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SENATE BILL 239

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO TAXATION; IMPOSING GASOLINE AND SPECIAL FUEL  
SURTAXES TO PROVIDE ADDITIONAL REVENUE FOR STATE AND LOCAL ROAD  
CONSTRUCTION AND MAINTENANCE; CREATING THE ROADS EQUAL JOBS  
FUND FOR STATE ROAD PROJECTS; PROVIDING DISTRIBUTIONS FOR  
COUNTY AND MUNICIPAL ROAD PROJECTS; MAKING AN APPROPRIATION.

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

Section 1. A new section of the Gasoline Tax Act is  
enacted to read:

"[NEW MATERIAL] ROADS EQUAL JOBS GASOLINE SURTAX.--For the  
privilege of receiving gasoline in this state, a surtax of six  
cents (\$.06) per gallon is imposed on each gallon of gasoline  
received in New Mexico that is subject to the gasoline tax  
imposed pursuant to Section 7-13-3 NMSA 1978. The tax imposed  
by this section may be called the "roads equal jobs gasoline

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1 surtax".

2 Section 2. A new section of the Special Fuels Supplier  
3 Tax Act is enacted to read:

4 "[NEW MATERIAL] ROADS EQUAL JOBS SPECIAL FUEL SURTAX.--For  
5 the privilege of receiving or using special fuel in this state,  
6 a surtax of six cents (\$.06) per gallon is imposed on each  
7 gallon of special fuel received or used in New Mexico that is  
8 subject to the special fuel excise tax imposed pursuant to  
9 Section 7-16A-3 NMSA 1978. The tax imposed by this section may  
10 be called the "roads equal jobs special fuel surtax".

11 Section 3. A new section of the Tax Administration Act is  
12 enacted to read:

13 "[NEW MATERIAL] ADDITIONAL DISTRIBUTION--ROADS EQUAL JOBS  
14 FUND--CREATED.--

15 A. The "roads equal jobs fund" is created as a  
16 nonreverting fund in the state treasury. The fund consists of  
17 money from taxes distributed to the fund and earnings on  
18 investment of the fund. Money in the fund shall not be  
19 transferred to any other fund. The department of  
20 transportation shall administer the fund, and money in the fund  
21 is appropriated to the department of transportation for  
22 expenditures as provided in this section. Disbursements from  
23 the fund shall be by warrant of the secretary of finance and  
24 administration on vouchers signed by the secretary of  
25 transportation or the secretary of transportation's authorized

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1 representative.

2 B. A distribution pursuant to Section 7-1-6.1 NMSA  
3 1978 shall be made to the roads equal jobs fund in an amount  
4 equal to five-sixths of the net receipts attributable to the  
5 roads equal jobs gasoline surtax and an amount equal to five-  
6 sixths of the net receipts attributable to the roads equal jobs  
7 special fuel surtax.

8 C. The roads equal jobs fund shall be used solely  
9 for the acquisition of rights of way or the planning,  
10 designing, engineering, construction, improvement or  
11 maintenance of state highway projects. Annually, the  
12 department of transportation shall estimate distributions to  
13 the fund and shall select state highway construction or  
14 maintenance projects in each of the six districts so that an  
15 equal amount from the fund is expended in each district."

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

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

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

25 B. [~~Except as provided in Subsection D of this~~  
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1 ~~section]~~ The amount determined in Subsection A of this section  
2 shall be distributed as follows:

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

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

15 C. ~~[This]~~ Except as provided in Subsection D of  
16 this section, the distribution provided in Subsection B of this  
17 section shall be paid into a separate road fund in the  
18 municipal treasury or county road fund for expenditure only for  
19 construction, reconstruction, resurfacing or other improvement  
20 or maintenance of public roads, streets, alleys or bridges,  
21 including right-of-way and materials acquisition. Money  
22 distributed pursuant to this section may be used by a  
23 municipality or county to provide matching funds for projects  
24 subject to cooperative agreements entered into with the [~~state~~  
25 ~~highway and]~~ department of transportation [~~department]~~ pursuant

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1 to Section 67-3-28 NMSA 1978. Any municipality or H class  
2 county that has created or that creates a "street improvement  
3 fund" to which gasoline tax revenues or distributions are  
4 irrevocably pledged under Sections 3-34-1 through 3-34-4 NMSA  
5 1978 or that has pledged all or a portion of gasoline tax  
6 revenues or distributions to the payment of bonds shall receive  
7 its proportion of the distribution of revenues under this  
8 section impressed with and subject to these pledges.

9 D. [This] The distribution provided in Subsection B  
10 of this section may be paid into a separate road fund or the  
11 general fund of the municipality or county if the municipality  
12 has a population less than three thousand or the county has a  
13 population less than four thousand.

14 E. A distribution pursuant to Section 7-1-6.1 NMSA  
15 1978 shall be made to counties and municipalities in an amount  
16 equal to one-sixth of the net receipts attributable to the  
17 roads equal jobs gasoline surtax and an amount equal to one-  
18 sixth of the net receipts attributable to the roads equal jobs  
19 special fuel surtax as provided in Subsection F of this  
20 section.

21 F. The amount determined in Subsection E of this  
22 section shall be distributed to the treasurers of  
23 municipalities and counties in the proportion that taxable  
24 gasoline and special fuel sales in each of the municipalities  
25 and counties bears to the aggregate taxable gasoline and

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1 special fuel sales in all municipalities and counties; provided  
2 that for counties other than H class counties, the amount shall  
3 be based on the amount of sales outside of incorporated  
4 municipalities. The distribution shall be paid into a separate  
5 road fund in the municipal treasury or county road fund and  
6 shall be used only for construction, reconstruction,  
7 resurfacing or other improvements or maintenance of public  
8 roads, streets, alleys and bridges."

9 Section 5. APPLICABILITY.--The distributions pursuant to  
10 this act apply to receipts from the roads equal jobs gasoline  
11 surtax and the roads equal jobs special fuel surtax that are  
12 attributable to transactions subject to the surtaxes on or  
13 after July 1, 2010.

14 Section 6. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is July 1, 2010.

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