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SENATE BILL 506

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO TAXATION; INCREASING THE GASOLINE TAX AND THE
SPECIAL FUEL EXCISE TAX; DISTRIBUTING THE REVENUE FROM THE
INCREASES TO MUNICIPALITIES AND COUNTIES AND TO THE STATE ROAD
FUND; PROVIDING A CONTINGENT EFFECTIVE DATE; 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
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]~~ twenty-three hundredths percent of
5 gasoline taxes, exclusive of penalties and interest, collected
6 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~~] eleven-hundredths [~~of one~~] percent of the net
3 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 seventeen and twelve-hundredths percent of the net receipts
11 attributable to the taxes, exclusive of penalties and interest,
12 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~~] sixty-six and seven-tenths
16 percent of the amount shall be paid to the treasurers of
17 municipalities and H class counties in the proportion that the
18 taxable motor fuel sales in each of the municipalities and H
19 class counties bears to the aggregate taxable motor fuel sales
20 in all of these municipalities and H class counties; and

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

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1 taxable motor fuel sales outside of incorporated municipalities
2 in all of the counties.

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

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

25 SECTION 4. Section 7-1-6.19 NMSA 1978 (being Laws 1991,

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1 Chapter 9, Section 15, as amended) is amended to read:

2 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND
3 CREATED.--

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

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

11 SECTION 5. Section 7-1-6.27 NMSA 1978 (being Laws 1991,
12 Chapter 9, Section 20, as amended) is amended to read:

13 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

14 A. A distribution pursuant to Section 7-1-6.1 NMSA
15 1978 shall be made to municipalities for the purposes and
16 amounts specified in this section in an aggregate amount equal
17 to [~~five and seventy-six~~] four and forty-six hundredths percent
18 of the net receipts attributable to the gasoline tax.

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

- 21 (1) reconstructing, resurfacing, maintaining,
22 repairing or otherwise improving existing alleys, streets,
23 roads or bridges, or any combination of the foregoing; or
24 laying off, opening, constructing or otherwise acquiring new
25 alleys, streets, roads or bridges, or any combination of the

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1 foregoing; provided that any of the foregoing improvements may
2 include [~~but are not limited to~~] the acquisition of rights of
3 way;

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

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

23 C. For the purposes of this section:

24 (1) "computed distribution amount" means the
25 distribution amount calculated for a municipality for a month

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1 pursuant to Paragraph (2) of Subsection D of this section prior
2 to any adjustments to the amount due to the provisions of
3 Subsections E and F of this section;

4 (2) "floor amount" means four hundred
5 seventeen dollars (\$417);

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

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

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

16 (1) the floor amount; or

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

23 E. Fifteen percent of the aggregate amount
24 distributable under this section shall be referred to as the
25 "redistribution amount". Beginning in August 1990, and each

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

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

25 SECTION 6. Section 7-1-6.28 NMSA 1978 (being Laws 1991,

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1 Chapter 9, Section 22, as amended) is amended to read:

2 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF
3 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
4 Section 7-1-6.1 NMSA 1978 shall be made to the municipal
5 arterial program of the local governments road fund created in
6 Section 67-3-28.2 NMSA 1978 in an amount equal to one and
7 [~~forty-four~~] twelve-hundredths percent of the net receipts
8 attributable to the gasoline tax."

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

11 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO
12 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
13 Section 7-1-6.1 NMSA 1978 shall be made to the local
14 governments road fund in an amount equal to [~~nine and fifty-~~
15 ~~two~~] fifteen and thirty-nine hundredths percent of the net
16 receipts attributable to the taxes, exclusive of penalties and
17 interest, from the special fuel excise tax imposed by the
18 Special Fuels Supplier Tax Act."

19 SECTION 8. Section 7-13-3 NMSA 1978 (being Laws 1971,
20 Chapter 207, Section 3, as amended) is amended to read:

21 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
22 "GASOLINE TAX".--

23 A. For the privilege of receiving gasoline in this
24 state, there is imposed an excise tax at a rate provided in
25 Subsection B of this section on each gallon of gasoline

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1 received in New Mexico.

2 B. The tax imposed by Subsection A of this section
3 shall be [~~seventeen cents (\$.17)~~] twenty-two cents (\$.22) per
4 gallon received in New Mexico.

5 C. The tax imposed by this section may be called
6 the "gasoline tax".

7 SECTION 9. Section 7-16A-3 NMSA 1978 (being Laws 1992,
8 Chapter 51, Section 3, as amended) is amended to read:

9 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
10 SPECIAL FUEL EXCISE TAX.--

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

15 B. The tax imposed by Subsection A of this section
16 shall be [~~twenty-one cents (\$.21)~~] twenty-six cents (\$.26) per
17 gallon of special fuel received or used in New Mexico.

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

20 SECTION 10. CONTINGENT EFFECTIVE DATE.--The effective
21 date of the provisions of this act is the first day of the
22 third month following enactment of a federal transportation
23 funding bill by the United States congress that provides
24 funding for highway infrastructure in the state and that
25 requires the state to provide a fifty percent or greater

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1 funding match; provided that such federal transportation
2 funding comes into effect on or before January 1, 2021; and
3 provided further that the secretary of transportation certifies
4 to the taxation and revenue department that such federal
5 transportation funding bill has come into effect pursuant to
6 this section. The taxation and revenue department shall notify
7 the New Mexico compilation commission and the director of the
8 legislative council service within sixty days prior to the
9 effective date of this act as to whether the certification from
10 the secretary of transportation has been received.