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HOUSE BILL 1332

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

M MICHAEL OLGUIN

AN ACT

RELATING TO HIGHWAY FINANCING; INCREASING THE RATE OF THE  
GASOLINE TAX AND THE SPECIAL FUEL EXCISE TAX OVER A FIVE-YEAR  
PERIOD; TRANSFERRING MOTOR VEHICLE EXCISE TAX REVENUES;  
AUTHORIZING ADDITIONAL BONDING AUTHORITY FOR THE STATE HIGHWAY  
COMMISSION; AMENDING 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

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1 attributable to the sale of fuel specially prepared and sold for  
2 use in turboprop or jet-type engines as determined by the  
3 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 equal  
6 to [~~twenty six hundredths of one percent~~] the following  
7 percentages of gasoline taxes, exclusive of penalties and  
8 interest, collected pursuant to the Gasoline Tax Act:

9 (1) from August 1, 1997 through July 31, 1998,  
10 twenty-five hundredths of one percent;

11 (2) from August 1, 1998 through July 31, 1999,  
12 twenty-three hundredths of one percent;

13 (3) from August 1, 1999 through July 31, 2000,  
14 twenty-two hundredths of one percent;

15 (4) from August 1, 2000 through July 31, 2001,  
16 twenty-one hundredths of one percent;

17 (5) from August 1, 2001 through July 31, 2003,  
18 two-tenths of one percent; and

19 (6) after July 31, 2003, twenty-one hundredths  
20 of one percent. "

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

23 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A  
24 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made  
25 to the motorboat fuel tax fund in an amount equal to [~~thirteen~~

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[bracketed material] = delete

1 ~~hundredths of one percent]~~ the following percentages of the net  
2 receipts attributable to the gasoline tax:

3 A. from August 1, 1997 through July 31, 1998, twelve  
4 hundredths of one percent;

5 B. from August 1, 1998 through July 31, 1999, twelve  
6 hundredths of one percent;

7 C. from August 1, 1999 through July 31, 2000, eleven  
8 hundredths of one percent;

9 D. from August 1, 2000 through July 31, 2001, one-  
10 tenth of one percent;

11 E. from August 1, 2001 through July 31, 2003, one-  
12 tenth of one percent; and

13 F. after July 31, 2003, one-tenth of one percent. "

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

16 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO MUNICIPALITIES  
17 AND COUNTIES. --

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

23 (1) from August 1, 1997 through July 31, 1998,  
24 nine and eight-tenths percent;

25 (2) from August 1, 1998 through July 31, 1999,

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1 nine and three-tenths percent:

2 (3) from August 1, 1999 through July 31, 2000,

3 eight and eighty-two hundredths percent:

4 (4) from August 1, 2000 through July 31, 2001,

5 eight and four-tenths percent:

6 (5) from August 1, 2001 through July 31, 2003,

7 eight and two hundredths percent; and

8 (6) after July 31, 2000, eight and four-tenths  
9 percent.

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

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

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

24 C. This distribution shall be paid into the  
25 municipal treasury or county general fund for general purposes

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[bracketed material] = delete

1 or for any special purposes designated by the governing body of  
2 the municipality or county. Any municipality or H class county  
3 that has created or that creates a "street improvement fund" to  
4 which gasoline tax revenues or distributions are irrevocably  
5 pledged under Sections 3-34-1 through 3-34-4 NMSA 1978 or that  
6 has pledged all or a portion of gasoline tax revenues or  
7 distributions to the payment of bonds shall receive its  
8 proportion of the distribution of revenues under this section  
9 impressed with and subject to these pledges."

10 Section 4. Section 7-1-6.19 NMSA 1978 (being Laws 1991,  
11 Chapter 9, Section 15, as amended) is amended to read:

12 "7-1-6.19. DISTRIBUTION-- COUNTY GOVERNMENT ROAD FUND  
13 CREATED. --

14 A. There is created in the state treasury the  
15 "county government road fund".

16 B. A distribution pursuant to Section 7-1-6.1 NMSA  
17 1978 shall be made to the county government road fund in an  
18 amount equal to [~~five and seventy-six hundredths percent~~] the  
19 following percentages of the net receipts attributable to the  
20 gasoline tax:

21 (1) from August 1, 1997 through July 31, 1998,  
22 five and forty-four hundredths percent;

23 (2) from August 1, 1998 through July 31, 1999,  
24 five and fifteen hundredths percent;

25 (3) from August 1, 1999 through July 31, 2000.

