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SENATE BILL 394

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO TAXATION; INCREASING AND INDEXING THE GASOLINE TAX AND THE SPECIAL FUEL EXCISE TAX; PROVIDING FOR THE DISTRIBUTION OF THE INCREASE IN THE GASOLINE TAX TO THE STATE ROAD FUND AND TO MUNICIPALITIES AND COUNTIES FOR MAINTENANCE AND REPAIR OF MUNICIPAL AND COUNTY ROADS; ADJUSTING PERCENTAGES OF THE DISTRIBUTIONS OF THE GASOLINE TAX TO ENSURE CERTAIN ENTITIES RECEIVING SUCH DISTRIBUTIONS RECEIVE THE SAME PROPORTION OF REVENUE ATTRIBUTABLE TO THE GASOLINE TAX.

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) 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

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1 equal to four and seventy-nine hundredths percent of the
2 taxable gross receipts attributable to the sale of fuel
3 specially prepared and sold for use in turboprop or jet-type
4 engines as determined by the department.

5 B. 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 ~~[twenty-six hundredths]~~ seventeen-hundredths percent
8 of gasoline taxes ~~[exclusive of penalties and interest]~~
9 collected pursuant to the Gasoline Tax Act.

10 C. From July 1, 2013 through June 30, 2018, a
11 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
12 made to the state aviation fund in an amount equal to forty-six
13 thousandths percent of the net receipts attributable to the
14 gross receipts tax distributable to the general fund.

15 D. A distribution pursuant to Section 7-1-6.1 NMSA
16 1978 shall be made to the state aviation fund from the net
17 receipts attributable to the gross receipts tax distributable
18 to the general fund in an amount equal to:

19 (1) eighty thousand dollars (\$80,000) monthly
20 from July 1, 2007 through June 30, 2008;

21 (2) one hundred sixty-seven thousand dollars
22 (\$167,000) monthly from July 1, 2008 through June 30, 2009; and

23 (3) two hundred fifty thousand dollars
24 (\$250,000) monthly after July 1, 2009."

25 SECTION 2. Section 7-1-6.8 NMSA 1978 (being Laws 1983,

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1 Chapter 211, Section 13, as amended) is amended to read:

2 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A
3 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
4 made to the motorboat fuel tax fund in an amount equal to
5 [~~thirteen-hundredths of one~~] nine-hundredths percent of the net
6 receipts attributable to the gasoline tax."

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

9 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
10 MUNICIPALITIES AND COUNTIES.--

11 A. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made in an amount equal to [~~ten and thirty-eight~~
13 ~~hundredths~~] six and fifty-four hundredths percent of the net
14 receipts attributable to the taxes [~~exclusive of penalties and~~
15 ~~interest~~] imposed by the Gasoline Tax Act.

16 [~~B. Except as provided in Subsection D of this~~
17 ~~section, the amount determined in Subsection A of this section~~
18 ~~shall be distributed as follows:~~

19 (1) ~~ninety percent of the amount shall be paid~~
20 ~~to the treasurers of municipalities and H class counties in the~~
21 ~~proportion that the taxable motor fuel sales in each of the~~
22 ~~municipalities and H class counties bears to the aggregate~~
23 ~~taxable motor fuel sales in all of these municipalities and H~~
24 ~~class counties; and~~

25 (2) ~~ten percent of the amount shall be paid to~~

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1 ~~the treasurers of the counties, including H class counties, in~~
2 ~~the proportion that the taxable motor fuel sales outside of~~
3 ~~incorporated municipalities in each of the counties bears to~~
4 ~~the aggregate taxable motor fuel sales outside of incorporated~~
5 ~~municipalities in all of the counties.~~

6 G.] Except as provided in Subsection D of this
7 section, this distribution shall be paid into a separate road
8 fund in the municipal treasury or county road fund for
9 expenditure only for construction, reconstruction, resurfacing
10 or other improvement or maintenance of public roads, streets,
11 alleys or bridges, including right-of-way and materials
12 acquisition.

13 B. Money distributed pursuant to this section may
14 be used by a municipality or county to provide matching funds
15 for projects subject to cooperative agreements entered into
16 with the [~~state highway and~~] department of transportation
17 [~~department~~] pursuant to Section 67-3-28 NMSA 1978. Any
18 municipality or H class county that has created or that creates
19 a "street improvement fund" to which gasoline tax revenues or
20 distributions are irrevocably pledged under Sections 3-34-1
21 through 3-34-4 NMSA 1978 or that has pledged all or a portion
22 of gasoline tax revenues or distributions to the payment of
23 bonds shall receive its proportion of the distribution of
24 revenues under this section impressed with and subject to these
25 pledges.

