

1 SENATE BILL 656

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 John Arthur Smith

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10 AN ACT

11 RELATING TO TAXATION; INCREASING AND INDEXING THE GASOLINE TAX
12 AND THE SPECIAL FUEL EXCISE TAX; CREATING THE STATE ROAD
13 MAINTENANCE FUND; PROVIDING A DISTRIBUTION OF GASOLINE AND
14 SPECIAL FUELS TAXES TO THE STATE ROAD MAINTENANCE FUND AND TO
15 MUNICIPALITIES AND COUNTIES FOR MAINTENANCE AND REPAIR OF
16 EXISTING TRANSPORTATION INFRASTRUCTURE; ADJUSTING PERCENTAGES
17 OF THE DISTRIBUTIONS OF THE GASOLINE AND SPECIAL FUELS TAXES TO
18 ENSURE CERTAIN ENTITIES RECEIVING SUCH DISTRIBUTIONS RECEIVE
19 THE SAME PROPORTION OF REVENUE ATTRIBUTABLE TO THE GASOLINE AND
20 SPECIAL FUELS TAXES.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 SECTION 1. Section 7-1-6.7 NMSA 1978 (being Laws 1994,
24 Chapter 5, Section 2, as amended) is amended to read:

25 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

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1 A. A distribution pursuant to Section 7-1-6.1 NMSA
2 1978 shall be made to the state aviation fund in an amount
3 equal to four and seventy-nine hundredths percent of the
4 taxable gross receipts attributable to the sale of fuel
5 specially prepared and sold for use in turboprop or jet-type
6 engines as determined by the department.

7 B. A distribution pursuant to Section 7-1-6.1 NMSA
8 1978 shall be made to the state aviation fund in an amount
9 equal to [~~twenty-six hundredths~~] two-tenths percent of gasoline
10 taxes [~~exclusive of penalties and interest~~] collected pursuant
11 to the Gasoline Tax Act.

12 C. From July 1, 2013 through June 30, 2018, a
13 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
14 made to the state aviation fund in an amount equal to forty-six
15 thousandths percent of the net receipts attributable to the
16 gross receipts tax distributable to the general fund.

17 D. A distribution pursuant to Section 7-1-6.1 NMSA
18 1978 shall be made to the state aviation fund from the net
19 receipts attributable to the gross receipts tax distributable
20 to the general fund in an amount equal to:

21 (1) eighty thousand dollars (\$80,000) monthly
22 from July 1, 2007 through June 30, 2008;

23 (2) one hundred sixty-seven thousand dollars
24 (\$167,000) monthly from July 1, 2008 through June 30, 2009; and

25 (3) two hundred fifty thousand dollars

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1 (\$250,000) monthly after July 1, 2009."

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

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

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

11 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
12 MUNICIPALITIES AND COUNTIES.--

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

18 [~~B. Except as provided in Subsection D of this~~
19 ~~section, the amount determined in Subsection A of this section~~
20 ~~shall be distributed as follows:~~

21 (~~1) ninety percent of the amount shall be paid~~
22 ~~to the treasurers of municipalities and H class counties in the~~
23 ~~proportion that the taxable motor fuel sales in each of the~~
24 ~~municipalities and H class counties bears to the aggregate~~
25 ~~taxable motor fuel sales in all of these municipalities and H~~

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1 ~~class counties; and~~

2 ~~(2) ten percent of the amount shall be paid to~~
3 ~~the treasurers of the counties, including H class counties, in~~
4 ~~the proportion that the taxable motor fuel sales outside of~~
5 ~~incorporated municipalities in each of the counties bears to~~
6 ~~the aggregate taxable motor fuel sales outside of incorporated~~
7 ~~municipalities in all of the counties.~~

8 ~~G.]~~ Except as provided in Subsection D of this
9 section, this distribution shall be paid into a separate road
10 fund in the municipal treasury or county road fund for
11 expenditure only for construction, reconstruction, resurfacing
12 or other improvement or maintenance of public roads, streets,
13 alleys or bridges, including right-of-way and materials
14 acquisition.

