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HOUSE BILL 74

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO TAXATION; PROVIDING FOR A TEMPORARY INCREASE IN THE
GASOLINE TAX AND THE SPECIAL FUEL EXCISE TAX TO FUND THE
COMPLETION OF MAJOR INVESTMENT HIGHWAY PROJECTS; CREATING THE
MAJOR INVESTMENT HIGHWAY PROJECT FUND; AUTHORIZING THE ISSUANCE
OF MAJOR INVESTMENT HIGHWAY PROJECT BONDS; MAKING AN
APPROPRIATION.

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) 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
equal to four and seventy-nine hundredths percent of the
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 percent of gasoline taxes,
6 exclusive of penalties and interest, collected pursuant to the
7 Gasoline Tax Act, except that from July 1, 2014 through the
8 collection of taxes for June 2024, the distribution shall be
9 made in an amount equal to twenty-hundredths percent of those
10 taxes, exclusive of penalties and interest.

11 C. From July 1, 2013 through June 30, 2018, a
12 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
13 made to the state aviation fund in an amount equal to
14 forty-six thousandths percent of the net receipts attributable
15 to the gross receipts tax distributable to the general fund.

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

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

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

24 (3) two hundred fifty thousand dollars
25 (\$250,000) monthly after July 1, 2009."

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

3 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A
4 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
5 made to the motorboat fuel tax fund in an amount equal to
6 thirteen-hundredths [~~of one~~] percent of the net receipts
7 attributable to the gasoline tax, except that from July 1, 2014
8 through the collection of taxes for June 2024, the distribution
9 shall be made in an amount equal to ten-hundredths percent of
10 those net receipts."

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

13 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
14 MUNICIPALITIES AND COUNTIES.--

15 A. A distribution pursuant to Section 7-1-6.1 NMSA
16 1978 shall be made in an amount equal to ten and thirty-eight
17 hundredths percent of the net receipts attributable to the
18 taxes, exclusive of penalties and interest, imposed by the
19 Gasoline Tax Act, except that from July 1, 2014 through the
20 collection of taxes for June 2024, the distribution shall be
21 made in an amount equal to eight and two-hundredths percent of
22 those net receipts, exclusive of penalties and interest.

23 B. [~~Except as provided in Subsection D of this~~
24 ~~section]~~ The amount determined in Subsection A of this section
25 shall be distributed as follows:

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1 (1) ninety percent of the amount shall be paid
2 to the treasurers of municipalities and H class counties in the
3 proportion that the taxable motor fuel sales in each of the
4 municipalities and H class counties bears to the aggregate
5 taxable motor fuel sales in all of these municipalities and H
6 class counties; and

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

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

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

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

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

13 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

14 A. 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, surcharges,
17 penalties and interest imposed pursuant to the Gasoline Tax Act
18 and to the taxes, surtaxes, fees, penalties and interest
19 imposed pursuant to the Special Fuels Supplier Tax Act and the
20 Alternative Fuel Tax Act less:

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

24 (2) the amount distributed to the motorboat
25 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;

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

13 (8) the amount distributed to a qualified
14 tribe pursuant to a gasoline tax sharing agreement entered into
15 between the secretary of transportation and the qualified tribe
16 pursuant to the provisions of Section 67-3-8.1 NMSA 1978; ~~and~~

17 (9) the amount distributed to the general fund
18 pursuant to Section 7-1-6.44 NMSA 1978; and

19 (10) the amount distributed to the major
20 investment highway project fund pursuant to Section 9 of this
21 2014 act.

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

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

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

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

7 B. A distribution pursuant to Section 7-1-6.1 NMSA
8 1978 shall be made to the county government road fund in an
9 amount equal to five and seventy-six hundredths percent of the
10 net receipts attributable to the gasoline tax, except that from
11 July 1, 2014 through the collection of taxes for June 2024, the
12 distribution shall be made in an amount equal to four and
13 forty-five hundredths percent of those net receipts."