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1 four and nine-tenths percent:

2 (4) from August 1, 2000 through July 31, 2001.

3 four and sixty-six hundredths percent:

4 (5) from August 1, 2001 through July 31, 2003.

5 four and forty-five hundredths percent; and

6 (6) after July 31, 2003, four and sixty-six  
7 hundredths percent."

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

10 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

11 A. A distribution pursuant to Section 7-1-6.1 NMSA  
12 1978 shall be made to municipalities for the purposes and  
13 amounts specified in this section in an aggregate amount equal  
14 to [~~five and seventy-six hundredths percent~~] the following  
15 percentages of the net receipts attributable to the gasoline  
16 tax:

17 (1) from August 1, 1997 through July 31, 1998,  
18 five and forty-four hundredths percent;

19 (2) from August 1, 1998 through July 31, 1999,  
20 five and fifteen hundredths percent;

21 (3) from August 1, 1999 through July 31, 2000,  
22 four and nine-tenths percent;

23 (4) from August 1, 2000 through July 31, 2001,  
24 four and sixty-six hundredths percent;

25 (5) from August 1, 2001 through July 31, 2003.

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1 four and forty-five hundredths percent; and

2 (6) after July 31, 2003, four and sixty-six  
3 hundredths percent.

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

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

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

Underscored material = new  
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1 acquisition and the conduct of the business of public  
2 transportation.

3 C. For the purposes of this section:

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

9 (2) "floor amount" means four hundred seventeen  
10 dollars (\$417);

11 (3) "floor municipality" means a municipality  
12 whose computed distribution amount is less than the floor  
13 amount; and

14 (4) "full distribution municipality" means a  
15 municipality whose population at the last federal decennial  
16 census was at least two hundred thousand.

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

21 (1) the floor amount; or

22 (2) eighty-five percent of the aggregate amount  
23 distributable under this section times a fraction, the numerator  
24 of which is the municipality's reported taxable gallons of  
25 gasoline for the immediately preceding state fiscal year and the



Underscored material = new  
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1 denominator of which is the reported total taxable gallons for  
2 all municipalities for the same period.

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

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

Underscored material = new  
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1 municipality and the denominator of which is the sum of the  
2 computed distribution amounts of all municipalities that are  
3 neither full distribution municipalities nor floor  
4 municipalities. "

5 Section 6. Section 7-1-6.28 NMSA 1978 (being Laws 1991,  
6 Chapter 9, Section 22, as amended) is amended to read:

7 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF  
8 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to Section  
9 7-1-6.1 NMSA 1978 shall be made to the municipal arterial  
10 program of the local governments road fund created in Section  
11 67-3-28.2 NMSA 1978 in an amount equal to [~~one and forty-four~~  
12 ~~hundredths percent~~] the following percentages of the net  
13 receipts attributable to the gasoline tax:

14 A. from August 1, 1997 through July 31, 1998, one  
15 and thirty-six hundredths percent;

16 B. from August 1, 1998 through July 31, 1999, one  
17 and twenty-nine hundredths percent;

18 C. from August 1, 1999 through July 31, 2000, one  
19 and twenty-two hundredths percent;

20 D. from August 1, 2000 through July 31, 2001, one  
21 and seventeen hundredths percent;

22 E. from August 1, 2001 through July 31, 2003, one  
23 and eleven hundredths percent; and

24 F. after July 31, 2003, one and seventeen hundredths  
25 percent."

Underscored material = new  
[bracketed material] = delete

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

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

11                   A. from August 1, 1997 through July 31, 1998, ten  
12 and fifty-three hundredths percent;

13                   B. from August 1, 1998 through July 31, 1999, ten  
14 percent;

15                   C. from August 1, 1999 through July 31, 2000, nine  
16 and fifty-two hundredths percent;

17                   D. from August 1, 2000 through July 31, 2001, nine  
18 and nine hundredths percent; and

19                   E. after July 31, 2001, eight and seven-tenths  
20 percent."

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

23           "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
24 "GASOLINE TAX".--

25                   A. For the privilege of receiving gasoline in this

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[bracketed material] = delete

1 state, there is imposed an excise tax at a rate provided in  
2 Subsection B of this section on each gallon of gasoline  
3 received in New Mexico.

