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HOUSE BILL 531

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

BEN LUJAN

AN ACT

RELATING TO STATE HIGHWAY BONDS; AUTHORIZING THE GOVERNOR TO IMPOSE A HIGHWAY BONDING GASOLINE TAX UNDER CERTAIN CONDITIONS; REQUIRING ISSUANCE OF ADDITIONAL STATE HIGHWAY BONDS AND INCREASING THE AMOUNT OF STATE HIGHWAY BONDS THAT MAY BE ISSUED BY THE STATE HIGHWAY COMMISSION; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-1-6.10 NMSA 1978 (being Laws 1983, Chapter 211, Section 15, as amended by Laws 1995, Chapter 6, Section 4 and also by Laws 1995, Chapter 16, Section 11) is amended to read:

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

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state road fund in an amount equal to

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1 the net receipts attributable to the taxes, surcharges,
2 penalties and interest imposed pursuant to the Gasoline Tax Act
3 and to the taxes, surtaxes, fees, penalties and interest imposed
4 pursuant to the Special Fuels Tax Act, the Special Fuels
5 Supplier Tax Act and the Alternative Fuel Tax Act less:

6 (1) the amount distributed to the state
7 aviation fund pursuant to Subsection [C] B of Section 7-1-6.7
8 NMSA 1978;

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

11 (3) the amount distributed to municipalities
12 and counties pursuant to Subsection A of Section 7-1-6.9 NMSA
13 1978;

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

16 (5) the amount distributed to the [~~corrective~~
17 ~~action~~] local governments road fund pursuant to Section
18 [~~7-1-6.25~~] 7-1-6.39 NMSA 1978;

19 (6) the amount distributed to the
20 municipalities pursuant to Section 7-1-6.27 NMSA 1978; and

21 (7) the amount distributed to the municipal
22 arterial program [~~and~~] of the local governments road fund
23 pursuant to Section 7-1-6.28 NMSA 1978 [~~and~~

24 ~~(8) the amount distributed to the general fund~~
25 ~~pursuant to Section 7-1-6.37 NMSA 1978].~~

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1 B. A distribution pursuant to Section 7-1-6.1 NMSA
2 1978 shall be made to the state road fund in an amount equal to
3 the net receipts attributable to the taxes, fees, interest and
4 penalties from the Weight Distance Tax Act."

5 Section 2. Section 7-13-3.1 NMSA 1978 (being Laws 1979,
6 Chapter 166, Section 7, as amended) is amended to read:

7 "7-13-3.1. GASOLINE INVENTORY TAX--IMPOSITION OF TAX--DATE
8 PAYMENT OF TAX DUE.--

9 A. A gasoline inventory tax is imposed measured by
10 the quantity of gallons of gasoline in the possession of a
11 distributor or wholesaler on the day ~~[in]~~ on which an increase
12 in the excise tax imposed by Section 7-13-3 NMSA 1978 or the
13 initial imposition or increase in the excise tax imposed by
14 Section 7-13-3.5 NMSA 1978 is effective. The taxable event is
15 the existence of an inventory in the possession of a distributor
16 or wholesaler on the day prior to the day ~~[in]~~ on which an
17 increase in the excise tax imposed by Section 7-13-3 NMSA 1978
18 or the initial imposition or increase in the excise tax imposed
19 by Section 7-13-3.5 NMSA 1978 is effective. The rate of the
20 gasoline inventory tax to apply on each gallon of gasoline held
21 in inventory by a distributor or wholesaler, as provided in
22 Section 7-13-3.2 NMSA 1978, shall be the difference between the
23 gasoline ~~[excise]~~ tax rate or the highway bonding gasoline tax
24 rate, whichever is applicable, imposed on the day prior to the
25 day ~~[in]~~ on which the ~~[gasoline excise]~~ applicable tax is

. 109816.3

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1 increased or initially imposed subtracted from the [~~gasoline~~
2 ~~excise~~] applicable tax rate imposed on the day that the
3 [~~gasoline excise~~] applicable tax rate increase or imposition is
4 effective, expressed in cents per gallon.

