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HOUSE BILL 341

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Lorenzo A. Larranaga

AN ACT

**RELATING TO THE DISTRIBUTION OF GASOLINE TAX REVENUES;
INTERCEPTING CERTAIN DISTRIBUTIONS TO CERTAIN MUNICIPALITIES
THAT HAVE VIOLATED AN AGREEMENT WITH THE STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT.**

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

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

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

**A. A distribution pursuant to Section 7-1-6.1 NMSA
1978 shall be made in an amount equal to ten and thirty-eight
hundredths percent of the net receipts attributable to the
taxes, exclusive of penalties and interest, imposed by the
Gasoline Tax Act.**

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1 B. Except as provided in Subsection D of this
2 section, the amount determined in Subsection A of this section
3 shall be distributed as follows:

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

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

16 C. [~~This~~] The distribution pursuant to Subsection
17 B of this section shall be paid into a separate road fund in
18 the municipal treasury or county road fund for expenditure
19 only for construction, reconstruction, resurfacing or other
20 improvement or maintenance of public roads, streets, alleys or
21 bridges, including right-of-way and materials acquisition.
22 Money distributed pursuant to this section may be used by a
23 municipality or county to provide matching funds for projects
24 subject to cooperative agreements entered into with the state
25 highway and transportation department pursuant to Section

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1 67-3-28 NMSA 1978. Any municipality or H class county that
2 has created or that creates a "street improvement fund" to
3 which gasoline tax revenues or distributions are irrevocably
4 pledged under Sections 3-34-1 through 3-34-4 NMSA 1978 or that
5 has pledged all or a portion of gasoline tax revenues or
6 distributions to the payment of bonds shall receive its
7 proportion of the distribution of revenues under this section
8 impressed with and subject to these pledges.

9 D. For a municipality with a population, as shown
10 by the 1990 federal decennial census, of greater than six
11 thousand five hundred and located in a class B county with a
12 population, as shown by the 1990 federal decennial census, of
13 greater than forty-five thousand and less than forty-eight
14 thousand, in lieu of the distribution to that municipality
15 pursuant to Subsection B of this section, an equal amount
16 shall be distributed to the state road fund. A distribution
17 pursuant to this subsection shall be subject to the following
18 provisions:

19 (1) the distribution to the state road fund
20 shall continue until the secretary of highway and
21 transportation certifies to the secretary of taxation and
22 revenue that:

23 (a) the total amount distributed to the
24 state road fund pursuant to this subsection and Subsection G
25 of Section 7-1-6.27 NMSA 1978 has reached two hundred thousand

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1 dollars (\$200,000); or

2 (b) the municipality is in compliance
3 with all agreements between the municipality and the state
4 highway and transportation department;

5 (2) after a certification made pursuant to
6 Paragraph (1) of this subsection, distributions to the
7 municipality shall again be made pursuant to Subsection B of
8 this section; and

9 (3) if, prior to the first distribution made
10 to the state road fund pursuant to this subsection, the
11 municipality has irrevocably pledged gasoline tax revenues or
12 distributions pursuant to Sections 3-34-1 through 3-34-4 NMSA
13 1978 or has pledged all or a portion of gasoline tax revenues
14 to the payment of bonds, the distribution pursuant to this
15 subsection shall be reduced by the amount pledged; provided
16 that no additional debt, secured by gasoline tax revenues or
17 distributions, shall be incurred by the municipality until a
18 certification is made pursuant to Paragraph (1) of this
19 subsection. "

20 Section 2. 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 percent of the net receipts
2 attributable to the gasoline tax.

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

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

13 (2) to provide matching funds for projects
14 subject to cooperative agreements with the state highway and
15 transportation department pursuant to Section 67-3-28 NMSA
16 1978; and

17 (3) for expenses of purchasing, maintaining
18 and operating transit operations and facilities, for the
19 operation of a transit authority established by the municipal
20 transit law and for the operation of a vehicle emission
21 inspection program. A municipality may engage in the business
22 of the transportation of passengers and property within the
23 political subdivision by whatever means the municipality may
24 decide and may acquire cars, trucks, motor buses and other
25 equipment necessary for operating the business. A

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1 municipality may acquire land, erect buildings and equip the
2 buildings with all the necessary machinery and facilities for
3 the operation, maintenance, modification, repair and storage
4 of the cars, trucks, motor buses and other equipment needed.
5 A municipality may do all things necessary for the acquisition
6 and the conduct of the business of public transportation.

7 C. For the purposes of this section:

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

13 (2) "floor amount" means four hundred
14 seventeen dollars (\$417);

15 (3) "floor municipality" means a municipality
16 whose computed distribution amount is less than the floor
17 amount; and

18 (4) "full distribution municipality" means a
19 municipality whose population at the last federal decennial
20 census was at least two hundred thousand.

21 D. Subject to the provisions of Subsections E,
22 [~~and~~] F and G of this section, each municipality shall be
23 distributed a portion of the aggregate amount distributable
24 under this section in an amount equal to the greater of:

25 (1) the floor amount; or

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1 (2) eighty-five percent of the aggregate
2 amount distributable under this section times a fraction, the
3 numerator of which is the municipality's reported taxable
4 gallons of gasoline for the immediately preceding state fiscal
5 year and the denominator of which is the reported total
6 taxable gallons for all municipalities for the same period.

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

23 F. If a balance remains after the redistribution
24 amount has been reduced pursuant to Subsection E of this
25 section, there shall be added to the computed distribution

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1 amount of each municipality that is neither a full
2 distribution municipality nor a floor municipality an amount
3 that equals the balance of the redistribution amount times a
4 fraction, the numerator of which is the computed distribution
5 amount of the municipality and the denominator of which is the
6 sum of the computed distribution amounts of all municipalities
7 that are neither full distribution municipalities nor floor
8 municipalities.

9 G. For a municipality with a population, as shown
10 by the 1990 federal decennial census, of greater than six
11 thousand five hundred and located in a class B county with a
12 population, as shown by the 1990 federal decennial census, of
13 greater than forty-five thousand and less than forty-eight
14 thousand, in lieu of the distribution to that municipality
15 pursuant to Subsections D, E and F of this section, an equal
16 amount shall be distributed to the state road fund. A
17 distribution pursuant to this subsection shall be subject to
18 the following provisions:

19 (1) the distribution to the state road fund
20 shall continue until the secretary of highway and
21 transportation certifies to the secretary of taxation and
22 revenue that:

23 (a) the total amount distributed to the
24 state road fund pursuant to this subsection and Subsection D
25 of Section 7-1-6.9 NMSA 1978 has reached two hundred thousand

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1 dollars (\$200,000); or

2 (b) the municipality is in compliance
3 with all agreements between the municipality and the state
4 highway and transportation department;

5 (2) after a certification made pursuant to
6 Paragraph (1) of the subsection, distributions to the
7 municipality shall again be made pursuant to Subsections D, E
8 and F of this section; and

9 (3) if, prior to the first distribution made
10 to the state road fund pursuant to this subsection, the
11 municipality has irrevocably pledged all or a portion of
12 gasoline tax revenues to the payment of bonds, then the
13 distribution pursuant to this subsection shall be reduced by
14 the amount pledged; provided that no additional debt, secured
15 by gasoline tax revenues or distributions, shall be incurred
16 by the municipality until a certification is made pursuant to
17 Paragraph (1) of this subsection. "