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HOUSE BILL 711

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

INTRODUCED BY

JOSE R. ABEYTA

AN ACT

RELATING TO TAXATION; INCREASING THE GASOLINE TAX RATE;  
DISTRIBUTING THE REVENUE FROM THE TAX INCREASE TO THE STATE ROAD  
FUND AND COUNTY ROAD FUNDS; AMENDING AND ENACTING SECTIONS OF  
THE NMSA 1978.

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

Section 1. Section 7-1-6.7 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  
1978 shall be made to the state aviation fund in an amount equal  
to three and fifty-nine hundredths percent of the gross receipts  
attributable to the sale of fuel specially prepared and sold for

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1 use in turboprop or jet-type engines as determined by the  
2 department.

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

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

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

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

17 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO MUNICIPALITIES  
18 AND COUNTIES.--

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

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

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1                   (1) ninety percent of the amount shall be paid  
2 to 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  
5 taxable motor fuel sales in all of these municipalities and H  
6 class counties; and

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

24                   Section 4. Section 7-1-6.10 NMSA 1978 (being Laws 1983,  
25 Chapter 211, Section 15, as amended by Laws 1995, Chapter 6,

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1 Section 4 and also by Laws 1995, Chapter 16, Section 11) is  
2 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 imposed  
9 pursuant to the Special Fuels Tax Act, the Special Fuels  
10 Supplier Tax Act and the Alternative Fuel Tax Act less:

11 (1) the amount distributed to the state  
12 aviation fund pursuant to Subsection [C] B of Section 7-1-6.7  
13 NMSA 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 [~~corrective~~  
22 ~~action fund~~] local governments road fund pursuant to Section  
23 [~~7-1-6.25~~] 7-1-6.39 NMSA 1978;

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

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

4 ~~[(8) the amount distributed to the general fund~~  
5 ~~pursuant to Section 7-1-6.37 NMSA 1978]~~

6 (8) the amount distributed to county road funds  
7 pursuant to Section 7-1-6.40 NMSA 1978.

8 B. A distribution pursuant to Section 7-1-6.1 NMSA  
9 1978 shall be made to the state road fund in an amount equal to  
10 the net receipts attributable to the taxes, fees, interest and  
11 penalties from the Weight Distance Tax Act. "

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

14 "7-1-6.19. DISTRIBUTION-- COUNTY GOVERNMENT ROAD FUND  
15 CREATED. --

16 A. There is created in the state treasury the  
17 "county government road fund".

18 B. A distribution pursuant to Section 7-1-6.1 NMSA  
19 1978 shall be made to the county government road fund in an  
20 amount equal to ~~[five and seventy-six hundredths]~~ four and  
21 forty-five hundredths percent of the net receipts attributable  
22 to the gasoline tax. "

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

25 "7-1-6.27. DISTRIBUTION-- MUNICIPAL ROADS. --

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1           A. A distribution pursuant to Section 7-1-6.1 NMSA  
2 1978 shall be made to municipalities for the purposes and  
3 amounts specified in this section in an aggregate amount equal  
4 to [~~five and seventy six hundredths~~] four and forty-five  
5 hundredths percent of the net receipts attributable to the  
6 gasoline tax.

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

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

16                   (2) for expenses of purchasing, maintaining and  
17 operating transit operations and facilities, for the operation  
18 of a transit authority established by the municipal transit law  
19 and for the operation of a vehicle emission inspection program.  
20 A municipality may engage in the business of the transportation  
21 of passengers and property within the political subdivision by  
22 whatever means the municipality may decide and may acquire cars,  
23 trucks, motor buses and other equipment necessary for operating  
24 the business. A municipality may acquire land, erect buildings  
25 and equip the buildings with all the necessary machinery and

1 facilities for the operation, maintenance, modification, repair  
2 and storage of the cars, trucks, motor buses and other equipment  
3 needed. A municipality may do all things necessary for the  
4 acquisition and the conduct of the business of public  
5 transportation.

6 C. For the purposes of this section:

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

12 (2) "floor amount" means four hundred seventeen  
13 dollars (\$417);

14 (3) "floor municipality" means a municipality  
15 whose computed distribution amount is less than the floor  
16 amount; and

17 (4) "full distribution municipality" means a  
18 municipality whose population at the last federal decennial  
19 census was at least two hundred thousand.

20 D. Subject to the provisions of Subsections E and F  
21 of this section, each municipality shall be distributed a  
22 portion of the aggregate amount distributable under this section  
23 in an amount equal to the greater of:

24 (1) the floor amount; or

25 (2) eighty-five percent of the aggregate amount

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1 distributable under this section times a fraction, the numerator  
2 of which is the municipality's reported taxable gallons of  
3 gasoline for the immediately preceding state fiscal year and the  
4 denominator of which is the reported total taxable gallons for  
5 all municipalities for the same period.

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

22 F. If a balance remains after the redistribution  
23 amount has been reduced pursuant to Subsection E of this  
24 section, there shall be added to the computed distribution  
25 amount of each municipality that is neither a full distribution

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1 municipality nor a floor municipality an amount that equals the  
2 balance of the redistribution amount times a fraction, the  
3 numerator of which is the computed distribution amount of the  
4 municipality and the denominator of which is the sum of the  
5 computed distribution amounts of all municipalities that are  
6 neither full distribution municipalities nor floor  
7 municipalities. "

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

10 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF  
11 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to Section  
12 7-1-6.1 NMSA 1978 shall be made to the municipal arterial  
13 program of the local governments road fund created in Section  
14 67-3-28.2 NMSA 1978 in an amount equal to one and [~~forty-four~~]  
15 eleven hundredths percent of the net receipts attributable to  
16 the gasoline tax. "

17 Section 8. A new section of the Tax Administration Act,  
18 Section 7-1-6.40 NMSA 1978, is enacted to read:

19 "7-1-6.40. [NEW MATERIAL] DISTRIBUTION--COUNTY ROAD  
20 FUNDS.--A distribution pursuant to Section 7-1-6.10 shall be  
21 made to each county road fund in an amount equal to the  
22 proportion that each county's miles of public roads maintained  
23 by the county, as certified pursuant to Section 67-3-28.3 NMSA  
24 1978, bears to the total miles of public roads maintained by all  
25 counties times an amount equal to four and forty-five hundredths

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1 percent of the net receipts attributable to the gasoline tax.  
2 The distribution under this section shall be used only for  
3 county road purposes. "

4 Section 9. Section 7-13-3 NMSA 1978 (being Laws 1971,  
5 Chapter 207, Section 3, as amended) is amended to read:

6 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
7 "GASOLINE TAX". --

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

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

15 C. The tax imposed by this section may be called the  
16 "gasoline tax". "

17 Section 10. That version of Section 7-13-3 NMSA 1978  
18 (being Laws 1995, Chapter 6, Section 11) that is to become  
19 effective July 1, 2003 is amended to read:

20 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
21 "GASOLINE TAX". --

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

