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SENATE BILL 389

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO TAXATION; DISTRIBUTING A PORTION OF CORPORATE INCOME TAX REVENUE TO THE PUBLIC SCHOOL FUND; AMENDING THE CORPORATE INCOME AND FRANCHISE TAX ACT TO MANDATE COMBINED REPORTING; REPEALING A SECTION OF THE NMSA 1978 PERTAINING TO CONSOLIDATED RETURNS.

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

Section 1. ~~[NEW MATERIAL]~~ DISTRIBUTION--PUBLIC SCHOOL FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the public school fund in an amount equal to sixteen and sixty-six hundredths percent of the net receipts attributable to the corporate income tax for taxable years beginning on or after January 1, 2009.

Section 2. Section 7-2A-8.3 NMSA 1978 (being Laws 1983, Chapter 213, Section 12, as amended by Laws 1993, Chapter 307, .174131.2

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 Section 4 and also by Laws 1993, Chapter 309, Section 2) is
2 amended to read:

3 "7-2A-8.3. COMBINED RETURNS.--

4 A. A unitary corporation that is subject to
5 taxation under the Corporate Income and Franchise Tax Act [~~and~~
6 ~~that has not previously filed a combined return pursuant to~~
7 ~~this section or a consolidated return pursuant to Section~~
8 ~~7-2A-8.4 NMSA 1978 may elect to~~] shall file a combined return
9 with other unitary corporations as though the entire combined
10 net income were that of one corporation. The return filed
11 under this method of reporting shall include the net income of
12 all the unitary corporations. Transactions among the unitary
13 corporations may be eliminated by applying the appropriate
14 rules for reporting income for a consolidated federal income
15 tax return. [~~Any corporation that has filed an income tax~~
16 ~~return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978~~
17 ~~shall not file pursuant to this section unless the secretary~~
18 ~~gives prior permission to file on a combined return basis.]~~

19 B. Once corporations have reported net income
20 through a combined return for any taxable year, they shall file
21 combined returns for subsequent taxable years, so long as they
22 remain unitary corporations, [~~unless the corporations elect to~~
23 ~~file pursuant to Section 7-2A-8.4 NMSA 1978 or~~] unless the
24 secretary grants prior permission for one or more of the
25 corporations to file individually.

.174131.2