15 B. Money distributed pursuant to this section may
16 be used by a municipality or county to provide matching funds
17 for projects subject to cooperative agreements entered into
18 with the [~~state highway and~~] department of transportation
19 [~~department~~] pursuant to Section 67-3-28 NMSA 1978. Any
20 municipality or H class county that has created or that creates
21 a "street improvement fund" to which gasoline tax revenues or
22 distributions are irrevocably pledged under Sections 3-34-1
23 through 3-34-4 NMSA 1978 or that has pledged all or a portion
24 of gasoline tax revenues or distributions to the payment of
25 bonds shall receive its proportion of the distribution of

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1 revenues under this section impressed with and subject to these
2 pledges.

3 C. The amount determined in Subsection A of this
4 section shall be distributed as follows:

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

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

17 D. [~~This~~] The distribution made pursuant to this
18 section may be paid into a separate road fund or the general
19 fund of the municipality or county if the municipality has a
20 population less than three thousand or the county has a
21 population less than four thousand."

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

24 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

25 A. A distribution pursuant to Section 7-1-6.1 NMSA

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1 1978 shall be made to the state road fund in an amount equal to
2 the net receipts attributable to the taxes, surcharges,
3 penalties and interest imposed pursuant to the Gasoline Tax Act
4 and to the taxes, surtaxes, fees, penalties and interest
5 imposed pursuant to the Special Fuels Supplier Tax Act and the
6 Alternative Fuel Tax Act less:

7 (1) the amount distributed to the state
8 aviation fund pursuant to Subsection B of Section 7-1-6.7 NMSA
9 1978;

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

12 (3) the amount distributed to municipalities
13 and counties pursuant to [~~Subsection A of~~] Section 7-1-6.9 NMSA
14 1978 and Section 9 of this 2015 act;

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

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

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

21 (7) the amount distributed to the municipal
22 arterial program of the local governments road fund pursuant to
23 Section 7-1-6.28 NMSA 1978;

24 (8) the amount distributed to a qualified
25 tribe pursuant to [~~a gasoline tax sharing agreement entered~~

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1 ~~into between the secretary of transportation and the qualified~~
2 ~~tribe pursuant to the provisions of]~~ Section ~~[67-3-8.1]~~
3 7-1-6.44 NMSA 1978; ~~[and]~~

4 (9) the amount distributed to the general fund
5 pursuant to Section 7-1-6.44 NMSA 1978; and

6 (10) the amount distributed to the state road
7 maintenance fund pursuant to Section 10 of this 2015 act.

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, 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
8 shall be used for the following purposes:

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

17 (2) to provide matching funds for projects
18 subject to cooperative agreements with the [~~state highway and~~
19 department of transportation [~~department~~] pursuant to Section
20 67-3-28 NMSA 1978; and

21 (3) for expenses of purchasing, maintaining
22 and operating transit operations and facilities, for the
23 operation of a transit authority established by the Municipal
24 Transit Law and for the operation of a vehicle emission
25 inspection program. A municipality may engage in the business

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1 of the transportation of passengers and property within the
2 political subdivision by whatever means the municipality may
3 decide and may acquire cars, trucks, motor buses and other
4 equipment necessary for operating the business. A municipality
5 may acquire land, erect buildings and equip the buildings with
6 all the necessary machinery and facilities for the operation,
7 maintenance, modification, repair and storage of the cars,
8 trucks, motor buses and other equipment needed. A municipality
9 may do all things necessary for the acquisition and the conduct
10 of the business of public transportation.

11 C. For the purposes of this section:

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

17 (2) "floor amount" means four hundred
18 seventeen dollars (\$417);

19 (3) "floor municipality" means a municipality
20 whose computed distribution amount is less than the floor
21 amount; and

22 (4) "full distribution municipality" means a
23 municipality whose population at the last federal decennial
24 census was at least two hundred thousand.

25 D. Subject to the provisions of Subsections E and F

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1 of this section, each municipality shall be distributed a
2 portion of the aggregate amount distributable under this
3 section in an amount equal to the greater of:

4 (1) the floor amount; or

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

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

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1 amounts for all floor municipalities.