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1 C. The amount determined in Subsection A of this
2 section shall be distributed as follows:

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

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

15 D. ~~[This]~~ The distribution made pursuant to this
16 section may be paid into a separate road fund or the general
17 fund of the municipality or county if the municipality has a
18 population less than three thousand or the county has a
19 population less than four thousand."

20 SECTION 4. Section 7-1-6.10 NMSA 1978 (being Laws 1983,
21 Chapter 211, Section 15, as amended) is amended to read:

22 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

23 A. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 shall be made to the state road fund in an amount equal to
25 the net receipts attributable to the taxes, surcharges,

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1 penalties and interest imposed pursuant to the Gasoline Tax Act
2 and to the taxes, surtaxes, fees, penalties and interest
3 imposed pursuant to the Special Fuels Supplier Tax Act and the
4 Alternative Fuel Tax Act less:

5 (1) the amount distributed to the state
6 aviation fund pursuant to Subsection B of Section 7-1-6.7 NMSA
7 1978;

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

10 (3) the amount distributed to municipalities
11 and counties pursuant to [~~Subsection A of~~] Section 7-1-6.9 NMSA
12 1978 and Section 8 of this 2015 act;

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

15 (5) the amount distributed to the local
16 governments road fund pursuant to Section 7-1-6.39 NMSA 1978;

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

19 (7) the amount distributed to the municipal
20 arterial program of the local governments road fund pursuant to
21 Section 7-1-6.28 NMSA 1978;

22 (8) the amount distributed to a qualified
23 tribe pursuant to [~~a gasoline tax sharing agreement entered
24 into between the secretary of transportation and the qualified
25 tribe pursuant to the provisions of~~] Section [~~67-3-8.1~~]

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1 7-1-6.44 NMSA 1978; and

2 (9) the amount distributed to the general fund
3 pursuant to Section 7-1-6.44 NMSA 1978.

4 B. A distribution pursuant to Section 7-1-6.1 NMSA
5 1978 shall be made to the state road fund in an amount equal to
6 the net receipts attributable to the taxes, interest and
7 penalties from the Weight Distance Tax Act."

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

10 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND
11 CREATED.--

12 A. There is created in the state treasury the
13 "county government road fund".

14 B. A distribution pursuant to Section 7-1-6.1 NMSA
15 1978 shall be made to the county government road fund in an
16 amount equal to [~~five and seventy-six hundredths~~] three and
17 sixty-three hundredths percent of the net receipts attributable
18 to the gasoline tax."

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

21 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

22 A. A distribution pursuant to Section 7-1-6.1 NMSA
23 1978 shall be made to municipalities for the purposes and
24 amounts specified in this section in an aggregate amount equal
25 to [~~five and seventy-six hundredths~~] three and sixty-three

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1 hundredths percent of the net receipts attributable to the
2 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 department of transportation [~~department~~] pursuant to Section
16 67-3-28 NMSA 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 municipality

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1 may acquire land, erect buildings and equip the buildings with
2 all the necessary machinery and facilities for the operation,
3 maintenance, modification, repair and storage of the cars,
4 trucks, motor buses and other equipment needed. A municipality
5 may do all things necessary for the acquisition and the conduct
6 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 prior
11 to any adjustments to the amount due to the provisions of
12 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 and F
22 of this section, each municipality shall be distributed a
23 portion of the aggregate amount distributable under this
24 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 taxable
6 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 be
11 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 amount
15 for each floor municipality shall be increased by an amount
16 equal to the redistribution amount times a fraction, the
17 numerator of which is the difference between the floor amount
18 and the municipality's computed distribution amount and the
19 denominator of which is the difference between the product of
20 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 distribution
2 municipality nor a floor municipality an amount that equals the
3 balance of the redistribution amount times a fraction, the
4 numerator of which is the computed distribution amount of the
5 municipality and the denominator of which is the sum of the
6 computed distribution amounts of all municipalities that are
7 neither full distribution municipalities nor floor
8 municipalities."

