

1 SENATE BILL 177

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 John Arthur Smith and Roberto "Bobby" J. Gonzales

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10 AN ACT

11 RELATING TO TAXATION; INCREASING THE GASOLINE TAX AND THE
12 SPECIAL FUEL EXCISE TAX; DISTRIBUTING THE REVENUE FROM THE
13 INCREASES TO A NEW STATE ROAD MAINTENANCE FUND AND TO
14 MUNICIPALITIES AND COUNTIES FOR MAINTENANCE AND REPAIR OF
15 EXISTING TRANSPORTATION INFRASTRUCTURE; PROVIDING FOR A PORTION
16 OF THE REVENUE TO ASSIST WITH REMEDIATION OF THE CARLSBAD BRINE
17 WELL; MAKING AN APPROPRIATION.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

22 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

23 A. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 shall be made to the state aviation fund in an amount
25 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 hundredths~~] one hundred sixty-four
7 thousandths percent of gasoline taxes, exclusive of penalties
8 and interest, collected pursuant 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~~] eighty-two thousandths percent of
5 the 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 ~~hundredths~~] six and five hundred thirty-six thousandths percent
13 of the net receipts attributable to the taxes, exclusive of
14 penalties and interest, 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 and Section 9 of this 2018 act;

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 state road
11 maintenance fund pursuant to Section 10 of this 2018 act.

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

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

18 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND
19 CREATED.--

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

22 B. A distribution pursuant to Section 7-1-6.1 NMSA
23 1978 shall be made to the county government road fund in an
24 amount equal to [~~five and seventy-six hundredths~~] three and six
25 hundred twenty-seven thousandths percent of the net receipts

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1 attributable to the gasoline tax."

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

4 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

5 A. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 shall be made to municipalities for the purposes and
7 amounts specified in this section in an aggregate amount equal
8 to [~~five and seventy-six hundredths~~] three and six hundred
9 twenty-seven thousandths percent of the net receipts
10 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 hundredths~~] nine hundred seven thousandths percent
25 of the net receipts 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 SPECIAL FUEL EXCISE TAX TO
4 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
5 Section 7-1-6.1 NMSA 1978 shall be made to the local
6 governments road fund in an amount equal to [~~nine and fifty-~~
7 ~~two~~] seven and sixty-nine hundredths percent of the net
8 receipts attributable to the taxes, exclusive of penalties and
9 interest, from the special fuel excise tax imposed by the
10 Special Fuels Supplier Tax Act."

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

13 "[NEW MATERIAL] ADDITIONAL DISTRIBUTION OF THE GASOLINE
14 TAX TO MUNICIPALITIES AND COUNTIES.--

15 A. A distribution pursuant to Section 7-1-6.1 NMSA
16 1978 shall be made in an amount equal to seventeen and fifty-
17 nine hundredths percent of the net receipts attributable to the
18 gasoline tax. Except as provided in Subsection C of this
19 section, this distribution shall be paid into a maintenance and
20 repair road fund in the municipal treasury or county road fund
21 for expenditure only for reconstruction, resurfacing or other
22 improvement or maintenance of existing public roads, streets,
23 alleys or bridges, including right-of-way and materials
24 acquisition.

25 B. The amount determined in Subsection A of this

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1 section shall be distributed as follows:

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

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

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

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

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

25 "[NEW MATERIAL] DISTRIBUTION OF THE GASOLINE TAX AND THE

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1 SPECIAL FUEL EXCISE TAX--STATE ROAD MAINTENANCE FUND.--

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

5 B. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 shall be made to the state road maintenance fund in an
7 amount equal to seventeen and fifty-nine hundredths percent of
8 the net receipts attributable to the gasoline tax and nineteen
9 and twenty-three hundredths percent of the net receipts
10 attributable to the special fuel excise tax.

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

19 D. Money in the fund is appropriated to the
20 department of transportation as follows to assist with the
21 remediation of the Carlsbad brine well described in Paragraph
22 (1) of Subsection B of Section 75-11-1 NMSA 1978:

23 (1) in fiscal year 2019, three million dollars
24 (\$3,000,000); and

25 (2) in each of fiscal years 2020 and 2021,

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1 five million dollars (\$5,000,000).

2 E. Money in the fund shall not be pledged for the
3 payment of bonds or debentures or expended to pay the principal
4 or interest of outstanding bonds or debentures.

5 F. Money in the fund shall be disbursed on warrants
6 signed by the secretary of finance and administration pursuant
7 to vouchers signed by the secretary of transportation or the
8 secretary's authorized representative."

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

11 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
12 "GASOLINE TAX".--

13 A. For the privilege of receiving gasoline in this
14 state, there is imposed an excise tax at a rate provided in
15 Subsection B of this section on each gallon of gasoline
16 received in New Mexico.

17 B. The tax imposed by Subsection A of this section
18 shall be [~~seventeen cents (\$.17)~~] twenty-seven cents (\$.27) per
19 gallon received in New Mexico.

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

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

24 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
25 SPECIAL FUEL EXCISE TAX.--

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

B. The tax imposed by Subsection A of this section shall be [~~twenty-one cents (\$.21)~~] twenty-six cents (\$.26) per gallon of special fuel received or used in New Mexico.

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

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2019.