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HOUSE BILL 1012

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO TAXATION; PROVIDING FOR A DEDUCTION FROM THE  
GASOLINE TAX FOR GASOLINE USED TO PROPEL A SCHOOL BUS;  
PROVIDING FOR A REFUND OF GASOLINE TAX PAID ON GASOLINE USED TO  
PROPEL A SCHOOL BUS; PROVIDING FOR AN EXEMPTION FROM THE GROSS  
RECEIPTS AND COMPENSATING TAX FOR RECEIPTS FROM THE SALE OF  
FUEL USED TO PROPEL A SCHOOL BUS.

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

Section 1. Section 7-9-26 NMSA 1978 (being Laws 1969,  
Chapter 144, Section 19, as amended) is amended to read:

"7-9-26. EXEMPTION--GROSS RECEIPTS AND COMPENSATING  
TAX--FUEL.--Exempted from the gross receipts and compensating  
tax are the receipts from selling and the use of gasoline,  
special fuel or alternative fuel:

A. on which the tax imposed by Section 7-13-3,

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1 ~~[7-16-3 or]~~ 7-16A-3 or 7-16B-4 NMSA 1978 ~~[or the Alternative~~  
2 ~~Fuel Tax Act]~~ has been paid and not refunded; or

3 B. that is used to propel a vehicle authorized by  
4 contract with the public education department or with a public  
5 school district as a school bus."

6 Section 2. Section 7-13-4 NMSA 1978 (being Laws 1991,  
7 Chapter 9, Section 32, as amended) is amended to read:

8 "7-13-4. DEDUCTIONS--GASOLINE TAX.--In computing the  
9 gasoline tax due, the following amounts of gasoline may be  
10 deducted from the total amount of gasoline received in New  
11 Mexico during the tax period, provided satisfactory proof  
12 thereof is furnished to the department:

13 A. gasoline received in New Mexico, but exported  
14 from this state by a rack operator, distributor or wholesaler  
15 other than in the fuel supply tank of a motor vehicle or sold  
16 for export by a rack operator or distributor; provided that, in  
17 either case:

18 (1) the person exporting the gasoline is  
19 registered in or licensed by the destination state to pay that  
20 state's gasoline or equivalent fuel tax;

21 (2) proof is submitted that the destination  
22 state's gasoline or equivalent fuel tax has been paid or is not  
23 due with respect to the gasoline; or

24 (3) the destination state's gasoline or  
25 equivalent fuel tax is paid to New Mexico in accordance with

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1 the terms of an agreement entered into pursuant to Section  
2 9-11-12 NMSA 1978 with the destination state;

3 B. gasoline received in New Mexico sold to the  
4 United States or [~~any~~] an agency or instrumentality thereof for  
5 the exclusive use of the United States or [~~any~~] an agency or  
6 instrumentality thereof. Gasoline sold to the United States  
7 includes gasoline delivered into the supply tank of a  
8 government-licensed vehicle of the United States;

9 C. gasoline received in New Mexico sold to an  
10 Indian nation, tribe or pueblo or [~~any~~] a political  
11 subdivision, agency or instrumentality of that Indian nation,  
12 tribe or pueblo for the exclusive use of the Indian nation,  
13 tribe or pueblo or [~~any~~] a political subdivision, agency or  
14 instrumentality thereof. Gasoline sold to an Indian nation,  
15 tribe or pueblo includes gasoline delivered into the supply  
16 tank of a government-licensed vehicle of the Indian nation,  
17 tribe or pueblo;

18 D. gasoline received in New Mexico, dyed in  
19 accordance with department regulations and used in [~~any~~] a  
20 manner other than for propulsion of motor vehicles on the  
21 highways of this state or motorboats or activities ancillary to  
22 that propulsion;

23 E. gasoline received in New Mexico and sold at  
24 retail by a registered Indian tribal distributor if:

25 (1) the sale occurs on the Indian reservation,

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1 pueblo grant or trust land of the distributor's Indian nation,  
2 tribe or pueblo;

3 (2) the gasoline is placed into the fuel  
4 supply tank of a motor vehicle on that reservation, pueblo  
5 grant or trust land; and

6 (3) the Indian nation, tribe or pueblo has  
7 certified to the department that it has in effect an excise,  
8 privilege or similar tax on the gasoline; provided that the  
9 volume of gasoline deducted pursuant to this subsection shall  
10 be the total gallons sold in accordance with the provisions of  
11 this subsection multiplied by a fraction the numerator of which  
12 is the rate of the tribal tax certified to the department by  
13 the Indian nation, tribe or pueblo and the denominator of which  
14 is the rate of the gasoline tax imposed pursuant to the  
15 Gasoline Tax Act, but if the fraction exceeds one, it shall be  
16 one for purposes of determining the deduction; ~~and~~

17 F. gasoline received in New Mexico and sold by a  
18 registered Indian tribal distributor from a nonmobile storage  
19 container located within that distributor's Indian reservation,  
20 pueblo grant or trust land for resale outside that  
21 distributor's Indian reservation, pueblo grant or trust land;  
22 provided the department certifies that the distributor claiming  
23 the deduction sold no less than one million gallons of gasoline  
24 from a nonmobile storage container located within that  
25 distributor's Indian reservation, pueblo grant or trust land

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1 for resale outside that distributor's Indian reservation,  
2 pueblo grant or trust land during the period of May through  
3 August 1998; and provided further that the amount of gasoline  
4 deducted by a registered Indian tribal distributor pursuant to  
5 this subsection shall not exceed two million five hundred  
6 thousand gallons per month, calculated as a monthly average  
7 during the calendar year. Volumes deducted pursuant to  
8 Subsection E of this section shall not be deducted pursuant to  
9 this subsection; and

10 G. gasoline received in New Mexico and used to  
11 propel a vehicle authorized by contract with the public  
12 education department or with a school district as a school  
13 bus."

14 Section 3. A new section of the Gasoline Tax Act is  
15 enacted to read:

16 "[NEW MATERIAL] CLAIM FOR REFUND OF GASOLINE TAX PAID ON  
17 GASOLINE FOR A PUBLIC SCHOOL BUS.--

18 A. Upon submission of proof satisfactory to the  
19 department, a user of gasoline may claim, and the department  
20 may allow, a refund of tax paid on gasoline used to propel a  
21 vehicle authorized by contract with the public education  
22 department or with a school district as a school bus.

23 B. A person shall not submit a claim for refund  
24 pursuant to the provisions of this section more frequently than  
25 quarterly. A claim for refund may not be submitted or allowed

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1 on less than one hundred gallons.

2 C. The department may prescribe the documents  
3 necessary to support a claim for refund pursuant to the  
4 provisions of this section. The department may prescribe the  
5 use of types of monitoring and measuring equipment.

6 D. This section applies to gasoline purchased on or  
7 after July 1, 2007."

8 Section 4. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2007.