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SENATE BILL 609

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

INTRODUCED BY

Clemente Sanchez

AN ACT

RELATING TO TAXATION; INCREASING THE GASOLINE, SPECIAL FUEL AND MOTOR VEHICLE EXCISE TAXES; DISTRIBUTING THE REVENUE FROM THE INCREASES TO THE TAXES TO A NEW TRANSPORTATION PROJECTS RESERVE UNTIL THE STATE SHARE OF CERTAIN TRANSPORTATION PROJECTS IS FUNDED, THEN DISTRIBUTING THE REVENUE FROM THE INCREASES TO THE STATE ROAD FUND AND THE LOCAL GOVERNMENTS ROAD FUND; 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

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1 taxable gross receipts attributable to the sale of fuel  
2 specially prepared and sold for use in turboprop or jet-type  
3 engines as determined by the department.

4 B. 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 [~~twenty-six~~] twenty-one hundredths percent of gasoline  
7 taxes, exclusive of penalties and interest, collected pursuant  
8 to the Gasoline Tax Act.

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

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

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

20 ~~(2) one hundred sixty-seven thousand dollars~~  
21 ~~(\$167,000) monthly from July 1, 2008 through June 30, 2009; and~~

22 ~~(3)] two hundred fifty thousand dollars~~  
23 ~~(\$250,000) [monthly after July 1, 2009]."~~

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

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1 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A  
2 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
3 made to the motorboat fuel tax fund in an amount equal to  
4 [~~thirteen-hundredths of one~~] eleven-hundredths percent of the  
5 net receipts attributable to the gasoline tax."

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

8 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO  
9 MUNICIPALITIES AND COUNTIES.--

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

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

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

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

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1 incorporated municipalities in each of the counties bears to  
2 the aggregate taxable motor fuel sales outside of incorporated  
3 municipalities in all of the counties.

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

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

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

3           "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

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

11                   (1) the amount distributed to the state  
12 aviation fund pursuant to Subsection B of Section 7-1-6.7 NMSA  
13 1978;

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

16                   (3) the amount distributed to municipalities  
17 and counties pursuant to [~~Subsection A of~~] Section 7-1-6.9 NMSA  
18 1978;

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

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

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

25                   (7) the amount distributed to the municipal

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1 arterial program of the local governments road fund pursuant to  
2 Section 7-1-6.28 NMSA 1978;

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

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

10 (10) the amount distributed to the  
11 transportation projects reserve pursuant to Section 9 of this  
12 2019 act.

13 B. A distribution pursuant to Section 7-1-6.1 NMSA  
14 1978 shall be made to the state road fund in an amount equal to  
15 the net receipts attributable to the taxes, interest and  
16 penalties from the Weight Distance Tax Act."

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

19 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND  
20 CREATED.--

21 A. There is created in the state treasury the  
22 "county government road fund".

23 B. A distribution pursuant to Section 7-1-6.1 NMSA  
24 1978 shall be made to the county government road fund in an  
25 amount equal to [~~five and seventy-six~~] four and forty-six

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1 hundredths percent of the net receipts attributable to the  
2 gasoline tax."

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

5 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

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

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

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

21 (2) to provide matching funds for projects  
22 subject to cooperative agreements with the [~~state highway and~~  
23 department of transportation [~~department~~] pursuant to Section  
24 67-3-28 NMSA 1978; and

25 (3) for expenses of purchasing, maintaining

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

15 C. For the purposes of this section:

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

21 (2) "floor amount" means four hundred  
22 seventeen dollars (\$417);

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

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1                   (4) "full distribution municipality" means a  
2 municipality whose population at the last federal decennial  
3 census was at least two hundred thousand.

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

8                                 (1) the floor amount; or

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

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

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1 and the municipality's computed distribution amount and the  
2 denominator of which is the difference between the product of  
3 the floor amount multiplied by the number of floor  
4 municipalities and the total of the computed distribution  
5 amounts for all floor municipalities.

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

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

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

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

3           "7-1-6.39. DISTRIBUTION OF GASOLINE TAX AND SPECIAL FUEL  
4 EXCISE TAX TO LOCAL GOVERNMENTS ROAD FUND.--

5           A. Beginning one month after the last distribution  
6 is made pursuant to Section 9 of this 2019 act, distribution  
7 pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the  
8 local governments road fund in an amount equal to nine and  
9 nine-hundredths percent of the net receipts attributable to the  
10 taxes imposed by the Gasoline Tax Act.

11           B. A distribution pursuant to Section 7-1-6.1 NMSA  
12 1978 shall be made to the local governments road fund in [~~an~~  
13 ~~amount equal to nine and fifty-two hundredths percent~~] the  
14 following amounts of the net receipts attributable to the  
15 taxes, exclusive of penalties and interest, from the special  
16 fuel excise tax imposed by the Special Fuels Supplier Tax Act:

17           (1) prior to when the last distribution is  
18 made pursuant to Section 9 of this 2019 act, seven and sixty-  
19 nine hundredths percent; and

20           (2) one month after the last distribution is  
21 made pursuant to Section 9 of this 2019 act, fifteen and  
22 thirty-nine hundredths percent."

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

25           "[NEW MATERIAL] DISTRIBUTION--GASOLINE TAX AND SPECIAL

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1 FUEL EXCISE TAX--TRANSPORTATION PROJECTS.--A distribution  
2 pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the  
3 transportation projects reserve in an amount equal to twenty-  
4 two and five-hundredths percent of the net receipts  
5 attributable to the gasoline tax and in an amount equal to  
6 nineteen and twenty-three hundredths percent of the net  
7 receipts attributable to the special fuel excise tax until the  
8 month following certification by the secretary of  
9 transportation to the secretary of taxation and revenue that  
10 the total amount in the transportation projects reserve  
11 established pursuant to Section 14 of this 2019 act is  
12 sufficient to pay the state share of the projects described in  
13 that section."

