

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 132

3 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

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10 AN ACT

11 RELATING TO TAXATION; INCREASING AND INDEXING THE GASOLINE AND
12 SPECIAL FUEL EXCISE TAXES; CREATING THE STATE ROAD MAINTENANCE
13 FUND; DISTRIBUTING ONE-HALF OF THE NEW REVENUE TO
14 MUNICIPALITIES AND COUNTIES FOR MAINTENANCE AND REPAIR OF
15 EXISTING TRANSPORTATION INFRASTRUCTURE; DISTRIBUTING ONE-HALF
16 OF THE NEW REVENUE TO THE TAX STABILIZATION RESERVE UNTIL THE
17 PRICE OF OIL EXCEEDS AN AVERAGE OF SIXTY-SEVEN DOLLARS (\$67.00)
18 PER BARREL FOR SIX MONTHS, THEN DISTRIBUTING ONE-HALF OF THE
19 NEW REVENUE TO THE STATE ROAD MAINTENANCE FUND; CONFORMING
20 SECTION 67-3-28.2 NMSA 1978 (BEING LAWS 1986, CHAPTER 20,
21 SECTION 125, AS AMENDED); REPEALING THE TAXPAYERS DIVIDEND
22 FUND; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

25 SECTION 1. Section 6-4-4 NMSA 1978 (being Laws 1987,

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1 Chapter 347, Section 4, as amended) is amended to read:

2 "6-4-4. RESERVATION OF EXCESS GENERAL FUND REVENUES
3 ~~[APPROPRIATION TO TAXPAYERS DIVIDEND FUND].~~--For the seventy-
4 seventh and subsequent fiscal years, if the revenues of the
5 general fund exceed the total of appropriations from the
6 general fund, the excess revenue shall be transferred to the
7 operating reserve; provided that if the sum of the excess
8 revenue plus the balance in the operating reserve prior to the
9 transfer is greater than eight percent of the aggregate
10 recurring appropriations from the general fund for the previous
11 fiscal year, then an amount equal to the smaller of either the
12 amount of the excess revenue or the difference between the sum
13 and eight percent of the aggregate recurring appropriations
14 from the general fund for the previous fiscal year shall be
15 transferred to the tax stabilization reserve ~~[provided further~~
16 ~~that if the total of the amount transferred to the tax~~
17 ~~stabilization reserve pursuant to the provisions of this~~
18 ~~section plus the balance in that reserve prior to the transfer~~
19 ~~is greater than six percent of the aggregate recurring~~
20 ~~appropriations from the general fund for the previous fiscal~~
21 ~~year, then an amount equal to the smaller of either the amount~~
22 ~~transferred or the difference between the total and six percent~~
23 ~~of the aggregate recurring appropriation from the general fund~~
24 ~~for the previous fiscal year is appropriated to the taxpayers~~
25 ~~dividend fund]."~~

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

3 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

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

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

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

20 D. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made to the state aviation fund from the net
22 receipts attributable to the gross receipts tax distributable
23 to the general fund in an amount equal to

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

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1 ~~(2) one hundred sixty-seven thousand dollars~~
2 ~~(\$167,000) monthly from July 1, 2008 through June 30, 2009; and~~
3 ~~(3)] two hundred fifty thousand dollars~~
4 ~~(\$250,000) [monthly after July 1, 2009]."~~

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

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

12 SECTION 4. 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
15 MUNICIPALITIES 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 six and fifty-five hundredths percent of the net receipts
19 attributable to the taxes, exclusive of penalties and interest,
20 imposed by the Gasoline Tax Act.

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

24 (1) ninety percent of the amount shall be paid
25 to the treasurers of municipalities and H class counties in the

1 proportion that the taxable motor fuel sales in each of the
 2 municipalities and H class counties bears to the aggregate
 3 taxable motor fuel sales in all of these municipalities and H
 4 class counties; and

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

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

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1 of gasoline tax revenues or distributions to the payment of
2 bonds shall receive its proportion of the distribution of
3 revenues under this section impressed with and subject to these
4 pledges.