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

16 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

17 A. A distribution pursuant to Section 7-1-6.1 NMSA
18 1978 shall be made to municipalities for the purposes and
19 amounts specified in this section in an aggregate amount equal
20 to five and seventy-six hundredths percent of the net receipts
21 attributable to the gasoline tax, except that from July 1, 2014
22 through the collection of taxes for June 2024, the distribution
23 shall be made in an amount equal to four and forty-five
24 hundredths percent of those net receipts.

25 B. The distribution authorized in this section

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1 shall be used for the following purposes:

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

10 (2) to provide matching funds for projects
11 subject to cooperative agreements with the [~~state highway and~~
12 department of transportation [~~department~~] pursuant to Section
13 67-3-28 NMSA 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 business
19 of the transportation of passengers and property within the
20 political subdivision by whatever means the municipality may
21 decide and may acquire cars, trucks, motor buses and other
22 equipment necessary for operating the business. A municipality
23 may acquire land, erect buildings and equip the buildings with
24 all the necessary machinery and facilities for the operation,
25 maintenance, modification, repair and storage of the cars,

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1 trucks, motor buses and other equipment needed. A municipality
2 may do all things necessary for the acquisition and the conduct
3 of the business of public transportation.

4 C. For the purposes of this section:

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

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

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

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

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

22 (1) the floor amount; or

23 (2) eighty-five percent of the aggregate
24 amount distributable under this section times a fraction, the
25 numerator of which is the municipality's reported taxable

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1 gallons of gasoline for the immediately preceding state fiscal
2 year and the denominator of which is the reported total taxable
3 gallons for all municipalities for the same period.

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

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

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1 numerator of which is the computed distribution amount of the
2 municipality and the denominator of which is the sum of the
3 computed distribution amounts of all municipalities that are
4 neither full distribution municipalities nor floor
5 municipalities."

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

8 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF
9 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
10 Section 7-1-6.1 NMSA 1978 shall be made to the municipal
11 arterial program of the local governments road fund created in
12 Section 67-3-28.2 NMSA 1978 in an amount equal to one and
13 forty-four hundredths percent of the net receipts attributable
14 to the gasoline tax, except that from July 1, 2014 through the
15 collection of taxes for June 2024, the distribution shall be
16 made in an amount equal to one and eleven-hundredths percent of
17 those net receipts."

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

20 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO
21 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
22 Section 7-1-6.1 NMSA 1978 shall be made to the local
23 governments road fund in an amount equal to nine and fifty-two
24 hundredths percent of the net receipts attributable to the
25 taxes, exclusive of penalties and interest, from the special

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1 fuel excise tax imposed by the Special Fuels Supplier Tax Act,
2 except that from July 1, 2014 through the collection of taxes
3 for June 2024, the distribution shall be made in an amount
4 equal to seven and sixty-nine hundredths percent of those net
5 receipts, exclusive of penalties and interest."

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

8 "[NEW MATERIAL] DISTRIBUTION--MAJOR INVESTMENT HIGHWAY
9 PROJECT FUND.--

10 A. Beginning July 1, 2014 and ending with the
11 receipts collected for June 2024, a distribution pursuant to
12 Section 7-1-6.1 NMSA 1978 shall be made to the major investment
13 highway project fund created in Section 12 of this 2014 act in
14 an amount equal to twenty-two and seventy-three hundredths
15 percent of the net receipts attributable to the gasoline tax.

16 B. Beginning July 1, 2014 and ending with the
17 receipts collected for June 2024, a distribution pursuant to
18 Section 7-1-6.1 NMSA 1978 shall be made to the major investment
19 highway project fund created in Section 12 of this 2014 act in
20 an amount equal to nineteen and twenty-three hundredths percent
21 of the net receipts attributable to the special fuel excise
22 tax."

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

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

2 A. For the privilege of receiving gasoline in this
3 state, there is imposed an excise tax at a rate provided in
4 Subsection B of this section on each gallon of gasoline
5 received in New Mexico.