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

16 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
17 "GASOLINE TAX".--

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

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

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

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1 the "gasoline tax"."

2 SECTION 11. Section 7-14-4 NMSA 1978 (being Laws 1988,  
3 Chapter 73, Section 14) is amended to read:

4 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE  
5 TAX.--The rate of the motor vehicle excise tax is [~~three~~] four  
6 percent and is applied to the price paid for the vehicle. If  
7 the price paid does not represent the value of the vehicle in  
8 the condition that existed at the time it was acquired, the tax  
9 rate shall be applied to the reasonable value of the vehicle in  
10 such condition at such time. However, allowances granted for  
11 vehicle trade-ins may be deducted from the price paid or the  
12 reasonable value of the vehicle purchased."

13 SECTION 12. Section 7-14-10 NMSA 1978 (being Laws 1988,  
14 Chapter 73, Section 20, as amended) is amended to read:

15 "7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from  
16 the tax and any associated interest and penalties shall be  
17 deposited in the "motor vehicle suspense fund", hereby created  
18 in the state treasury. As of the end of each month, the net  
19 receipts attributable to the tax and associated penalties and  
20 interest shall be distributed as follows:

21 [~~A. four and fifteen hundredths percent to the~~  
22 ~~state road fund; and~~

23 ~~B. the remainder]~~ A. seventy-one and eighty-nine  
24 hundredths percent to the general fund;

25 B. prior to when the last distribution is made

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1 pursuant to Section 9 of this 2019 act:

2 (1) three and eleven-hundredths percent to the  
3 state road fund; and

4 (2) twenty-five percent to the transportation  
5 projects reserve; and

6 C. one month after the last distribution is made  
7 pursuant to Section 9 of this 2019 act:

8 (1) twenty-one and eighty-six hundredths  
9 percent to the state road fund; and

10 (2) six and twenty-five hundredths percent to  
11 the local governments road fund."

12 SECTION 13. 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)~~] twenty-six cents (\$.26) per  
22 gallon of special fuel received or used in New Mexico.

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

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

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1 1978 is enacted to read:

2 "[NEW MATERIAL] TRANSPORTATION PROJECTS RESERVE.--

3 A. The "transportation projects reserve" is created  
4 in the state treasury. The reserve shall consist of  
5 appropriations, gifts, grants, donations and bequests made to  
6 the reserve. Income from the reserve shall be credited to the  
7 reserve. The department of transportation shall administer the  
8 reserve, and money in the reserve is subject to appropriation  
9 by the legislature only to that department to be used for the  
10 following projects, in the following amounts:

11 (1) one hundred million dollars (\$100,000,000)  
12 for reconstruction and improvement of approximately thirty-six  
13 miles on New Mexico highway 11, including bridge replacement;

14 (2) forty million dollars (\$40,000,000) for  
15 construction of a four-lane freight bypass corridor on New  
16 Mexico highway 213 north of El Paso, Texas, and reconfiguration  
17 of the intersection of New Mexico highways 213 and 404;

18 (3) forty-five million dollars (\$45,000,000)  
19 for reconstruction and improvement on United States route 285  
20 from mile marker 7 north of the state line with Texas and mile  
21 marker 22;

22 (4) seventy million dollars (\$70,000,000) for  
23 reconstruction and improvement on approximately twenty-two  
24 miles of New Mexico highway 31 connecting United States highway  
25 285 with United States highway 62 and New Mexico highway 128;

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1 (5) one hundred sixty-eight million dollars  
2 (\$168,000,000) for design, reconstruction and improvement of  
3 approximately fifty-two miles on New Mexico highway 128 between  
4 Jal and the junction with New Mexico highway 31;

5 (6) seventy-four million dollars (\$74,000,000)  
6 for design and construction of an interchange connecting  
7 interstate highway 25 and New Mexico highway 47;

8 (7) eighty-three million dollars (\$83,000,000)  
9 to complete construction of paseo del Volcan between interstate  
10 highway 40 and United States route 550;

11 (8) twenty-two million dollars (\$22,000,000)  
12 for design, reconstruction and improvement of approximately  
13 five and two-tenths miles of Carbon Coal road and realignment  
14 and improvement of the intersection of Chino Loop road and New  
15 Mexico highway 491; and

16 (9) six million dollars (\$6,000,000) for  
17 reconstruction and improvement of approximately five miles on  
18 New Mexico highway 602.

19 B. Money in the reserve shall not revert or be  
20 transferred to any other fund at the end of a fiscal year;  
21 provided that when the money in the transportation projects  
22 reserve is sufficient to pay the state share of the projects  
23 described in Subsection A of this section and no further  
24 distributions will be made pursuant to Section 9 of this 2019  
25 act, any remaining money in the reserve shall revert to the

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1 general fund."

2 SECTION 15. APPROPRIATION.--Three hundred million dollars  
3 (\$300,000,000) is appropriated from the general fund to the  
4 transportation projects reserve for expenditure in fiscal year  
5 2020 and subsequent fiscal years to carry out the purposes of  
6 Section 14 of this 2019 act. Any unexpended or unencumbered  
7 balance remaining at the end of a fiscal year shall not revert  
8 to the general fund.

9 SECTION 16. EFFECTIVE DATE.--The effective date of the  
10 provisions of this act is July 1, 2019.