

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 602

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Daniel P. Silva

AN ACT

RELATING TO PUBLIC FINANCE; INCREASING THE GASOLINE TAX BY TWO CENTS (\$.02); CREATING THE SCHOOL BUS ROUTES FUND; AUTHORIZING SCHOOL BUS ROUTES BONDS FOR ACQUIRING RIGHTS OF WAY AND CONSTRUCTING, MAINTAINING, REPAIRING, IMPROVING AND PAVING SCHOOL BUS ROUTES AND PUBLIC SCHOOL PARKING LOTS, PAYABLE FROM TAXES AND FEES REQUIRED TO BE PAID INTO THE SCHOOL BUS ROUTES FUND; MAKING AN APPROPRIATION.

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

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

"[NEW MATERIAL] DISTRIBUTION--SCHOOL BUS ROUTES FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the school bus routes fund in an amount equal to ten and fifty-three hundredths percent of the net receipts

.160267.2

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 attributable to the gasoline tax."

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

4 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

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

11 B. A distribution pursuant to Section 7-1-6.1 NMSA  
12 1978 shall be made to the state aviation fund in an amount  
13 equal to [~~twenty-six~~] twenty-three hundredths percent of  
14 gasoline taxes, exclusive of penalties and interest, collected  
15 pursuant to the Gasoline Tax Act.

16 C. From July 1, 2002 through June 30, 2007, a  
17 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
18 made to the state aviation fund in an amount equal to forty-six  
19 thousandths percent of the net receipts attributable to the  
20 gross receipts tax distributable to the general fund."

21 Section 3. 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

.160267.2

underscored material = new  
[bracketed material] = delete

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

3             Section 4. 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     nine and twenty-nine hundredths percent of the net receipts  
10    attributable to the taxes, exclusive of penalties and interest,  
11    imposed by the Gasoline Tax Act.

12            B. ~~[Except as provided in Subsection D of this~~  
13    ~~section]~~ The amount determined in Subsection A of this section  
14    shall be distributed as follows:

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

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

.160267.2

underscored material = new  
[bracketed material] = delete

1 municipalities in all of the counties.

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

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

25 Section 5. Section 7-1-6.10 NMSA 1978 (being Laws 1983,  
.160267.2

underscored material = new  
[bracketed material] = delete

1 Chapter 211, Section 15, as amended) is 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  
8 imposed pursuant to the Special Fuels Supplier Tax Act and the  
9 Alternative Fuel Tax Act less:

10 (1) the amount distributed to the state  
11 aviation fund pursuant to Subsection B of Section 7-1-6.7 NMSA  
12 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 local  
21 governments road fund pursuant to Section 7-1-6.39 NMSA 1978;

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

24 (7) the amount distributed to the municipal  
25 arterial program of the local governments road fund pursuant to

.160267.2

underscored material = new  
[bracketed material] = delete

1 Section 7-1-6.28 NMSA 1978;

2 (8) the amount distributed to a qualified  
3 tribe pursuant to a gasoline tax sharing agreement entered into  
4 between the secretary of transportation and the qualified tribe  
5 pursuant to the provisions of Section 67-3-8.1 NMSA 1978; ~~and~~

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

8 (10) the amount distributed to the school bus  
9 routes fund pursuant to Section 1 of this 2006 act.

10 B. A distribution pursuant to Section 7-1-6.1 NMSA  
11 1978 shall be made to the state road fund in an amount equal to  
12 the net receipts attributable to the taxes, interest and  
13 penalties from the Weight Distance Tax Act."

14 Section 6. Section 7-1-6.19 NMSA 1978 (being Laws 1991,  
15 Chapter 9, Section 15, as amended) is amended to read:

16 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND  
17 CREATED.--

18 A. There is created in the state treasury the  
19 "county government road fund".

20 B. A distribution pursuant to Section 7-1-6.1 NMSA  
21 1978 shall be made to the county government road fund in an  
22 amount equal to five and ~~[seventy-six]~~ fifteen hundredths  
23 percent of the net receipts attributable to the gasoline tax."

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

.160267.2

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

2 A. A distribution pursuant to Section 7-1-6.1 NMSA  
3 1978 shall be made to municipalities for the purposes and  
4 amounts specified in this section in an aggregate amount equal  
5 to five and [~~seventy-six~~] fifteen hundredths percent of the net  
6 receipts attributable to the 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 ~~transportation~~] department of transportation pursuant to  
20 Section 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

.160267.2

underscored material = new  
[bracketed material] = delete

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

.160267.2



underscored material = new  
[bracketed material] = delete

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~~] multiplied by a  
7 fraction, the numerator of which is the municipality's reported  
8 taxable gallons of gasoline for the immediately preceding state  
9 fiscal year and the denominator of which is the reported total  
10 taxable 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~~] multiplied by a  
21 fraction, the numerator of which is the difference between the  
22 floor amount and the municipality's computed distribution  
23 amount and the denominator of which is the difference between  
24 the product of the floor amount multiplied by the number of  
25 floor municipalities and the total of the computed distribution

.160267.2

underscored material = new  
[bracketed material] = delete

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~~] multiplied by a  
8 fraction, the numerator of which is the computed distribution  
9 amount of the municipality and the denominator of which is the  
10 sum of the computed distribution amounts of all municipalities  
11 that are neither full distribution municipalities nor floor  
12 municipalities."

13 Section 8. 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~~] twenty-nine hundredths percent of the net receipts  
21 attributable to the gasoline tax."

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

24 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
25 "GASOLINE TAX".--

.160267.2

underscored material = new  
[bracketed material] = delete

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

5           B. The tax imposed by Subsection A of this section  
6 shall be [~~seventeen cents (\$.17)~~] nineteen cents (\$.19) per  
7 gallon received in New Mexico.