5 B. The gasoline inventory tax is to be paid to the
6 department on or before the twenty-fifth day of the month
7 following the month in which the taxable event occurs. "

8 Section 3. Section 7-13-3.2 NMSA 1978 (being Laws 1979,
9 Chapter 166, Section 8, as amended) is amended to read:

10 "7-13-3.2. GASOLINE INVENTORIES. --

11 A. On the day prior to the day that the excise tax
12 imposed by Section 7-13-3 NMSA 1978 is increased or the excise
13 tax imposed by Section 7-13-3.5 NMSA 1978 is initially imposed
14 or increased, each distributor, wholesaler and retailer shall
15 take inventory of the gallons of gasoline on hand.

16 B. Distributors and wholesalers shall report total
17 gallons of gasoline in inventory on the day prior to the day
18 that an increase in the gasoline tax rate is effective and pay
19 any tax due imposed by Section 7-13-3.1 NMSA 1978.

20 C. Retailers shall maintain a record of the total
21 gallons of gasoline in inventory on the day prior to the day
22 that an increase in the gasoline tax rate or the initial
23 imposition or an increase in the highway bonding gasoline tax
24 rate is effective and shall not increase the price of the
25 gasoline sold until the inventory is disposed of in the ordinary

. 109816.3

Underscored material = new
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1 course of business. "

2 Section 4. A new section of the Gasoline Tax Act, Section
3 7-13-3.5 NMSA 1978, is enacted to read:

4 "7-13-3.5. [NEW MATERIAL] IMPOSITION AND RATE OF HIGHWAY
5 BONDING GASOLINE TAX--LIMITATION. --

6 A. The governor is authorized, subject to the
7 limitations of this section, to impose for the privilege of
8 receiving gasoline in this state an excise tax at a rate not to
9 exceed two cents (\$.02) per gallon of gasoline received in New
10 Mexico. The tax may be imposed in one-cent (\$.01) increments
11 and may be referred to as the "highway bonding gasoline tax".
12 The proceeds from the tax shall be used only to secure or pay
13 state highway bonds issued pursuant to Paragraph (2) of
14 Subsection C of Section 67-3-59.1 NMSA 1978.

15 B. The governor may impose any increment of the tax
16 authorized by Subsection A of this section only upon a finding
17 that the tax increase is necessary because there are
18 insufficient revenues available in the state road fund to pledge
19 for the issuance of the amounts of state highway bonds that:

20 (1) are authorized pursuant to Paragraph (2) of
21 Subsection C of Section 67-3-59.1 NMSA 1978; and

22 (2) are needed to fund statewide road
23 improvements that the state highway commission certifies are
24 necessary for purposes of safety, commerce and economic
25 development.

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1 C. The tax authorized to be imposed pursuant to this
2 section shall become effective only upon July 1 or January 1,
3 whichever date occurs first, after the expiration of at least
4 three months from the date the governor issues the finding
5 pursuant to Subsection B of this section. "

6 Section 5. Section 7-13-5 NMSA 1978 (being Laws 1971,
7 Chapter 207, Section 5, as amended) is amended to read:

8 "7-13-5. TAX RETURNS--PAYMENT OF TAX.--Distributors shall
9 file gasoline tax and highway bonding gasoline tax returns in
10 form and content as prescribed by the secretary on or before the
11 twenty-fifth day of the month following the month in which
12 gasoline is received in New Mexico. Such returns shall be
13 accompanied by payment of the amount of gasoline tax or highway
14 bonding gasoline tax due. "

15 Section 6. Section 7-13-13 NMSA 1978 (being Laws 1971,
16 Chapter 207, Section 12, as amended) is amended to read:

17 "7-13-13. PERMIT TO PURCHASE DYED GASOLINE AND APPLY FOR
18 REFUND OF [~~GASOLINE~~] TAX ON GASOLINE NOT USED IN MOTOR BOATS OR
19 IN MOTOR VEHICLES OPERATED ON HIGHWAYS OF THIS STATE. --

20 A. Each person who wishes to purchase gasoline dyed
21 in accordance with the provisions of Section 7-13-15 NMSA 1978
22 and to claim a refund of gasoline tax and highway bonding
23 gasoline tax paid on such gasoline under the provisions of
24 Section 7-13-14 NMSA 1978 shall apply for and obtain a permit to
25 do so from the department. The application for the permit shall

Underscored material = new
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1 be in form and content as prescribed by the department.

