

1 HOUSE BILL 228

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TAXATION; INCREASING THE GASOLINE TAX AND THE
12 SPECIAL FUEL EXCISE TAX; DISTRIBUTING THE NEW REVENUE TO A NEW
13 STATE ROAD MAINTENANCE FUND AND TO MUNICIPALITIES AND COUNTIES
14 FOR MAINTENANCE AND REPAIR OF EXISTING TRANSPORTATION
15 INFRASTRUCTURE; MAKING AN APPROPRIATION.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

20 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

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

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1 engines as determined by the department.

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

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

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

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

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

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

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

24 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A
25 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be

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1 made to the motorboat fuel tax fund in an amount equal to
2 [~~thirteen-hundredths of one~~] eighty-two thousandths percent of
3 the net receipts attributable to the gasoline tax."

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

6 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
7 MUNICIPALITIES AND COUNTIES.--

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

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

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

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

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1 municipalities in all of the counties.

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

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

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

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

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

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

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

14 (3) the amount distributed to municipalities
15 and counties pursuant to [~~Subsection A of~~] Section 7-1-6.9 NMSA
16 1978 and Section 9 of this 2018 act;

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

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

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

23 (7) the amount distributed to the municipal
24 arterial program of the local governments road fund pursuant to
25 Section 7-1-6.28 NMSA 1978;

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

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

8 (10) the amount distributed to the state road
9 maintenance fund pursuant to Section 10 of this 2018 act.

10 B. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 shall be made to the state road fund in an amount equal to
12 the net receipts attributable to the taxes, interest and
13 penalties from the Weight Distance Tax Act."

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

16 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND
17 CREATED.--

18 A. There is created in the state treasury the
19 "county government road fund".

20 B. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made to the county government road fund in an
22 amount equal to [~~five and seventy-six hundredths~~] three and six
23 hundred twenty-seven thousandths percent of the net receipts
24 attributable to the gasoline tax."

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

2 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

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

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

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

19 (2) to provide matching funds for projects
20 subject to cooperative agreements with the [~~state highway and~~]
21 department of transportation [~~department~~] pursuant to Section
22 67-3-28 NMSA 1978; and

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

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

13 C. For the purposes of this section:

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

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

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

24 (4) "full distribution municipality" means a
25 municipality whose population at the last federal decennial

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1 census was at least two hundred thousand.

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

6 (1) the floor amount; or

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

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

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1 the floor amount multiplied by the number of floor
2 municipalities and the total of the computed distribution
3 amounts for all floor municipalities.

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

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

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

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

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

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

11 "[NEW MATERIAL] ADDITIONAL DISTRIBUTION OF THE GASOLINE
12 TAX AND THE SPECIAL FUEL EXCISE TAX TO MUNICIPALITIES AND
13 COUNTIES.--

14 A. A distribution pursuant to Section 7-1-6.1 NMSA
15 1978 shall be made in an amount equal to seventeen and fifty-
16 nine hundredths percent of the net receipts attributable to the
17 gasoline tax and sixteen and thirteen hundredths percent of the
18 net receipts attributable to the special fuel excise tax.
19 Except as provided in Subsection C of this section, this
20 distribution shall be paid into a maintenance and repair road
21 fund in the municipal treasury or county road fund for
22 expenditure only for reconstruction, resurfacing or other
23 improvement or maintenance of existing public roads, streets,
24 alleys or bridges, including right-of-way and materials
25 acquisition.

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

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

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

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

20 D. Money from the distribution made pursuant to
21 this section shall not be pledged for the payment of bonds or
22 debentures or expended to pay the principal or interest of
23 outstanding bonds or debentures."

24 **SECTION 10.** A new section of the Tax Administration Act
25 is enacted to read:

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

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

6 B. A distribution pursuant to Section 7-1-6.1 NMSA
7 1978 shall be made to the state road maintenance fund in an
8 amount equal to seventeen and fifty-nine hundredths percent of
9 the net receipts attributable to the gasoline tax and sixteen
10 and thirteen hundredths percent of the net receipts
11 attributable to the special fuel excise tax.

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

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

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

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1 SECTION 11. Section 7-13-3 NMSA 1978 (being Laws 1971,
2 Chapter 207, Section 3, as amended) is amended to read:

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

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

9 B. The tax imposed by Subsection A of this section
10 shall be [~~seventeen cents (\$.17)~~] twenty-seven cents (\$.27) per
11 gallon received in New Mexico.

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

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

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

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

22 B. The tax imposed by Subsection A of this section
23 shall be [~~twenty-one cents (\$.21)~~] thirty-one cents (\$.31) per
24 gallon of special fuel received or used in New Mexico.

25 C. The tax imposed by this section may be called

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1 the "special fuel excise tax"."

2 SECTION 13. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2018.

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