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

9 SECTION 5. Section 7-1-6.10 NMSA 1978 (being Laws 1983,
10 Chapter 211, Section 15, as amended) is amended to read:

11 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

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

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

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

24 (3) the amount distributed to municipalities
25 and counties pursuant to [~~Subsection A of~~] Section 7-1-6.9 NMSA

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1 1978 and Section 11 of this 2017 act;

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

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

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

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

11 (8) the amount distributed to a qualified
12 tribe pursuant to [~~a gasoline tax sharing agreement entered~~
13 ~~into between the secretary of transportation and the qualified~~
14 ~~tribe pursuant to the provisions] Subsection A of Section
15 [~~67-3-8.1]~~ 7-1-6.44 NMSA 1978; [~~and]~~~~

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

18 (10) the amount distributed to the tax
19 stabilization reserve pursuant to Section 10 of this 2017 act;
20 and

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

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

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1 penalties from the Weight Distance Tax Act."

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

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

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

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

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

15 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

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

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

23 (1) reconstructing, resurfacing, maintaining,
24 repairing or otherwise improving existing alleys, streets,
25 roads or bridges, or any combination of the foregoing; or

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1 laying off, opening, constructing or otherwise acquiring new
2 alleys, streets, roads or bridges, or any combination of the
3 foregoing; provided that any of the foregoing improvements may
4 include [~~but are not limited to~~] the acquisition of rights of
5 way;

6 (2) to provide matching funds for projects
7 subject to cooperative agreements with the [~~state highway and~~
8 department of transportation [~~department~~] pursuant to Section
9 67-3-28 NMSA 1978; and

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

25 C. For the purposes of this section:

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

6 (2) "floor amount" means four hundred
7 seventeen dollars (\$417);

8 (3) "floor municipality" means a municipality
9 whose computed distribution amount is less than the floor
10 amount; and

11 (4) "full distribution municipality" means a
12 municipality whose population at the last federal decennial
13 census was at least two hundred thousand.

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

18 (1) the floor amount; or

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

25 E. Fifteen percent of the aggregate amount

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

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

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1 municipalities."

2 SECTION 8. Section 7-1-6.28 NMSA 1978 (being Laws 1991,
3 Chapter 9, Section 22, as amended) is amended to read:

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

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

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

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

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

24 A. A distribution pursuant to Section 7-1-6.1 NMSA
25 1978 shall be made to the tax stabilization reserve in an

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1 amount equal to eighteen and five hundred eight thousandths
 2 percent of the net receipts attributable to the gasoline tax
 3 and in an amount equal to sixteen and thirteen-hundredths
 4 percent of the net receipts attributable to the special fuel
 5 excise tax until the month following certification by the
 6 secretary of taxation and revenue to the state board of finance
 7 that the price of oil exceeds an average of sixty-seven dollars
 8 (\$67.00) per barrel for a six-month period.

9 B. As used in this section, "price of oil" means
 10 the taxable value of oil as determined pursuant to the Oil and
 11 Gas Emergency School Tax Act."

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

14 "[NEW MATERIAL] ADDITIONAL DISTRIBUTION OF THE GASOLINE
 15 TAX AND THE SPECIAL FUEL EXCISE TAX TO MUNICIPALITIES AND
 16 COUNTIES.--

17 A. A distribution pursuant to Section 7-1-6.1 NMSA
 18 1978 shall be made in an amount equal to eighteen and five
 19 hundred eight thousandths percent of the net receipts
 20 attributable to the gasoline tax and sixteen and thirteen-
 21 hundredths percent of the net receipts attributable to the
 22 special fuel excise tax. Except as provided in Subsection C of
 23 this section, this distribution shall be paid into a
 24 maintenance and repair road fund in the municipal treasury or
 25 county road fund for expenditure only for reconstruction,

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1 resurfacing or other improvement or maintenance of existing
2 public roads, streets, alleys or bridges, including right-of-
3 way and materials acquisition.

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

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

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

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

23 D. Money from the distribution made pursuant to
24 this section shall not be pledged for the payment of bonds or
25 debentures or expended to pay the principal or interest of

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1 outstanding bonds or debentures."