2 B. The secretary may, upon notice and after hearing,
3 suspend the gasoline tax and highway bonding gasoline tax refund
4 permit of any person who makes any false statement on an
5 application for a permit or on a claim for refund made under
6 Section 7-13-14 NMSA 1978 who uses gasoline dyed in accordance
7 with Section 7-13-15 NMSA 1978 in a motor boat or in a vehicle
8 licensed to operate on the highways of this state or who
9 violates any other provision of the Gasoline Tax Act. Such
10 suspension may be, ~~in~~ at the discretion of the secretary, for
11 a period of up to one year. "

12 Section 7. Section 7-13-14 NMSA 1978 (being Laws 1971,
13 Chapter 207, Section 13, as amended) is amended to read:

14 "7-13-14. CLAIM FOR REFUND OF ~~[GASOLINE]~~ TAX PAID ON
15 GASOLINE NOT USED IN MOTOR BOATS OR IN MOTOR VEHICLES LICENSED
16 TO OPERATE ON HIGHWAYS OF THIS STATE. -- Upon submission of proof
17 satisfactory to the department, the department shall allow a
18 claim for refund of gasoline tax and highway bonding gasoline
19 tax paid on dyed gasoline purchased and used within six months
20 prior to the filing of the claim by holders of permits issued
21 under Section 7-13-13 NMSA 1978. The individual purchases of
22 such gasoline, other than that to be used as aviation fuel, must
23 have been made in quantities of fifty gallons or more.
24 Purchasers of aviation fuel may accumulate invoices to reach the
25 minimum required for filing a claim for refund. No claim for

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Underscored material = new
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1 refund may be presented on less than one hundred gallons so
2 purchased. The secretary may, by regulation, prescribe the
3 documents necessary to support a claim for refund and the
4 invoice and sales procedure to be followed by sellers and
5 purchasers of gasoline not intended to be used in motor boats or
6 in motor vehicles licensed to operate on the highways of this
7 state by the motor vehicle division of the department. "

8 Section 8. Section 67-3-59.1 NMSA 1978 (being Laws 1989,
9 Chapter 157, Section 1, as amended) is amended to read:

10 "67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--LIMITS--
11 APPROVAL--COUPONS.--

12 A. In order to provide funds to finance state
13 highway projects, including state highway projects that are
14 required for the waste isolation pilot project and are eligible
15 for federal reimbursement as authorized by federal legislation,
16 the state highway commission is authorized to issue bonds from
17 time to time, payable from the proceeds of the collection of
18 gasoline excise taxes and motor vehicle registration fees that
19 are required by law to be paid into the state road fund and not
20 otherwise pledged solely to the payment of outstanding bonds and
21 debentures.

22 B. Except as provided in Subsection C of this
23 section, the total aggregate outstanding principal amount of
24 bonds issued from time to time pursuant to this section, secured
25 by or payable from the gasoline excise taxes and motor vehicle

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Underscored material = new
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1 registration fees, shall not, without additional authorization
2 of the state legislature, exceed one hundred fifty million
3 dollars (\$150,000,000) at any given time, subject to the
4 following provisions:

5 (1) the total aggregate outstanding principal
6 amount of bonds issued for state highway projects that are
7 required for the waste isolation pilot project and are eligible
8 for federal reimbursement as authorized by federal legislation
9 shall not exceed one hundred million dollars (\$100,000,000); and

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

16 C. An additional two hundred fifty million dollars
17 (\$250,000,000) shall be added to the total aggregate outstanding
18 principal amount of bonds authorized for issuance by the state
19 highway commission for state highway projects secured by or
20 payable from the gasoline excise taxes and motor vehicle
21 registration fees required by law to be paid into the state road
22 fund, and the bonds from this additional authorization shall be
23 issued subject to the following conditions:

24 (1) the state highway commission shall issue in
25 1996 the amount of bonds that the commission, subject to the

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1 provisions of this section, determines can be serviced with an
2 amount approximately equal to the net receipts attributable to
3 four cents (\$.04) of the gasoline tax distributed by law into
4 the state road fund; and

5 (2) from the amount of authorization remaining
6 under this subsection after issuance of the bonds in Paragraph
7 (1) of this subsection, the state highway commission may issue
8 bonds at any time thereafter as necessary for statewide road
9 improvement projects that the commission determines are
10 necessary for purposes of safety, commerce and economic
11 development.