6 B. The tax imposed by Subsection A of this section
7 ~~[shall be seventeen cents (\$.17) per gallon received in New~~
8 ~~Mexico]~~ is:

9 (1) through June 30, 2024, twenty-two cents
10 (\$.22) per gallon received in New Mexico; and

11 (2) on and after July 1, 2024, seventeen cents
12 (\$.17) per gallon received in New Mexico.

13 C. The tax imposed by this section may be called
14 the "gasoline tax".

15 SECTION 11. Section 7-16A-3 NMSA 1978 (being Laws 1992,
16 Chapter 51, Section 3, as amended) is amended to read:

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

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

23 B. The tax imposed by Subsection A of this section
24 ~~[shall be twenty-one cents (\$.21) per gallon of special fuel~~
25 ~~received or used in New Mexico]~~ is:

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1 (1) through June 30, 2024, twenty-six cents
2 (\$.26) per gallon received or used in New Mexico; and

3 (2) on and after July 1, 2024, twenty-one
4 cents (\$.21) per gallon received or used in New Mexico.

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

7 SECTION 12. A new section of Chapter 67, Article 3 NMSA
8 1978 is enacted to read:

9 "[NEW MATERIAL] MAJOR INVESTMENT HIGHWAY PROJECT FUND
10 CREATED--USE.--

11 A. The "major investment highway project fund" is
12 created in the state treasury and shall be administered by the
13 department. The fund shall consist of money from taxes
14 distributed to the fund. Earnings on investment of the fund
15 shall be credited to the fund. Balances in the fund at the end
16 of any fiscal year shall not revert and shall remain in the
17 fund after all required debt service payments and other
18 required debt service and reserve fund deposits have been made
19 for bonds issued pursuant to Section 13 of this 2014 act;
20 provided that when the bonds have been retired, balances in the
21 fund shall revert to the state road fund. The amounts that
22 revert to the state road fund shall be used for the acquisition
23 of rights of way, planning, design, engineering, construction,
24 improvement and maintenance for state highway projects.

25 B. Except as provided in Subsection E of Section 13

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1 of this 2014 act, money in the fund shall be used solely for
2 payments and other deposits of debt service or for reserve
3 requirements for the bonds issued for the purpose of the
4 completion of construction and improvement of major highways.
5 The bonds authorized by this section may be called "major
6 investment highway project bonds".

7 C. The taxes required by law to be distributed to
8 the major investment highway project fund may be pledged for
9 the payment of major investment highway project bonds issued
10 pursuant to Section 13 of this 2014 act for the major
11 investment highway projects authorized in Section 14 of this
12 2014 act."

13 SECTION 13. A new section of Chapter 67, Article 3 NMSA
14 1978 is enacted to read:

15 "[NEW MATERIAL] MAJOR INVESTMENT HIGHWAY PROJECT
16 BONDS--ISSUANCE--LIMITS--APPROVAL.--

17 A. To finance the major investment highway projects
18 identified in Section 14 of this 2014 act, the state
19 transportation commission may, subject to the limitations of
20 this section and Section 12 of this 2014 act, issue major
21 investment highway project bonds from time to time, payable
22 solely from taxes required by law to be paid into the major
23 investment highway project fund.

24 B. The state transportation commission may issue
25 bonds to refund other bonds issued pursuant to this section or

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1 by exchange or current or advance refunding.

2 C. The total aggregate outstanding principal amount
3 of bonds issued from time to time pursuant to this section
4 shall not, without additional authorization of the state
5 legislature, exceed three hundred million dollars
6 (\$300,000,000).

7 D. The state transportation commission shall
8 determine all terms, covenants and conditions of the bonds;
9 provided that the project design life of a major investment
10 highway project meets or exceeds the life of the bonds issued
11 for each project. The commission may enter into interest rate
12 exchange agreements, interest rate swap contracts, insurance
13 agreements, remarketing agreements and any other agreements
14 deemed necessary in connection with the issuance of the bonds.

