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SENATE BILL 772

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

INTRODUCED BY

TIMOTHY Z. JENNINGS

AN ACT

RELATING TO TAXATION; INCREASING THE GASOLINE TAX AND STATE GROSS RECEIPTS TAX RATES CONTINGENT UPON CERTIFICATION BY THE GOVERNOR THAT THE TAX INCREASES ARE NECESSARY TO PROVIDE ADDITIONAL REVENUE FOR STATEWIDE ROAD IMPROVEMENTS; AMENDING AND ENACTING 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

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1 attributable to the sale of fuel specially prepared and sold for
2 use in turboprop or jet-type engines as determined by the
3 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 equal
6 to [~~twenty-six hundredths~~] twenty-two hundredths of one percent
7 of gasoline taxes, exclusive of penalties and interest,
8 collected pursuant to the Gasoline Tax Act. "

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

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

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

18 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO MUNICIPALITIES
19 AND COUNTIES.--

20 A. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made in an amount equal to [~~ten and thirty-eight~~
22 ~~hundredths~~] eight and eighty-two hundredths percent of the net
23 receipts attributable to the taxes, exclusive of penalties and
24 interest, imposed by the Gasoline Tax Act.

25 B. The amount determined in Subsection A of this

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1 section shall be distributed as follows:

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

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

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

25 Section 4. Section 7-1-6.10 NMSA 1978 (being Laws 1983,

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1 Chapter 211, Section 15, as amended by Laws 1995, Chapter 6,
2 Section 4 and also by Laws 1995, Chapter 16, Section 11) is
3 amended to read:

4 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND. --

5 A. 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, surcharges,
8 penalties and interest imposed pursuant to the Gasoline Tax Act
9 and to the taxes, surtaxes, fees, penalties and interest imposed
10 pursuant to the Special Fuels Tax Act, the Special Fuels
11 Supplier Tax Act and the Alternative Fuel Tax Act less:

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

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

17 (3) the amount distributed to municipalities
18 and counties pursuant to Subsection A of Section 7-1-6.9 NMSA
19 1978;

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

22 (5) the amount distributed to the [corrective
23 action] local governments road fund pursuant to Section
24 [~~7-1-6.25~~] 7-1-6.39 NMSA 1978;

25 (6) the amount distributed to the

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1 municipalities pursuant to Section 7-1-6.27 NMSA 1978; and

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

5 ~~(8) the amount distributed to the general fund~~
6 ~~pursuant to Section 7-1-6.37 NMSA 1978].~~

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

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

13 "7-1-6.19. DISTRIBUTION-- COUNTY GOVERNMENT ROAD FUND
14 CREATED. --

15 A. There is created in the state treasury the
16 "county government road fund".

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

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

24 "7-1-6.27. DISTRIBUTION-- MUNICIPAL ROADS. --

25 A. A distribution pursuant to Section 7-1-6.1 NMSA

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1 1978 shall be made to municipalities for the purposes and
2 amounts specified in this section in an aggregate amount equal
3 to [~~five and seventy six hundredths~~] four and nine-tenths
4 percent of the net receipts attributable to the gasoline tax.

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

7 (1) reconstructing, resurfacing, maintaining,
8 repairing or otherwise improving existing alleys, streets, roads
9 or bridges, or any combination of the foregoing; or laying off,
10 opening, constructing or otherwise acquiring new alleys,
11 streets, roads or bridges, or any combination of the foregoing;
12 provided that any of the foregoing improvements may include, but
13 are not limited to, the acquisition of rights of way; and

14 (2) for expenses of purchasing, maintaining and
15 operating transit operations and facilities, for the operation
16 of a transit authority established by the municipal transit law
17 and for the operation of a vehicle emission inspection program.
18 A municipality may engage in the business of the transportation
19 of passengers and property within the political subdivision by
20 whatever means the municipality may decide and may acquire cars,
21 trucks, motor buses and other equipment necessary for operating
22 the business. A municipality may acquire land, erect buildings
23 and equip the buildings with all the necessary machinery and
24 facilities for the operation, maintenance, modification, repair
25 and storage of the cars, trucks, motor buses and other equipment

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1 needed. A municipality may do all things necessary for the
2 acquisition and the conduct of the business of public
3 transportation.

4 C. For the purposes of this section:

5 (1) "computed distribution amount" means the
6 distribution amount calculated for a municipality for a month
7 pursuant to Paragraph (2) of Subsection D of this section prior
8 to any adjustments to the amount due to the provisions of
9 Subsections E and F of this section;

10 (2) "floor amount" means four hundred seventeen
11 dollars (\$417);

12 (3) "floor municipality" means a municipality
13 whose computed distribution amount is less than the floor
14 amount; and

15 (4) "full distribution municipality" means a
16 municipality whose population at the last federal decennial
17 census was at least two hundred thousand.

18 D. Subject to the provisions of Subsections E and F
19 of this section, each municipality shall be distributed a
20 portion of the aggregate amount distributable under this section
21 in an amount equal to the greater of:

22 (1) the floor amount; or

23 (2) eighty-five percent of the aggregate amount
24 distributable under this section times a fraction, the numerator
25 of which is the municipality's reported taxable gallons of

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1 gasoline for the immediately preceding state fiscal year and the
2 denominator of which is the reported total taxable gallons for
3 all municipalities for the same period.