12 [~~C.~~] D. The state highway commission may issue bonds
13 to refund other bonds issued pursuant to this section by
14 exchange or current or advance refunding.

15 [~~D.~~] E. Each series of bonds shall have a maturity
16 of no more than twenty-five years from the date of issuance;
17 provided that bonds issued pursuant to Subsection C of this
18 section shall have a maturity of no more than five years from
19 the date of issuance. The state highway commission shall
20 determine all other terms, covenants and conditions of the
21 bonds; provided that the bonds shall not be issued pursuant to
22 this section unless the state board of finance approves the
23 issuance of the bonds and the principal amount of and interest
24 rate or maximum net effective interest rate on the bonds.

25 [~~E.~~] F. The bonds shall be executed with the manual

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1 or facsimile signatures of the chairman of the state highway
2 commission, countersigned by the state treasurer and attested to
3 by the secretary of the state highway commission, with the seal
4 of the state highway commission imprinted or otherwise affixed
5 to the bonds.

6 [F.] G. Proceeds of the bonds may be used to pay
7 expenses incurred in the preparation, issuance and sale of the
8 bonds and, together with the earnings on the proceeds of the
9 bonds, may be used to pay rebate, penalty, interest and other
10 obligations relating to the bonds and the proceeds of the bonds
11 under the Internal Revenue Code of 1986, as amended.

12 [G.] H. The bonds may be sold at public or private
13 sale. If sold at public sale, a notice of the time and place of
14 sale shall be published in a newspaper of general circulation in
15 the state, and in any other newspaper determined in the
16 resolution authorizing the issuance of the bonds, once each week
17 for two consecutive weeks prior to the date of sale. The bonds
18 may be purchased by the state treasurer or state investment
19 officer.

20 [H.] I. This section is full authority for the
21 issuance and sale of the bonds, and the bonds shall not be
22 invalid for any irregularity or defect in the proceedings for
23 their issuance and sale and shall be incontestable in the hands
24 of bona fide purchasers or holders of the bond for value.

25 [I.] J. The bonds shall be legal investments for any

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1 person or board charged with the investment of public funds and
2 may be accepted as security for any deposit of public money and,
3 with the interest thereon, are exempt from taxation by the state
4 and any political subdivision or agency of the state.

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State of New Mexico House of Representatives

FORTY- SECOND LEGISLATURE

SECOND SESSION, 1996

February 7, 1996

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has
been referred

HOUSE BILL 531

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 1, between lines 18 and 19, insert the following
new sections:

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

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

A. A distribution pursuant to Section 7-1-6.1 NMSA

. 109816.3

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HTRC/HB 531

Page 14

1
2 1978 shall be made to the state aviation fund in an amount equal
3 to three and fifty-nine hundredths percent of the gross receipts
4 attributable to the sale of fuel specially prepared and sold for
5 use in turboprop or jet-type engines as determined by the
6 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 equal
9 to twenty-six hundredths of one percent of [~~gasoline taxes~~] the
10 gasoline tax, exclusive of penalties and interest, collected
11 pursuant to the Gasoline Tax Act."

12 Section 2. Section 7-1-6.9 NMSA 1978 (being Laws 1991,
13 Chapter 9, Section 11, as amended) is amended to read:

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

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

22 B. The amount determined in Subsection A of this
23 section shall be distributed as follows:
24

25 (1) ninety percent of the amount shall be paid to

. 109816.3

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HTRC/HB 531

Page 15

1
2 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 taxable
5 motor fuel sales in all of these municipalities and H class
6 counties; and

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

13 C. This distribution shall be paid into the municipal
14 treasury or county general fund for general purposes or for any
15 special purposes designated by the governing body of the
16 municipality or county. Any municipality or H class county that
17 has created or that creates a "street improvement fund" to which
18 gasoline tax revenues or distributions are irrevocably pledged
19 under Sections 3-34-1 through 3-34-4 NMSA 1978 or that has pledged
20 all or a portion of gasoline tax revenues or distributions to the
21 payment of bonds shall receive its proportion of the distribution
22 of revenues under this section impressed with and subject to these
23 pledges. "".