4 B. The tax imposed by Subsection A of this section  
5 shall be [~~seventeen cents (\$.17)~~] imposed at the following rates  
6 per gallon received in New Mexico:

7 (1) from July 1, 1997 through June 30, 1998,  
8 eighteen cents (\$.18);

9 (2) from July 1, 1998 through June 30, 1999,  
10 nineteen cents (\$.19);

11 (3) from July 1, 1999 through June 30, 2000,  
12 twenty cents (\$.20);

13 (4) from July 1, 2000 through June 30, 2001,  
14 twenty-one cents (\$.21);

15 (5) from July 1, 2001 through June 30, 2003,  
16 twenty-two cents (\$.22); and

17 (6) after June 30, 2003, twenty-one cents  
18 (\$.21).

19 C. The tax imposed by this section may be called the  
20 "gasoline tax". "

21 Section 9. Section 7-14-10 NMSA 1978 (being Laws 1988,  
22 Chapter 73, Section 20, as amended) is amended to read:

23 "7-14-10. DISTRIBUTION OF PROCEEDS. --The receipts from the  
24 tax and any associated interest and penalties shall be deposited  
25 in the "motor vehicle suspense fund", hereby created in the

1 state treasury. As of the end of each month, the net receipts  
2 attributable to the tax and associated penalties and interest  
3 shall be distributed [~~to the general fund~~] as follows:

4 A. prior to June 30, 1998, to the general fund;

5 B. from July 1, 1998 through June 30, 1999, ninety  
6 percent to the general fund and ten percent to the state road  
7 fund;

8 C. from July 1, 1999 through June 30, 2000, eighty  
9 percent to the general fund and twenty percent to the state road  
10 fund;

11 D. from July 1, 2000 through June 30, 2001, seventy  
12 percent to the general fund and thirty percent to the state road  
13 fund;

14 E. from July 1, 2001 through June 30, 2002, sixty  
15 percent to the general fund and forty percent to the state road  
16 fund; and

17 F. after June 30, 2002, fifty percent to the general  
18 fund and fifty percent to the state road fund."

19 Section 10. Section 7-16A-3 NMSA 1978 (being Laws 1992,  
20 Chapter 51, Section 3, as amended) is amended to read:

21 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
22 SPECIAL FUEL EXCISE TAX. --

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

Underscored material = new  
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1 special fuel received in New Mexico.

2 B. The tax imposed by Subsection A of this section  
3 shall be [~~eighteen cents (\$.18)~~] imposed at the following rates  
4 per gallon of special fuel received or used in New Mexico:

5 (1) from July 1, 1997 through June 30, 1998,  
6 nineteen cents (\$.19);

7 (2) from July 1, 1998 through June 30, 1999,  
8 twenty cents (\$.20);

9 (3) from July 1, 1999 through June 30, 2000,  
10 twenty-one cents (\$.21);

11 (4) from July 1, 2000 through June 30, 2001,  
12 twenty-two cents (\$.22); and

13 (5) after June 30, 2001, twenty-three cents  
14 (\$.23).

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

17 Section 11. Section 67-3-59.1 NMSA 1978 (being Laws 1989,  
18 Chapter 157, Section 1, as amended) is amended to read:

19 "67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--LIMITS--  
20 APPROVAL--COUPONS.--

21 A. In order to provide funds to finance state  
22 highway projects, including state highway projects that are  
23 required for the waste isolation pilot project and are eligible  
24 for federal reimbursement or payment as authorized by federal  
25 legislation, the state highway commission is authorized to issue

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1 bonds from time to time, payable from federal funds, not  
2 otherwise obligated, that are paid into the state road fund and  
3 from the proceeds of the collection of [~~gasoline excise~~] taxes  
4 and [~~motor vehicle registration~~] fees that are required by law  
5 to be paid into the state road fund and not otherwise pledged  
6 solely to the payment of outstanding bonds and debentures.

