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HOUSE BILL 710

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

DANIEL P. SILVA

AN ACT

RELATING TO TAXATION; INCREASING THE GASOLINE AND SPECIAL FUEL
TAX RATES; AUTHORIZING THE ISSUANCE OF AN ADDITIONAL AMOUNT OF
STATE HIGHWAY BONDS; 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
attributable to the sale of fuel specially prepared and sold for
use in turboprop or jet-type engines as determined by the

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1 department.

2 B. A distribution pursuant to Section 7-1-6.1 NMSA
3 1978 shall be made to the state aviation fund in an amount equal
4 to [~~twenty-six hundredths~~] two-tenths of one percent of gasoline
5 taxes, exclusive of penalties and interest, collected pursuant
6 to the Gasoline Tax Act."

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

9 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A
10 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made
11 to the motorboat fuel tax fund in an amount equal to [~~thirteen~~
12 ~~hundredths~~] one-tenth of one percent of the net receipts
13 attributable to the gasoline tax."

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~~] eight and two-tenths percent of the net receipts
21 attributable to the taxes, exclusive of penalties and interest,
22 imposed by the Gasoline Tax Act.

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 the
10 aggregate taxable motor fuel sales outside of incorporated
11 municipalities in all of the counties.

12 C. This distribution shall be paid into the
13 municipal treasury or county general fund for general purposes
14 or for any special purposes designated by the governing body of
15 the municipality or county. Any municipality or H class county
16 that has created or that creates a "street improvement fund" to
17 which gasoline tax revenues or distributions are irrevocably
18 pledged under Sections 3-34-1 through 3-34-4 NMSA 1978 or that
19 has pledged all or a portion of gasoline tax revenues or
20 distributions to the payment of bonds shall receive its
21 proportion of the distribution of revenues under this section
22 impressed with and subject to these pledges."

23 Section 4. Section 7-1-6.10 NMSA 1978 (being Laws 1983,
24 Chapter 211, Section 15, as amended by Laws 1995, Chapter 6,
25 Section 4 and also by Laws 1995, Chapter 16, Section 11) is

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1 amended to read:

2 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND. --

3 A. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to the state road fund in an amount equal to
5 the net receipts attributable to the taxes, surcharges,
6 penalties and interest imposed pursuant to the Gasoline Tax Act
7 and to the taxes, surtaxes, fees, penalties and interest imposed
8 pursuant to the Special Fuels Tax Act, the Special Fuels
9 Supplier Tax Act and the Alternative Fuel Tax Act less:

10 (1) the amount distributed to the state
11 aviation fund pursuant to Subsection [C] B of Section 7-1-6.7
12 NMSA 1978;

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

15 (3) the amount distributed to municipalities
16 and counties pursuant to Subsection A of Section 7-1-6.9 NMSA
17 1978;

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

20 (5) the amount distributed to the [~~corrective~~
21 ~~action~~] local governments road fund pursuant to Section
22 [~~7-1-6.25~~] 7-1-6.39 NMSA 1978;

23 (6) the amount distributed to the
24 municipalities pursuant to Section 7-1-6.27 NMSA 1978; and

25 (7) the amount distributed to the municipal

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1 arterial program ~~[and]~~ of the local governments road fund
2 pursuant to Section 7-1-6.28 NMSA 1978 ~~[and]~~
3 ~~(8) the amount distributed to the general fund~~
4 ~~pursuant to Section 7-1-6.37 NMSA 1978].~~

5 B. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 shall be made to the state road fund in an amount equal to
7 the net receipts attributable to the taxes, fees, interest and
8 penalties from the Weight Distance Tax Act. "

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

11 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND
12 CREATED. --

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

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

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

22 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS. --

23 A. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 shall be made to municipalities for the purposes and
25 amounts specified in this section in an aggregate amount equal

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1 to [~~five and seventy-six hundredths~~] four and forty-five
2 hundredths percent of the net receipts attributable to the
3 gasoline tax.

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

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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

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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

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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 7. 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~~] one and eleven hundredths percent of the net
13 receipts attributable to the gasoline tax. "

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

16 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
17 "GASOLINE TAX".--

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

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

25 C. The tax imposed by this section may be called the

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1 "gasoline tax". "

2 Section 9. That version of Section 7-13-3 NMSA 1978 (being
3 Laws 1995, Chapter 6, Section 11) is amended to read:

4 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
5 "GASOLINE TAX". --

6 A. For the privilege of receiving gasoline in this
7 state, there is imposed an excise tax at a rate provided in
8 Subsection B of this section on each gallon of gasoline
9 received in New Mexico.