24 2. Renumber the succeeding sections accordingly.

25 3. On page 12, between lines 4 and 5, insert the following

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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new sections:

"Section 9. SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 10. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 3 of this act is July 1, 1996."

Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

HTRC/HB 531

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The roll call vote was 8 For 3 Against
Yes: 8
No: Crook, Hawkins, Parsons
Excused: Gallegos, Gonzales
Absent: None

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Underscored material = new
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FORTY-SECOND LEGISLATURE

SECOND SESSION

February 9, 1996

HOUSE FLOOR AMENDMENT number _____ to HOUSE BILL 531, as amended

Amendment sponsored by Representative Ben Lujan

1. On page 8, line 15, after "reimbursement" insert "or payment".

2. On page 8, line 17, after "from" strike the remainder of the line, strike all of line 18 and insert in lieu thereof:

"federal funds, not otherwise obligated, that are paid into the state road fund and from the proceeds from the collection of taxes and fees that".

3. On page 8, line 25 and on page 9, line 1, strike "the gasoline excise taxes and motor vehicle registration fees" and insert in lieu thereof:

"federal funds, not otherwise obligated, that are paid into the state road fund and the proceeds of the collection of taxes and fees required by law to be paid into the state road fund".

FORTY-FIRST LEGISLATURE
SECOND SESSION

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HF/HB 531, aa

Page 19

4. On page 9, lines 16 and 17, strike "additional two hundred fifty million dollars (\$250,000,000)" and insert in lieu thereof "amount".

5. On page 9, lines 20 and 21, strike "the gasoline excise taxes and motor vehicle registration fees" and insert in lieu thereof "federal funds, not otherwise obligated, and proceeds from the collection of taxes and fees".

6. On page 9, line 22, after "and" strike the remainder of the line, strike all of lines 23 through 25 and on page 10, strike lines 1 through 11, and insert in lieu thereof:

"from this additional authorization, the state highway commission may issue the amount of bonds that the commission, subject to the provisions of this section, determines can be serviced with an amount approximately equal to the net receipts attributable to four cents (\$.04) of the gasoline tax distributed by law into the state road fund and any other receipts distributed by law into the state road fund, other than gasoline tax receipts in excess of the amount of net receipts attributable to four cents (\$.04) of the gasoline tax."

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FORTY-FIRST LEGISLATURE
SECOND SESSION

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HF/HB 531, aa

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Ben Lujan

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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FORTY-FIRST LEGISLATURE
SECOND SESSION

1 HF/HB 531, aa

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 12, 1996

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom
has been referred

HOUSE BILL 531, as amended

has had it under consideration and reports same with recommendation that
it DO PASS, and thence referred to the WAYS AND MEANS
COMMITTEE.

Respectfully submitted,

Roman M. Maes, III, Chairman

Adopted _____ Not Adopted _____

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FORTY-FIRST LEGISLATURE
SECOND SESSION

1 HF/HB 531, aa

Page 22

2 (Chief Clerk)

(Chief Clerk)

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Date _____

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The roll call vote was 5 For 0 Against

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Yes: 5

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No: 0

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Excused: Kidd, McKibben, Reagan, Robinson

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Absent: None

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FORTY-FIRST LEGISLATURE
SECOND SESSION

1 HF/HB 531, aa

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FORTY- SECOND LEGI SLATURE
SECOND SESSI ON, 1996

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February 14, 1996

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9 Mr. President:

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Your WAYS AND MEANS COMMITTEE, to whom has been referred

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HOUSE BILL 531, as amended

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has had it under consideration and reports same with recommendation that
it DO PASS.

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Respectfully submitted,

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TITO D. CHAVEZ, Chair man

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Adopted _____
(Chi ef Clerk)

Not Adopted _____
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FORTY-FIRST LEGISLATURE
SECOND SESSION

1 HF/HB 531, aa

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3 Date _____

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The roll call vote was 4 For 1 Against

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Yes: 4

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No: Rawson

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Excused: Campos, Riley, Wiener

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Absent: None

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