15 E. Proceeds of the bonds and amounts on deposit in
16 the major investment highway project fund may be used to pay
17 expenses incurred in the preparation, administration, issuance
18 and sale of the bonds and, together with the earnings on the
19 proceeds of the bonds, may be used to pay rebate, penalty,
20 interest and other obligations relating to the bonds and the
21 proceeds of the bonds under the Internal Revenue Code of 1986,
22 as amended.

23 F. This section is full authority for the issuance
24 and sale of the bonds, and the bonds shall not be invalid for
25 any irregularity or defect in the proceedings for their

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1 issuance and sale and shall be incontestable in the hands of
2 bona fide purchasers or holders of the bonds for value.

3 G. The bonds shall be legal investments for a
4 person or board charged with the investment of public funds and
5 may be accepted as security for a deposit of public money and,
6 with the interest thereon, are exempt from taxation by the
7 state or a political subdivision or agency of the state.

8 H. Any law authorizing the imposition or
9 distribution of taxes or fees paid into the major investment
10 highway project fund or that affects those taxes and fees shall
11 not be amended or repealed or otherwise directly or indirectly
12 modified so as to impair outstanding bonds secured by a pledge
13 of revenues from those taxes paid into the major investment
14 highway project fund, unless the bonds have been discharged in
15 full or provisions have been made for a full discharge. In
16 addition, while any bonds issued by the state transportation
17 commission pursuant to the provisions of this section remain
18 outstanding, the powers or duties of the commission shall not
19 be diminished or impaired in any manner that will affect
20 adversely the interests and rights of the holder of such bonds.

21 I. Bonds issued pursuant to this section shall not
22 constitute a general obligation of the state and shall be paid
23 solely from taxes deposited into the major investment highway
24 project fund."

25 SECTION 14. A new section of Chapter 67, Article 3 NMSA

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1 1978 is enacted to read:

2 "[NEW MATERIAL] AUTHORIZED MAJOR INVESTMENT HIGHWAY
3 PROJECTS.--

4 A. The state transportation commission may issue
5 and sell major investment highway project bonds in compliance
6 with the provisions of Section 13 of this 2014 act when the
7 commission determines the need for the issuance of the bonds,
8 in an amount not to exceed the following amounts for the
9 following major investment highway projects:

10 (1) thirty-five million dollars (\$35,000,000)
11 for new six-lane construction of interstate 25 from mile point
12 0 to mile point 6;

13 (2) fifteen million dollars (\$15,000,000) for
14 new six-lane construction of United States route 70 from mile
15 point 148.8 to mile point 150.1;

16 (3) fifty million dollars (\$50,000,000) for
17 reconstruction of United States route 54 from mile point 130 to
18 mile point 163;

19 (4) twenty-five million dollars (\$25,000,000)
20 to widen each direction of interstate 25 to six lanes from Rio
21 Bravo boulevard south to the future Mesa del Sol interchange;

22 (5) twenty-five million dollars (\$25,000,000)
23 to construct a new interchange on interstate 25 at Mesa del
24 Sol;

25 (6) twenty-five million dollars (\$25,000,000)

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1 to replace the bridge on United States route 54 at mile point
2 325.3;

3 (7) twenty-five million dollars (\$25,000,000)
4 for rehabilitation and reconstruction at the junction of United
5 States routes 64 and 87;

6 (8) twenty-five million dollars (\$25,000,000)
7 to complete the capacity and safety enhancement of United
8 States route 64 from mile point 56 to mile point 60;

9 (9) twenty-five million dollars (\$25,000,000)
10 for reconstruction of New Mexico state road 68 from Espanola to
11 Velarde; and

12 (10) fifty million dollars (\$50,000,000) for
13 new four-lane construction of United States route 491 from mile
14 point 25.9 to mile point 41.8.

15 B. The state transportation commission shall
16 schedule the issuance and sale of the bonds as expeditiously
17 and as economically as possible upon a finding by the
18 commission that the project has been developed sufficiently to
19 justify the issuance and that the project can proceed to
20 contract within a reasonable time. The proceeds from the sale
21 of the bonds are appropriated to the department for the
22 purposes described in this section and in Section 13 of this
23 2014 act."

24 SECTION 15. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2014.

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