10 B. The tax imposed by Subsection A of this section
11 shall be [~~sixteen cents (\$.16)~~] twenty-one cents (\$.21) per
12 gallon received in New Mexico.

13 C. The tax imposed by this section may be called the
14 "gasoline tax". "

15 Section 10. 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 [~~eighteen cents (\$.18)~~] twenty-one cents (\$.21) per
25 gallon of special fuel received or used in New Mexico.

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

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

5 "67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--LIMITS--
6 APPROVAL--COUPONS.--

7 A. In order to provide funds to finance state
8 highway projects, including state highway projects that are
9 required for the waste isolation pilot project and are eligible
10 for federal reimbursement as authorized by federal legislation,
11 the state highway commission is authorized to issue bonds from
12 time to time, payable from the proceeds of the collection of
13 gasoline excise taxes and motor vehicle registration fees that
14 are required by law to be paid into the state road fund and not
15 otherwise pledged solely to the payment of outstanding bonds and
16 debentures.

17 B. The total aggregate outstanding principal amount
18 of bonds issued from time to time pursuant to this section,
19 secured by or payable from the gasoline excise taxes and motor
20 vehicle registration fees, shall not, without additional
21 authorization of the state legislature, exceed [~~one hundred~~
22 ~~fifty million dollars (\$150,000,000)] seven hundred fifty
23 million dollars (\$750,000,000) at any given time, subject to the
24 following provisions:~~

25 (1) the total aggregate outstanding principal

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

5 (2) the total aggregate outstanding principal
6 amount of bonds issued for state highway projects other than
7 state highway projects that are required for the waste isolation
8 pilot project and are eligible for federal reimbursement as
9 authorized by federal legislation shall not exceed [fifty
10 ~~million dollars (\$50,000,000)] six hundred fifty million dollars
11 (\$650,000,000).~~

12 C. The state highway commission may issue bonds to
13 refund other bonds issued pursuant to this section by exchange
14 or current or advance refunding.

15 D. Each series of bonds shall have a maturity of no
16 more than twenty-five years from the date of issuance. The
17 state highway commission shall determine all other terms,
18 covenants and conditions of the bonds; provided that the bonds
19 shall not be issued pursuant to this section unless the state
20 board of finance approves the issuance of the bonds and the
21 principal amount of and interest rate or maximum net effective
22 interest rate on the bonds.

23 E. The bonds shall be executed with the manual or
24 facsimile signatures of the chairman of the state highway
25 commission, countersigned by the state treasurer and attested to

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1 by the secretary of the state highway commission, with the seal
2 of the state highway commission imprinted or otherwise affixed
3 to the bonds.

4 F. Proceeds of the bonds may be used to pay expenses
5 incurred in the preparation, issuance and sale of the bonds and,
6 together with the earnings on the proceeds of the bonds, may be
7 used to pay rebate, penalty, interest and other obligations
8 relating to the bonds and the proceeds of the bonds under the
9 Internal Revenue Code of 1986, as amended.

10 G. The bonds may be sold at public or private sale.
11 If sold at public sale, a notice of the time and place of sale
12 shall be published in a newspaper of general circulation in the
13 state, and in any other newspaper determined in the resolution
14 authorizing the issuance of the bonds, once each week for two
15 consecutive weeks prior to the date of sale. The bonds may be
16 purchased by the state treasurer or state investment officer.

17 H. This section is full authority for the issuance
18 and sale of the bonds, and the bonds shall not be invalid for
19 any irregularity or defect in the proceedings for their issuance
20 and sale and shall be incontestable in the hands of bona fide
21 purchasers or holders of the bond for value.

22 I. The bonds shall be legal investments for any
23 person or board charged with the investment of public funds and
24 may be accepted as security for any deposit of public money and,
25 with the interest thereon, are exempt from taxation by the state

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and any political subdivision or agency of the state."

Section 12. EFFECTIVE DATE. --

A. The effective date of the provisions of Sections 4, 8 and 10 of this act is July 1, 1996.

B. The effective date of the provisions of Sections 1 through 3 and 5 through 7 of this act is August 1, 1996.