8           C. The tax imposed by this section may be called  
9 the "gasoline tax".

10           Section 10. A new section of Chapter 67, Article 3 NMSA  
11 1978 is enacted to read:

12           "[NEW MATERIAL] SCHOOL BUS ROUTES FUND CREATED--  
13 PURPOSES.--

14           A. The "school bus routes fund" is created in the  
15 state treasury and shall be administered by the department.  
16 The fund shall consist of money from various fees and taxes  
17 distributed to the fund. Earnings on investment of the fund  
18 shall be credited to the fund. Balances in the fund at the end  
19 of any fiscal year shall not revert and shall remain in the  
20 fund for the purposes authorized in this section.

21           B. The taxes and fees required by law to be  
22 distributed to the school bus routes fund may be used solely to  
23 pledge for the payment of school bus routes bonds issued  
24 pursuant to Section 11 of this 2006 act. The proceeds of  
25 school bus routes bonds shall only be used for the acquisition

.160267.2

underscoring material = new  
[bracketed material] = delete

1 of rights of way for, the design, construction, maintenance and  
2 repair of and improvements to school bus routes and public  
3 school parking lots pursuant to the policy and procedure  
4 established by the department for funding school bus routes  
5 pursuant to Paragraph (3) of Subsection C of Section 67-3-28.2  
6 NMSA 1978 and are appropriated to the department for  
7 expenditure for those purposes."

8 Section 11. [NEW MATERIAL] SCHOOL BUS ROUTES BONDS--  
9 ISSUANCE--PROCEDURES.--

10 A. In order to provide funds to finance school bus  
11 routes and public school parking lot projects conducted  
12 pursuant to the department's policy and procedures for funding  
13 school bus routes established pursuant to Paragraph (3) of  
14 Subsection C of Section 67-3-28.2 NMSA 1978, the New Mexico  
15 finance authority, when directed by the state transportation  
16 commission, is authorized, subject to the limitations of this  
17 section, to issue bonds from time to time, payable from  
18 proceeds from the collection of taxes and fees that are  
19 required to be paid into the school bus routes fund and not  
20 otherwise pledged exclusively to the payment of outstanding  
21 bonds.

22 B. The total aggregate outstanding principal amount  
23 of bonds issued from time to time pursuant to this section,  
24 secured by or payable from the proceeds from the collection of  
25 taxes and fees required by law to be paid into the school bus

.160267.2

underscoring material = new  
[bracketed material] = delete

1 routes fund, shall not, without additional authorization of the  
2 legislature, exceed two hundred million dollars (\$200,000,000).

3 C. Each series of bonds shall have a maturity of no  
4 more than fifteen years from the date of issuance. In  
5 consultation with the state transportation commission, the New  
6 Mexico finance authority shall determine all other terms,  
7 covenants and conditions of the bonds; provided that the  
8 project design life of a project meets or exceeds the life of  
9 the bond issued for that project, and each series of bonds  
10 shall be sold, executed and delivered in accordance with the  
11 provisions of the New Mexico Finance Authority Act. The New  
12 Mexico finance authority may enter into interest rate exchange  
13 agreements, interest rate swap contracts, insurance agreements,  
14 remarketing agreements and any other agreements deemed  
15 necessary in connection with the issuance of the bonds.

16 D. The New Mexico finance authority, when directed  
17 by the state transportation commission, may issue bonds to  
18 refund other bonds issued by or at the direction of the state  
19 transportation commission pursuant to this section by exchange  
20 or current or advance refunding.

21 E. Proceeds of the bonds and amounts on deposit in  
22 the school bus routes fund may be used to pay expenses incurred  
23 in the preparation, administration, issuance and sale of the  
24 bonds and, together with the earnings on the proceeds of the  
25 bonds, may be used to pay rebate, penalty, interest and other

.160267.2

underscoring material = new  
[bracketed material] = delete

1 obligations relating to the bonds and the proceeds of the bonds  
2 under the federal Internal Revenue Code of 1986, as amended.

3 F. This section is full authority for the issuance  
4 and sale of the bonds, and the bonds shall not be invalid for  
5 any irregularity or defect in the proceedings for their  
6 issuance and sale and shall be incontestable in the hands of  
7 bona fide purchasers or holders of the bond for value.

8 G. The bonds shall be legal investments for a  
9 person or board charged with the investment of public funds and  
10 may be accepted as security for a deposit of public money and,  
11 with the interest thereon, are exempt from taxation by the  
12 state and a political subdivision or agency of the state.

13 H. Any law authorizing the imposition or  
14 distribution of taxes or fees paid into the school bus routes  
15 fund or that affects those taxes and fees shall not be amended  
16 or repealed or otherwise directly or indirectly modified so as  
17 to impair outstanding bonds secured by a pledge of revenues  
18 from those taxes and fees paid into the school bus routes fund,  
19 unless the bonds have been discharged in full or provisions  
20 have been made for a full discharge. In addition, while any  
21 bonds issued by the New Mexico finance authority pursuant to  
22 the provisions of this section remain outstanding, the powers  
23 or duties of the state transportation commission or the  
24 authority shall not be diminished or impaired in any manner  
25 that will affect adversely the interests and rights of the

.160267.2

underscoring material = new  
[bracketed material] = delete

1 holder of such bonds.

2 I. Bonds issued pursuant to this section shall be  
3 paid solely from taxes and fees deposited into the school bus  
4 routes fund and shall not constitute a general obligation of  
5 the state.

6 Section 12. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2006.

8 - 15 -

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25