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HOUSE BILL 15

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2008**

INTRODUCED BY

Don Tripp

AN ACT

RELATING TO TAXATION; TEMPORARILY SUSPENDING THE GASOLINE TAX AND THE SPECIAL FUEL EXCISE TAX FOR ONE YEAR; CREATING THE GASOLINE TAX REPLACEMENT FUND AND THE SPECIAL FUEL TAX REPLACEMENT FUND; MAKING DISTRIBUTIONS TO REPLACE GASOLINE TAX AND SPECIAL FUEL EXCISE TAX REVENUE DISTRIBUTIONS; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. TEMPORARY PROVISION.--Effective from October 1, 2008 to September 30, 2009, gasoline received in this state pursuant to the provisions of the Gasoline Tax Act shall be exempt from the gasoline tax imposed pursuant to Section 7-13-3 NMSA 1978, and receipts from the sale or use of such gasoline shall be exempt from taxation pursuant to the Gross Receipts and Compensating Tax Act.

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1           Section 2. TEMPORARY PROVISION.--Effective from October  
2 1, 2008 to September 30, 2009, special fuel received or used in  
3 this state pursuant to the Special Fuels Supplier Tax Act shall  
4 be exempt from the special fuel excise tax imposed pursuant to  
5 Section 7-16A-3 NMSA 1978, and receipts from the sale or use of  
6 such special fuel shall be exempt from taxation pursuant to the  
7 Gross Receipts and Compensating Tax Act.

8           Section 3. TEMPORARY PROVISION--GASOLINE TAX REPLACEMENT  
9 FUND--CREATION--DISTRIBUTIONS FROM FUND.--

10           A. The "gasoline tax replacement fund" is created  
11 in the state treasury and shall be administered by the taxation  
12 and revenue department. The fund shall consist of money  
13 appropriated or transferred to the fund. Money in the fund  
14 shall not be expended for any purpose except as provided in  
15 this section. Balances in the fund at the end of a fiscal year  
16 shall not revert to the general fund.

17           B. Each month for twelve months beginning in  
18 December 2008 and ending in November 2009, distributions shall  
19 be made from the gasoline tax replacement fund in an aggregate  
20 amount equal to one-twelfth of the amount transferred to the  
21 fund pursuant to Subsection A of Section 5 of this 2008 act.  
22 The distributions shall be made in the same manner and to the  
23 same distributees as if the money being distributed were money  
24 in the tax administration suspense fund attributable to  
25 gasoline tax revenue.

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1           C. Distributions from the gasoline tax replacement  
2 fund to the state road fund pursuant to the provisions of this  
3 section are intended to replace gasoline tax revenue  
4 distributions to the state road fund and to avoid any  
5 impairment of outstanding bonds secured by a pledge of revenues  
6 from the gasoline tax.

7           D. Provisions of the Tax Administration Act  
8 respecting revenue attributable to the gasoline tax or  
9 distribution of that revenue are applicable to the money in the  
10 gasoline tax replacement fund.

11           E. After the final distributions from the gasoline  
12 tax replacement fund are made in November 2009, but no later  
13 than November 30, 2009, the fund shall be extinguished and any  
14 unexpended or unencumbered balance remaining shall revert to  
15 the general fund.

16           Section 4. TEMPORARY PROVISION--SPECIAL FUEL TAX  
17 REPLACEMENT FUND--CREATION--DISTRIBUTIONS FROM FUND--  
18 EXTINGUISHED.--

19           A. The "special fuel tax replacement fund" is  
20 created in the state treasury and shall be administered by the  
21 taxation and revenue department. The fund shall consist of  
22 money appropriated or transferred to the fund. Money in the  
23 fund shall not be expended for any purpose except as provided  
24 in this section. Balances in the fund at the end of a fiscal  
25 year shall not revert to the general fund.

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1           B. Each month for twelve months beginning in  
2 December 2008 and ending in November 2009, distributions shall  
3 be made from the special fuel tax replacement fund in an  
4 aggregate monthly amount equal to one-twelfth of the amount  
5 transferred to the fund pursuant to Subsection B of Section 5  
6 of this 2008 act. The distributions shall be made in the same  
7 manner and to the same distributees as if the money being  
8 distributed were money in the tax administration suspense fund  
9 attributable to special fuel excise tax revenue.

10           C. Distributions from the special fuel tax  
11 replacement fund to the state road fund pursuant to this  
12 section are intended to replace special fuel excise tax revenue  
13 distributions to the state road fund and to avoid any  
14 impairment of outstanding bonds secured by a pledge of revenues  
15 from the special fuel excise tax.

16           D. Provisions of the Tax Administration Act  
17 respecting revenue attributable to the special fuel excise tax  
18 or distribution of that revenue are applicable to the money in  
19 the special fuel tax replacement fund.

20           E. After the final distributions from the special  
21 fuel tax replacement fund are made in November 2009, but no  
22 later than November 30, 2009, the fund shall be extinguished  
23 and any unexpended or unencumbered balance remaining shall  
24 revert to the general fund.

25           Section 5. TEMPORARY PROVISION--TRANSFER--GASOLINE TAX

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1 REPLACEMENT FUND AND SPECIAL FUEL TAX REPLACEMENT FUND.--

2 A. An amount equal to one hundred one and two  
3 hundred twenty-five thousandths percent of the net amount of  
4 gasoline tax revenue credited to the tax administration  
5 suspense fund for the twelve-month period from July 1, 2007 to  
6 June 30, 2008 is transferred from the general fund to the  
7 gasoline tax replacement fund for expenditure from December 1,  
8 2008 through November 30, 2009 pursuant to the provisions of  
9 Section 3 of this 2008 act. Any unexpended or unencumbered  
10 balance remaining after November 30, 2009 shall revert to the  
11 general fund.

12 B. An amount equal to one hundred one and two  
13 hundred twenty-five thousandths percent of the net amount of  
14 special fuel excise tax revenue credited to the tax  
15 administration suspense fund for the twelve-month period from  
16 July 1, 2007 to June 30, 2008 is transferred from the general  
17 fund to the special fuel tax replacement fund for expenditure  
18 from December 1, 2008 through November 30, 2009 pursuant to the  
19 provisions of Section 4 of this 2008 act. Any unexpended or  
20 unencumbered balance remaining after November 30, 2009 shall  
21 revert to the general fund.

22 Section 6. EMERGENCY.--It is necessary for the public  
23 peace, health and safety that this act take effect immediately.