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

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

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

9 B. One month after the last distribution is made to
 10 the tax stabilization reserve pursuant to Section 10 of this
 11 2017 act, a distribution pursuant to Section 7-1-6.1 NMSA 1978
 12 shall be made to the state road maintenance fund in an amount
 13 equal to eighteen and five hundred eight thousandths percent of
 14 the net receipts attributable to the gasoline tax and sixteen
 15 and thirteen-hundredths percent of the net receipts
 16 attributable to the special fuel excise tax.

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

24 D. Money in the fund shall not be pledged for the
 25 payment of bonds or debentures or expended to pay the principal

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1 or interest of outstanding bonds or debentures.

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

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

8 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
9 "GASOLINE TAX".--

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

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

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

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

20 C. No later than April 30, 2019 and April 30 of
21 each subsequent year, the department shall calculate the rate
22 of gasoline tax to be imposed as of July 1 of that year. The
23 rate of the gasoline tax per gallon shall be equal to the
24 product, rounded down to the nearest whole cent, of twenty-
25 seven cents (\$.27) multiplied by a fraction with a numerator

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1 equal to the chained price index for the previous calendar year
 2 and a denominator equal to the chained price index for calendar
 3 year 2017; provided that the rate of the tax shall not be less
 4 than twenty-seven cents (\$.27) or greater than forty cents
 5 (\$.40).

6 [~~G.~~] D. The tax imposed by this section may be
 7 called the "gasoline tax".

8 E. As used in this section, "chained price index"
 9 means the chained price index for gross government fixed
 10 investment by type, state and local, highways and streets, as
 11 calculated by the United States bureau of economic analysis."

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

14 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
 15 SPECIAL FUEL EXCISE TAX.--

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

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

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

25 (2) on and after July 1, 2019, the rate

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1 determined pursuant to Subsection C of this section.

2 C. No later than April 30, 2019 and April 30 of
3 each subsequent year, the department shall calculate the rate
4 of special fuel excise tax to be imposed as of July 1 of that
5 year. The rate of the special fuel excise tax per gallon shall
6 be equal to the product, rounded down to the nearest whole
7 cent, of thirty-one cents (\$.31) multiplied by a fraction with
8 a numerator equal to the chained price index for the previous
9 calendar year and a denominator equal to the chained price
10 index for calendar year 2017; provided that the rate of the tax
11 shall not be less than thirty-one cents (\$.31) or greater than
12 forty-four cents (\$.44).

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

15 E. As used in this section, "chained price index"
16 means the chained price index for gross government fixed
17 investment by type, state and local, highways and streets, as
18 calculated by the United States bureau of economic analysis."

19 **SECTION 15.** Section 67-3-28.2 NMSA 1978 (being Laws 1986,
20 Chapter 20, Section 125, as amended) is amended to read:

21 "67-3-28.2. LOCAL GOVERNMENTS ROAD FUND CREATED--
22 USES.--

23 A. There is created in the state treasury the
24 "local governments road fund" to be administered by the
25 department. All income received from investment of the fund

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

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

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

21 (1) forty-two percent for the cooperative
 22 agreements program, to be used solely for the cooperative
 23 agreements entered into pursuant to Section 67-3-28 NMSA 1978
 24 and in accordance with the match authorized pursuant to Section
 25 67-3-32 NMSA 1978; provided, however, that distribution amounts

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1 made pursuant to this paragraph in each year shall be based on
2 the following allocations:

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

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

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

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

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

25 (3) sixteen percent for school bus routes, to

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

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

16 Road Mileage Category Based on

17 Number of Miles Maintained

18 By a County:	Entitlement to County:
19 400 miles or under	\$250 for each mile
20 401 to 800 miles	\$100,000 plus \$200 for each 21 mile over 400 miles
22 801 to 1,200 miles	\$180,000 plus \$150 for each 23 mile over 800 miles
24 1,201 to 1,600 miles	\$240,000 plus \$100 for each 25 mile over 1,200 miles

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

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

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

25 E. The department may distribute up to one million

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

10 SECTION 16. REPEAL.--Section 6-4-5 NMSA 1978 (being Laws
11 1987, Chapter 347, Section 5) is repealed.

12 SECTION 17. EFFECTIVE DATE.--

13 A. If this act takes effect on or before April 1,
14 2017, the effective date of the provisions of this act is April
15 1, 2017.

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

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