4 E. Fifteen percent of the aggregate amount
5 distributable under this section shall be referred to as the
6 "redistribution amount". Beginning in August 1990, and each
7 month thereafter, from the redistribution amount there shall be
8 taken an amount sufficient to increase the computed distribution
9 amount of every floor municipality to the floor amount. In the
10 event that the redistribution amount is insufficient for this
11 purpose, the computed distribution amount for each floor
12 municipality shall be increased by an amount equal to the
13 redistribution amount times a fraction, the numerator of which
14 is the difference between the floor amount and the
15 municipality's computed distribution amount and the denominator
16 of which is the difference between the product of the floor
17 amount multiplied by the number of floor municipalities and the
18 total of the computed distribution amounts for all floor
19 municipalities.

20 F. If a balance remains after the redistribution
21 amount has been reduced pursuant to Subsection E of this
22 section, there shall be added to the computed distribution
23 amount of each municipality that is neither a full distribution
24 municipality nor a floor municipality an amount that equals the
25 balance of the redistribution amount times a fraction, the

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1 numerator of which is the computed distribution amount of the
2 municipality and the denominator of which is the sum of the
3 computed distribution amounts of all municipalities that are
4 neither full distribution municipalities nor floor
5 municipalities. "

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

8 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF
9 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to Section
10 7-1-6.1 NMSA 1978 shall be made to the municipal arterial
11 program of the local governments road fund created in Section
12 67-3-28.2 NMSA 1978 in an amount equal to [~~one and forty-four~~
13 ~~hundredths~~] one and twenty-two hundredths percent of the net
14 receipts attributable to the gasoline tax. "

15 Section 8. A new section of the Tax Administration Act,
16 Section 7-1-6.40 NMSA 1978, is enacted to read:

17 "7-1-6.40. [NEW MATERIAL] DISTRIBUTION--STATE GROSS
18 RECEIPTS TAX--STATE ROAD FUND.--A distribution pursuant to
19 Section 7-1-6.1 NMSA 1978 shall be made to the state road fund
20 in an amount equal to four and seventy-six hundredths percent of
21 the net receipts attributable to the gross receipts tax. "

22 Section 9. Section 7-9-4 NMSA 1978 (being Laws 1966,
23 Chapter 47, Section 4, as amended) is amended to read:

24 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS "GROSS
25 RECEIPTS TAX".--

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1 A. For the privilege of engaging in business, an
2 excise tax equal to five and one-fourth percent of gross
3 receipts is imposed on any person engaging in business in New
4 Mexico.

5 B. The tax imposed by this section shall be referred
6 to as the "gross receipts tax".

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

9 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
10 "GASOLINE TAX".--

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

15 B. The tax imposed by Subsection A of this section
16 shall be [~~seventeen cents (\$.17)~~] twenty cents (\$.20) per gallon
17 received in New Mexico.

18 C. The tax imposed by this section may be called the
19 "gasoline tax".

20 Section 11. Section 67-3-65.1 NMSA 1978 (being Laws 1983,
21 Chapter 211, Section 40) is amended to read:

22 "67-3-65.1. STATE ROAD FUND DISTRIBUTION--REQUIREMENTS.--

23 A. The amounts distributed to the state road fund
24 pursuant to Section 7-1-6.10 NMSA 1978 shall be used for
25 maintenance, construction and improvement of the public highways

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1 and to meet federal allotments under the federal-aid road laws,
2 but sufficient money from the state road fund shall be set aside
3 each year by the state treasurer to pay the principal and
4 interest coupons of highway debentures issued to anticipate the
5 collection of this revenue as the principal and interest coupons
6 mature.

7 B. Revenues from the increase in the gasoline tax
8 and the gross receipts tax increase imposed pursuant to
9 certification by the governor and distributed to the state road
10 fund shall be used for road improvements statewide, with
11 priority given to four-lane highways and improvements to state
12 road 44 and United States highways 54, 70 and 285. "

13 Section 12. EFFECTIVE DATE--CONTINGENCY.--The provisions
14 of this act shall become effective only upon certification by
15 the governor that gross receipts tax and gasoline tax rate
16 increases are needed to raise additional revenues for statewide
17 road improvements that are necessary for purposes of safety,
18 commerce and economic development. If the governor does not
19 certify the need for the tax increases by June 30, 1998, the
20 provisions of this act shall not take effect. If the governor
21 certifies the need for the tax increases on or before June 30,
22 1998, the provisions of this act shall take effect as follows:

23 A. the effective date of the provisions of Sections
24 9 through 11 of this act is the July 1 or January 1, whichever
25 date occurs first, after the expiration of at least three months

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1 from the date the governor issues his certification pursuant to
2 this section; and

3 B. the effective date of the provisions of Sections
4 1 through 8 of this act is the August 1 or February 1
5 immediately following the effective date of Sections 9 through
6 11 of this act.

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5 JANUARY 31, 1996
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7 Mr. Presi dent:
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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred
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11 SENATE BILL 772
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13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the WAYS AND
15 MEANS COMMI TTEE.
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17 Respectfully submi tted,
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23 SENATOR MANNY M. ARAGON, Chai rman
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Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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