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

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

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

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

24 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO
25 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to

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1 Section 7-1-6.1 NMSA 1978 shall be made to the local
2 governments road fund in an amount equal to [~~nine and fifty-~~
3 ~~two~~] seven and sixty-nine hundredths percent of the net
4 receipts attributable to the taxes, exclusive of penalties and
5 interest, from the special fuel excise tax imposed by the
6 Special Fuels Supplier Tax Act."

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

9 "[NEW MATERIAL] ADDITIONAL DISTRIBUTION OF GASOLINE AND
10 SPECIAL FUELS TAXES TO MUNICIPALITIES AND COUNTIES.--

11 A. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made in an amount equal to eleven and thirty-
13 seven hundredths percent of the net receipts attributable to
14 the taxes imposed by the Gasoline Tax Act and nine and sixty-
15 two hundredths percent of the net receipts attributable to the
16 taxes imposed by the Special Fuels Supplier Tax Act. Except as
17 provided in Subsection C of this section, this distribution
18 shall be paid into a maintenance and repair road fund in the
19 municipal treasury or county road fund for expenditure only for
20 reconstruction, resurfacing or other improvement or maintenance
21 of existing public roads, streets, alleys or bridges, including
22 right-of-way and materials acquisition.

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

25 (1) ninety percent of the amount shall be paid

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1 to the treasurers of municipalities and H class counties in the
2 proportion that the taxable motor fuel sales in each of the
3 municipalities and H class counties bears to the aggregate
4 taxable motor fuel sales in all of these municipalities and H
5 class counties; and

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

12 C. The distributions made pursuant to this section
13 may be paid into a separate road fund or the general fund of
14 the municipality or county if the municipality has a population
15 less than three thousand or the county has a population less
16 than four thousand.

17 D. Money from the distribution made pursuant to
18 this section shall not be pledged for the payment of bonds or
19 debentures or expended to pay the principal or interest of
20 outstanding bonds or debentures."

21 SECTION 10. A new section of the Tax Administration Act
22 is enacted to read:

23 "[NEW MATERIAL] DISTRIBUTION OF GASOLINE AND SPECIAL FUELS
24 TAXES--STATE ROAD MAINTENANCE FUND.--

25 A. The "state road maintenance fund" is created as
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1 a nonreverting fund in the state treasury. No income earned on
2 the fund shall be transferred to another fund.

3 B. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to the state road maintenance fund in an
5 amount equal to eleven and thirty-seven hundredths percent of
6 the net receipts attributable to the taxes imposed by the
7 Gasoline Tax Act and nine and sixty-two hundredths percent of
8 the taxes imposed by the Special Fuels Supplier Tax Act.

9 C. The department of transportation shall
10 administer the fund, and money in the fund is subject to
11 appropriation by the legislature only to the department of
12 transportation for expenditure for reconstruction, resurfacing
13 or other improvement or maintenance of existing public roads,
14 streets, alleys or bridges, including right-of-way and
15 materials acquisition.

16 D. Money in the fund shall not be pledged for the
17 payment of bonds or debentures or expended to pay the principal
18 or interest of outstanding bonds or debentures.

19 E. Money in the fund shall be disbursed on warrants
20 signed by the secretary of finance and administration pursuant
21 to vouchers signed by the secretary of transportation or the
22 secretary's authorized representative."

23 SECTION 11. Section 7-13-3 NMSA 1978 (being Laws 1971,
24 Chapter 207, Section 3, as amended) is amended to read:

25 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
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1 "GASOLINE TAX".--

2 A. For the privilege of receiving gasoline in this
3 state, there is imposed an excise tax at a rate provided in
4 Subsection B of this section on each gallon of gasoline
5 received in New Mexico.

