

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 177

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

AN ACT

RELATING TO TAXATION; INCREASING THE GASOLINE TAX AND THE
SPECIAL FUEL EXCISE TAX; DISTRIBUTING THE REVENUE FROM THE
INCREASES TO THE STATE ROAD FUND; PROVIDING A CONTINGENT
EFFECTIVE DATE; MAKING AN APPROPRIATION.

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) 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 four and seventy-nine hundredths percent of the
taxable gross receipts attributable to the sale of fuel
specially prepared and sold for use in turboprop or jet-type
engines as determined by the department.

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1 B. 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 [~~twenty-six hundredths~~] two hundred one thousandths
4 percent of gasoline taxes, exclusive of penalties and interest,
5 collected pursuant to the Gasoline Tax Act.

6 C. From July 1, 2013 through June 30, 2021, a
7 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
8 made to the state aviation fund in an amount equal to forty-six
9 thousandths percent of the net receipts attributable to the
10 gross receipts tax distributable to the general fund.

11 D. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made to the state aviation fund from the net
13 receipts attributable to the gross receipts tax distributable
14 to the general fund in an amount equal to

15 [~~(1) eighty thousand dollars (\$80,000) monthly~~
16 ~~from July 1, 2007 through June 30, 2008;~~

17 ~~(2) one hundred sixty-seven thousand dollars~~
18 ~~(\$167,000) monthly from July 1, 2008 through June 30, 2009; and~~

19 ~~(3)] two hundred fifty thousand dollars~~
20 ~~(\$250,000) [monthly after July 1, 2009]."~~

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
25 made to the motorboat fuel tax fund in an amount equal to

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1 [~~thirteen-hundredths of one~~] one-tenth percent of the net
 2 receipts attributable to the gasoline tax."

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

5 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
 6 MUNICIPALITIES AND COUNTIES.--

7 A. A distribution pursuant to Section 7-1-6.1 NMSA
 8 1978 shall be made in an amount equal to [~~ten and thirty-eight~~
 9 ~~hundredths~~] eight and twenty-one thousandths percent of the net
 10 receipts attributable to the taxes, exclusive of penalties and
 11 interest, imposed by the Gasoline Tax Act.

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

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

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

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1 C. Except as provided in Subsection D of this
2 section, this distribution shall be paid into a separate road
3 fund in the municipal treasury or county road fund for
4 expenditure only for construction, reconstruction, resurfacing
5 or other improvement or maintenance of public roads, streets,
6 alleys or bridges, including right-of-way and materials
7 acquisition. Money distributed pursuant to this section may be
8 used by a municipality or county to provide matching funds for
9 projects subject to cooperative agreements entered into with
10 the department of transportation pursuant to Section 67-3-28
11 NMSA 1978. Any municipality or H class county that has created
12 or that creates a "street improvement fund" to which gasoline
13 tax revenues or distributions are irrevocably pledged under
14 Sections 3-34-1 through 3-34-4 NMSA 1978 or that has pledged
15 all or a portion of gasoline tax revenues or distributions to
16 the payment of bonds shall receive its proportion of the
17 distribution of revenues under this section impressed with and
18 subject to these pledges.

19 D. This distribution may be paid into a separate
20 road fund or the general fund of the municipality or county if
21 the municipality has a population less than three thousand or
22 the county has a population less than four thousand."

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

25 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND

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1 CREATED.--

2 A. There is created in the state treasury the
3 "county government road fund".

4 B. A distribution pursuant to Section 7-1-6.1 NMSA
5 1978 shall be made to the county government road fund in an
6 amount equal to [~~five and seventy-six hundredths~~] four and four
7 hundred fifty-one thousandths percent of the net receipts
8 attributable to the gasoline tax."

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

11 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

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

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

20 (1) reconstructing, resurfacing, maintaining,
21 repairing or otherwise improving existing alleys, streets,
22 roads or bridges, or any combination of the foregoing; or
23 laying off, opening, constructing or otherwise acquiring new
24 alleys, streets, roads or bridges, or any combination of the
25 foregoing; provided that any of the foregoing improvements may

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1 include ~~[but are not limited to]~~ the acquisition of rights of
2 way;

3 (2) to provide matching funds for projects
4 subject to cooperative agreements with the ~~[state highway and]~~
5 department of transportation ~~[department]~~ pursuant to Section
6 67-3-28 NMSA 1978; and

7 (3) for expenses of purchasing, maintaining
8 and operating transit operations and facilities, for the
9 operation of a transit authority established by the Municipal
10 Transit Law and for the operation of a vehicle emission
11 inspection program. A municipality may engage in the business
12 of the transportation of passengers and property within the
13 political subdivision by whatever means the municipality may
14 decide and may acquire cars, trucks, motor buses and other
15 equipment necessary for operating the business. A municipality
16 may acquire land, erect buildings and equip the buildings with
17 all the necessary machinery and facilities for the operation,
18 maintenance, modification, repair and storage of the cars,
19 trucks, motor buses and other equipment needed. A municipality
20 may do all things necessary for the acquisition and the conduct
21 of the business of public transportation.

