" means eight thousand gallons of gasoline or
24 special fuel."

25 SECTION 18. Section 7-14-4 NMSA 1978 (being Laws 1988,

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1 Chapter 73, Section 14) is amended to read:

2 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE
3 TAX.--The rate of the motor vehicle excise tax is [~~three~~] four
4 percent and is applied to the price paid for the vehicle. If
5 the price paid does not represent the value of the vehicle in
6 the condition that existed at the time it was acquired, the tax
7 rate shall be applied to the reasonable value of the vehicle in
8 such condition at such time. However, allowances granted for
9 vehicle trade-ins may be deducted from the price paid or the
10 reasonable value of the vehicle purchased."

11 SECTION 19. Section 7-14-10 NMSA 1978 (being Laws 1988,
12 Chapter 73, Section 20, as amended) is amended to read:

13 "7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from
14 the tax and any associated interest and penalties shall be
15 deposited in the "motor vehicle suspense fund", hereby created
16 in the state treasury. As of the end of each month, the net
17 receipts attributable to the tax and associated penalties and
18 interest shall be distributed as follows:

19 A. seventy-five percent to the general fund; and

20 B. twenty-five percent to the:

21 (1) tax stabilization reserve prior to and
22 including the last month a distribution to the tax
23 stabilization reserve is made pursuant to Section 11 of this
24 2017 act; and

25 (2) state road maintenance fund beginning one

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1 month after the last distribution is made pursuant to Section
2 11 of this 2017 act."

3 SECTION 20. Section 7-15A-13 NMSA 1978 (being Laws 2003
4 (1st S.S.), Chapter 3, Section 7) is amended to read:

5 "7-15A-13. WEIGHT DISTANCE TAX IDENTIFICATION PERMIT
6 TAX--ADMINISTRATIVE FEE.--

7 A. A person that obtains a weight distance tax
8 identification permit shall pay to the department, in addition
9 to a weight distance tax, special fuel excise tax and other use
10 fee imposed for the use of public highways of this state:

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

13 (2) an administrative fee [~~to the department~~]
14 for the reasonable and necessary expense that the department
15 incurs for processing and issuing a weight distance tax
16 identification permit [~~The fee shall be paid in addition to a~~
17 ~~weight distance tax, special fuel excise tax and other use fee~~
18 ~~imposed for the use of public highways of this state] in an
19 amount determined by the department [~~shall determine the amount~~
20 ~~of the fee pursuant to regulation. The fee shall not exceed]~~
21 by rule, but not more than ten dollars (\$10.00).~~

22 B. The department shall deposit [~~to the weight~~
23 ~~distance tax identification permit administration fund, all]~~
24 proceeds from administrative fees collected by the department
25 pursuant to Paragraph (2) of Subsection A of this section to

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1 the weight 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 11 of this 2017 act and Section
5 7-1-6.1 NMSA 1978."

6 SECTION 21. 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-one cents (\$.21)~~] twenty-six cents (\$.26) per
16 gallon of special fuel received or used in New Mexico.

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

19 SECTION 22. 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 tax
23 liabilities for taxable year 2017 but underpaid due to the
24 changes made to Section 7-2A-5 or 7-4-10 NMSA 1978 pursuant to
25 this act shall not be subject to the penalties and interest

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

4 SECTION 23. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is January 1, 2018.