6 B. The tax imposed by Subsection A of this section
7 shall be:

8 (1) on or before June 30, 2019, seventeen
9 cents (\$.17) per gallon received in New Mexico;

10 (2) between July 1, 2019 and June 30, 2020,
11 twenty-two cents (\$.22) per gallon received in New Mexico;

12 (3) between July 1, 2020 and June 30, 2021,
13 twenty-three cents (\$.23) per gallon received in New Mexico;

14 (4) between July 1, 2021 and June 30, 2022,
15 twenty-four cents (\$.24) per gallon received in New Mexico;

16 (5) between July 1, 2022 and June 30, 2023,
17 twenty-five cents (\$.25) per gallon received in New Mexico;

18 (6) between July 1, 2023 and June 30, 2024,
19 twenty-six cents (\$.26) per gallon received in New Mexico;

20 (7) between July 1, 2024 and June 30, 2025,
21 twenty-seven cents (\$.27) per gallon received in New Mexico;

22 and

23 (8) on and after July 1, 2025, the rate
24 determined pursuant to Subsection C of this section.

25 C. No later than April 30, 2025 and April 30 of

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1 each subsequent year, the department shall calculate the rate
2 of gasoline tax to be imposed as of July 1 of that year. The
3 rate of the gasoline tax per gallon shall be equal to the
4 product, rounded down to the nearest whole cent, of twenty-
5 seven cents (\$.27) multiplied by a fraction with a numerator
6 equal to the chained price index for the previous calendar year
7 and a denominator equal to the chained price index for calendar
8 year 2023; provided that the rate of the tax should not be less
9 than the rate imposed on July 1 of the previous year.

10 ~~[G.]~~ D. The tax imposed by this section may be
11 called the "gasoline tax".

12 E. As used in this section, "chained price index"
13 means the chained price index for nonresidential construction
14 calculated by the United States bureau of economic analysis."

15 SECTION 12. Section 7-16A-3 NMSA 1978 (being Laws 1992,
16 Chapter 51, Section 3, as amended) is amended to read:

17 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
18 SPECIAL FUEL EXCISE TAX.--

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

23 B. The tax imposed by Subsection A of this section
24 shall be:

25 (1) on or before June 30, 2019, twenty-one

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1 cents (\$.21) per gallon of special fuel received or used in New
2 Mexico;

3 (2) between July 1, 2019 and June 30, 2020,
4 twenty-six cents (\$.26) per gallon received or used in New
5 Mexico;

6 (3) between July 1, 2020 and June 30, 2021,
7 twenty-seven cents (\$.27) per gallon received or used in New
8 Mexico;

9 (4) between July 1, 2021 and June 30, 2022,
10 twenty-eight cents (\$.28) per gallon received or used in New
11 Mexico;

12 (5) between July 1, 2022 and June 30, 2023,
13 twenty-nine cents (\$.29) per gallon received or used in New
14 Mexico;

15 (6) between July 1, 2023 and June 30, 2024,
16 thirty cents (\$.30) per gallon received or used in New Mexico;

17 (7) between July 1, 2024 and June 30, 2025,
18 thirty-one cents (\$.31) per gallon received or used in New
19 Mexico; and

20 (8) on and after July 1, 2025, the rate
21 determined pursuant to Subsection C of this section.

22 C. No later than April 30, 2025 and April 30 of
23 each subsequent year, the department shall calculate the rate
24 of special fuel excise tax to be imposed as of July 1 of that
25 year. The rate of the special fuel excise tax per gallon shall

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1 be equal to the product, rounded down to the nearest whole
2 cent, of thirty-one cents (\$.31) multiplied by a fraction with
3 a numerator equal to the chained price index for the previous
4 calendar year and a denominator equal to the chained price
5 index for calendar year 2023; provided that the rate of the tax
6 shall not be less than the rate imposed on July 1 of the
7 previous year.

8 ~~[G.]~~ D. The tax imposed by this section may be
9 called the "special fuel excise tax".

10 E. As used in this section, "chained price index"
11 means the chained price index for nonresidential construction
12 calculated by the United States bureau of economic analysis."

13 SECTION 13. APPLICABILITY.--The distributions pursuant to
14 this act apply to receipts from gasoline and special fuel
15 received on or after July 1, 2019.

16 SECTION 14. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2019.