7 B. The total aggregate outstanding principal amount  
8 of bonds issued from time to time pursuant to this section,  
9 secured by or payable from [~~the gasoline excise taxes and motor~~  
10 ~~vehicle registration fees~~] federal funds not otherwise obligated  
11 that are paid into the state road fund and the proceeds from the  
12 collection of taxes and fees required by law to be paid into the  
13 state road fund, shall not, without additional authorization of  
14 the state legislature, exceed [~~one hundred fifty million dollars~~  
15 (~~\$150,000,000~~)] at any given time, subject to the [~~following~~]  
16 provisions of Subsection C of this section, the following  
17 amounts:

18 (1) prior to July 1, 1998, two hundred seventy-  
19 five million dollars (\$275,000,000);

20 (2) from July 1, 1998 through June 30, 1999,  
21 four hundred million dollars (\$400,000,000); and

22 (3) after June 30, 1999, one billion one  
23 hundred million dollars (\$1,100,000,000).

24 C. The total aggregate outstanding principal amount  
25 of bonds authorized pursuant to Subsection B of this section

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1 shall be subject to the following provisions:

2 (1) the total aggregate outstanding principal  
3 amount of bonds issued for state highway projects that are  
4 required for the waste isolation pilot project and are eligible  
5 for federal reimbursement or payment as authorized by federal  
6 legislation shall not exceed one hundred million dollars  
7 (\$100,000,000); and

8 (2) the total aggregate outstanding principal  
9 amount of bonds issued for state highway projects other than  
10 state highway projects that are required for the waste isolation  
11 pilot project and are eligible for federal reimbursement or  
12 payment as authorized by federal legislation shall not exceed:  
13 [~~fifty million dollars (\$50,000,000).~~]

14 (a) prior to July 1, 1998, one hundred  
15 seventy-five million dollars (\$175,000,000);

16 (b) from July 1, 1998 through June 30,  
17 1999, three hundred million dollars (\$300,000,000); and

18 (c) after June 30, 1999, one billion  
19 dollars (\$1,000,000,000).

20 [~~C.~~] D. The state highway commission may issue bonds  
21 to refund other bonds issued pursuant to this section by  
22 exchange or current or advance refunding.

23 [~~D.~~] E. Each series of bonds shall have a maturity  
24 of no more than twenty-five years from the date of issuance.  
25 The state highway commission shall determine all other terms,



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1 covenants and conditions of the bonds; provided that the bonds  
2 shall not be issued pursuant to this section unless the state  
3 board of finance approves the issuance of the bonds and the  
4 principal amount of and interest rate or maximum net effective  
5 interest rate on the bonds.

6 [E.] F. The bonds shall be executed with the manual  
7 or facsimile signatures of the chairman of the state highway  
8 commission, countersigned by the state treasurer and attested to  
9 by the secretary of the state highway commission, with the seal  
10 of the state highway commission imprinted or otherwise affixed  
11 to the bonds.

12 [F.] G. Proceeds of the bonds may be used to pay  
13 expenses incurred in the preparation, issuance and sale of the  
14 bonds and, together with the earnings on the proceeds of the  
15 bonds, may be used to pay rebate, penalty, interest and other  
16 obligations relating to the bonds and the proceeds of the bonds  
17 under the Internal Revenue Code of 1986, as amended.

18 [G.] H. The bonds may be sold at public or private  
19 sale. If sold at public sale, a notice of the time and place of  
20 sale shall be published in a newspaper of general circulation in  
21 the state, and in any other newspaper determined in the  
22 resolution authorizing the issuance of the bonds, once each week  
23 for two consecutive weeks prior to the date of sale. The bonds  
24 may be purchased by the state treasurer or state investment  
25 officer.