22 C. For the purposes of this section:

23 (1) "computed distribution amount" means the
24 distribution amount calculated for a municipality for a month
25 pursuant to Paragraph (2) of Subsection D of this section prior

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1 to any adjustments to the amount due to the provisions of
2 Subsections E and F of this section;

3 (2) "floor amount" means four hundred
4 seventeen dollars (\$417);

5 (3) "floor municipality" means a municipality
6 whose computed distribution amount is less than the floor
7 amount; and

8 (4) "full distribution municipality" means a
9 municipality whose population at the last federal decennial
10 census was at least two hundred thousand.

11 D. Subject to the provisions of Subsections E and F
12 of this section, each municipality shall be distributed a
13 portion of the aggregate amount distributable under this
14 section in an amount equal to the greater of:

15 (1) the floor amount; or

16 (2) eighty-five percent of the aggregate
17 amount distributable under this section times a fraction, the
18 numerator of which is the municipality's reported taxable
19 gallons of gasoline for the immediately preceding state fiscal
20 year and the denominator of which is the reported total taxable
21 gallons for all municipalities for the same period.

22 E. Fifteen percent of the aggregate amount
23 distributable under this section shall be referred to as the
24 "redistribution amount". Beginning in August 1990, and each
25 month thereafter, from the redistribution amount there shall be

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1 taken an amount sufficient to increase the computed
2 distribution amount of every floor municipality to the floor
3 amount. In the event that the redistribution amount is
4 insufficient for this purpose, the computed distribution amount
5 for each floor municipality shall be increased by an amount
6 equal to the redistribution amount times a fraction, the
7 numerator of which is the difference between the floor amount
8 and the municipality's computed distribution amount and the
9 denominator of which is the difference between the product of
10 the floor amount multiplied by the number of floor
11 municipalities and the total of the computed distribution
12 amounts for all floor municipalities.

13 F. If a balance remains after the redistribution
14 amount has been reduced pursuant to Subsection E of this
15 section, there shall be added to the computed distribution
16 amount of each municipality that is neither a full distribution
17 municipality nor a floor municipality an amount that equals the
18 balance of the redistribution amount times a fraction, the
19 numerator of which is the computed distribution amount of the
20 municipality and the denominator of which is the sum of the
21 computed distribution amounts of all municipalities that are
22 neither full distribution municipalities nor floor
23 municipalities."

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

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1 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF
2 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
3 Section 7-1-6.1 NMSA 1978 shall be made to the municipal
4 arterial program of the local governments road fund created in
5 Section 67-3-28.2 NMSA 1978 in an amount equal to [~~one and~~
6 ~~forty-four hundredths~~] one and one hundred thirteen thousandths
7 percent of the net receipts attributable to the gasoline tax."

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

10 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO
11 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
12 Section 7-1-6.1 NMSA 1978 shall be made to the local
13 governments road fund in an amount equal to [~~nine and fifty-~~
14 ~~two~~] seven and sixty-nine hundredths percent of the net
15 receipts attributable to the taxes, exclusive of penalties and
16 interest, from the special fuel excise tax imposed by the
17 Special Fuels Supplier Tax Act."

18 **SECTION 8.** Section 7-13-3 NMSA 1978 (being Laws 1971,
19 Chapter 207, Section 3, as amended) 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.

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

4 C. The tax imposed by this section may be called
5 the "gasoline tax".

6 **SECTION 9.** Section 7-16A-3 NMSA 1978 (being Laws 1992,
7 Chapter 51, Section 3, as amended) is amended to read:

8 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
9 SPECIAL FUEL EXCISE TAX.--

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

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

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

19 **SECTION 10.** CONTINGENT EFFECTIVE DATE.--The effective
20 date of the provisions of this act is the first day of the
21 third month following enactment of a federal transportation
22 funding bill by the United States congress that provides
23 funding for highway infrastructure in the state and that
24 requires the state to provide a fifty percent or greater
25 funding match; provided that such federal transportation

1 funding comes into effect on or before October 1, 2020; and
2 provided further that the secretary of transportation certifies
3 to the taxation and revenue department that such federal
4 transportation funding bill has come into effect pursuant to
5 this section. The taxation and revenue department shall notify
6 the New Mexico compilation commission and the director of the
7 legislative council service within sixty days prior to the
8 effective date of this act as to whether the certification from
9 the secretary of transportation has been received.

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