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

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

18 SECTION 8. A new section of the Tax Administration Act is
19 enacted to read:

20 "[NEW MATERIAL] ADDITIONAL DISTRIBUTION OF GASOLINE TAXES
21 TO MUNICIPALITIES AND COUNTIES.--

22 A. A distribution pursuant to Section 7-1-6.1 NMSA
23 1978 shall be made in an amount equal to eighteen and fifty-two
24 hundredths percent of the net receipts attributable to the
25 taxes imposed by the Gasoline Tax Act. Except as provided in

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1 Subsection C of this section, this distribution shall be paid
2 into a maintenance and repair road fund in the municipal
3 treasury or county road fund for expenditure only for
4 reconstruction, resurfacing or other improvement or maintenance
5 of existing public roads, streets, alleys or bridges, including
6 right-of-way and materials acquisition.

7 B. The amount determined in Subsection A of this
8 section shall be distributed as follows:

9 (1) ninety percent of the amount shall be paid
10 to the treasurers of municipalities and H class counties in the
11 proportion that the taxable motor fuel sales in each of the
12 municipalities and H class counties bears to the aggregate
13 taxable motor fuel sales in all of these municipalities and H
14 class counties; and

15 (2) ten percent of the amount shall be paid to
16 the treasurers of the counties, including H class counties, in
17 the proportion that the taxable motor fuel sales outside of
18 incorporated municipalities in each of the counties bears to
19 the aggregate taxable motor fuel sales outside of incorporated
20 municipalities in all of the counties.

21 C. The distributions made pursuant to this section
22 may be paid into a separate road fund or the general fund of
23 the municipality or county if the municipality has a population
24 less than three thousand or the county has a population less
25 than four thousand."

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

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

5 A. For the privilege of receiving gasoline in this
6 state, there is imposed an excise tax at a rate provided in
7 Subsection B of this section on each gallon of gasoline
8 received in New Mexico.

9 B. The tax imposed by Subsection A of this section
10 shall be:

11 (1) prior to July 1, 2015, seventeen cents
12 (\$.17);

13 (2) beginning on July 1, 2015 and prior to
14 July 1, 2016, twenty-seven cents (\$.27) per gallon received in
15 New Mexico; and

16 (3) on and after July 1, 2016, the rate
17 determined pursuant to Subsection C of this section.

18 C. No later than April 30, 2016 and April 30 of
19 each subsequent year, the department shall calculate the rate
20 of gasoline tax to be imposed as of July 1 of that year. The
21 rate of the gasoline tax per gallon shall be equal to the
22 product, rounded down to the nearest whole cent, of twenty-
23 seven cents (\$.27) multiplied by a fraction with a numerator
24 equal to the chained price index for the previous calendar year
25 and a denominator equal to the chained price index for calendar

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1 year 2014; provided that the rate of the tax shall not be less
2 than the rate imposed on July 1 of the previous year.

3 ~~[G-]~~ D. The tax imposed by this section may be
4 called the "gasoline tax".

5 E. As used in this section, "chained price index"
6 means the chained price index for nonresidential construction
7 calculated by the United States bureau of economic analysis."

8 SECTION 10. Section 7-16A-3 NMSA 1978 (being Laws 1992,
9 Chapter 51, Section 3, as amended) is amended to read:

10 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
11 SPECIAL FUEL EXCISE TAX.--

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

16 B. The tax imposed by Subsection A of this section
17 shall be:

18 (1) prior to July 1, 2015, twenty-one cents
19 (\$.21);

20 (2) beginning on July 1, 2015 and prior to
21 July 1, 2016, thirty-one cents (\$.31) per gallon of special
22 fuel received or used in New Mexico; and

23 (3) on and after July 1, 2016, the rate
24 determined pursuant to Subsection C of this section.

25 C. No later than April 30, 2016 and April 30 of

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1 each subsequent year, the department shall calculate the rate
2 of special fuel excise tax to be imposed as of July 1 of that
3 year. The rate of the special fuel excise tax per gallon shall
4 be equal to the product, rounded down to the nearest whole
5 cent, of thirty-one cents (\$.31) multiplied by a fraction with
6 a numerator equal to the chained price index for the previous
7 calendar year and a denominator equal to the chained price
8 index for calendar year 2014; provided that the rate of the tax
9 shall not be less than the rate imposed in July 1 of the
10 previous year.

11 ~~[G.]~~ D. The tax imposed by this section may be
12 called the "special fuel excise tax".

13 E. As used in this section, "chained price index"
14 means the chained price index for nonresidential construction
15 calculated by the United States bureau of economic analysis."

16 SECTION 11. APPLICABILITY.--The distributions pursuant to
17 Sections 1 through 7 of this act apply to receipts from
18 gasoline and special fuel received on or after July 1, 2015.

19 SECTION 12. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2015.

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