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SENATE BILL 504

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO TAXATION; INCREASING THE GASOLINE AND SPECIAL FUEL  
EXCISE TAXES; CREATING THE STATE ROAD MAINTENANCE FUND;  
DISTRIBUTING APPROXIMATELY ONE-HALF OF THE NEW REVENUE TO THE  
STATE ROAD MAINTENANCE FUND AND APPROXIMATELY ONE-HALF TO  
MUNICIPALITIES AND COUNTIES FOR MAINTENANCE AND REPAIR OF  
EXISTING TRANSPORTATION INFRASTRUCTURE; DISTRIBUTING THE  
REMAINDER TO THE STATE ROAD FUND; MAKING AN APPROPRIATION.

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  
equal to four and seventy-nine hundredths percent of the

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

9 C. From July 1, 2013 through June 30, 2021, a  
10 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
11 made to the state aviation fund in an amount equal to forty-six  
12 thousandths percent of the net receipts attributable to the  
13 gross receipts tax distributable to the general fund.

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

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

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

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

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

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

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

8 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO  
9 MUNICIPALITIES AND COUNTIES.--

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

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

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

23 (2) ten percent of the amount shall be paid to  
24 the treasurers of the counties, including H class counties, in  
25 the proportion that the taxable motor fuel sales outside of

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1 incorporated municipalities in each of the counties bears to  
2 the aggregate taxable motor fuel sales outside of incorporated  
3 municipalities in all of the counties.

4 C. Except as provided in Subsection D of this  
5 section, this distribution shall be paid into a separate road  
6 fund in the municipal treasury or county road fund for  
7 expenditure only for construction, reconstruction, resurfacing  
8 or other improvement or maintenance of public roads, streets,  
9 alleys or bridges, including right-of-way and materials  
10 acquisition. Money distributed pursuant to this section may be  
11 used by a municipality or county to provide matching funds for  
12 projects subject to cooperative agreements entered into with  
13 the department of transportation pursuant to Section 67-3-28  
14 NMSA 1978. Any municipality or H class county that has created  
15 or that creates a "street improvement fund" to which gasoline  
16 tax revenues or distributions are irrevocably pledged under  
17 Sections 3-34-1 through 3-34-4 NMSA 1978 or that has pledged  
18 all or a portion of gasoline tax revenues or distributions to  
19 the payment of bonds shall receive its proportion of the  
20 distribution of revenues under this section impressed with and  
21 subject to these pledges.

22 D. This distribution may be paid into a separate  
23 road fund or the general fund of the municipality or county if  
24 the municipality has a population less than three thousand or  
25 the county has a population less than four thousand."

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

3           "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

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

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

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

16                   (3) the amount distributed to municipalities  
17 and counties pursuant to [~~Subsection A of~~] Section 7-1-6.9 NMSA  
18 1978 and Section 9 of this 2019 act;

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

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

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

25                   (7) the amount distributed to the municipal

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1 arterial program of the local governments road fund pursuant to  
2 Section 7-1-6.28 NMSA 1978;

3 (8) the amount distributed to a qualified  
4 tribe pursuant to [~~a gasoline tax sharing agreement entered~~  
5 ~~into between the secretary of transportation and the qualified~~  
6 ~~tribe pursuant to the provisions~~] Subsection A of Section  
7 [~~67-3-8.1~~] 7-1-6.44 NMSA 1978; [~~and~~]

8 (9) the amount distributed to the general fund  
9 pursuant to Subsection B of Section 7-1-6.44 NMSA 1978; and

10 (10) the amount distributed to the state road  
11 maintenance fund pursuant to Section 10 of this 2019 act.

12 B. A distribution pursuant to Section 7-1-6.1 NMSA  
13 1978 shall be made to the state road fund in an amount equal to  
14 the net receipts attributable to the taxes, interest and  
15 penalties from the Weight Distance Tax Act."

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

18 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND  
19 CREATED.--

20 A. There is created in the state treasury the  
21 "county government road fund".

22 B. A distribution pursuant to Section 7-1-6.1 NMSA  
23 1978 shall be made to the county government road fund in an  
24 amount equal to [~~five and seventy-six~~] three and sixty-three  
25 hundredths percent of the net receipts attributable to the

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1 gasoline tax."

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

4 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

5 A. A distribution pursuant to Section 7-1-6.1 NMSA  
6 1978 shall be made to municipalities for the purposes and  
7 amounts specified in this section in an aggregate amount equal  
8 to [~~five and seventy-six~~] three and sixty-three hundredths  
9 percent of the net receipts attributable to the gasoline tax.

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

12 (1) reconstructing, resurfacing, maintaining,  
13 repairing or otherwise improving existing alleys, streets,  
14 roads or bridges, or any combination of the foregoing; or  
15 laying off, opening, constructing or otherwise acquiring new  
16 alleys, streets, roads or bridges, or any combination of the  
17 foregoing; provided that any of the foregoing improvements may  
18 include [~~but are not limited to~~] the acquisition of rights of  
19 way;

20 (2) to provide matching funds for projects  
21 subject to cooperative agreements with the [~~state highway and~~  
22 department of transportation [~~department~~] pursuant to Section  
23 67-3-28 NMSA 1978; and

24 (3) for expenses of purchasing, maintaining  
25 and operating transit operations and facilities, for the

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1 operation of a transit authority established by the Municipal  
2 Transit Law and for the operation of a vehicle emission  
3 inspection program. A municipality may engage in the business  
4 of the transportation of passengers and property within the  
5 political subdivision by whatever means the municipality may  
6 decide and may acquire cars, trucks, motor buses and other  
7 equipment necessary for operating the business. A municipality  
8 may acquire land, erect buildings and equip the buildings with  
9 all the necessary machinery and facilities for the operation,  
10 maintenance, modification, repair and storage of the cars,  
11 trucks, motor buses and other equipment needed. A municipality  
12 may do all things necessary for the acquisition and the conduct  
13 of the business of public transportation.

14 C. For the purposes of this section:

15 (1) "computed distribution amount" means the  
16 distribution amount calculated for a municipality for a month  
17 pursuant to Paragraph (2) of Subsection D of this section prior  
18 to any adjustments to the amount due to the provisions of  
19 Subsections E and F of this section;

20 (2) "floor amount" means four hundred  
21 seventeen dollars (\$417);

22 (3) "floor municipality" means a municipality  
23 whose computed distribution amount is less than the floor  
24 amount; and

25 (4) "full distribution municipality" means a

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1 municipality whose population at the last federal decennial  
2 census was at least two hundred thousand.

3 D. Subject to the provisions of Subsections E and F  
4 of this section, each municipality shall be distributed a  
5 portion of the aggregate amount distributable under this  
6 section in an amount equal to the greater of:

7 (1) the floor amount; or

8 (2) eighty-five percent of the aggregate  
9 amount distributable under this section times a fraction, the  
10 numerator of which is the municipality's reported taxable  
11 gallons of gasoline for the immediately preceding state fiscal  
12 year and the denominator of which is the reported total taxable  
13 gallons for all municipalities for the same period.

14 E. Fifteen percent of the aggregate amount  
15 distributable under this section shall be referred to as the  
16 "redistribution amount". Beginning in August 1990, and each  
17 month thereafter, from the redistribution amount there shall be  
18 taken an amount sufficient to increase the computed  
19 distribution amount of every floor municipality to the floor  
20 amount. In the event that the redistribution amount is  
21 insufficient for this purpose, the computed distribution amount  
22 for each floor municipality shall be increased by an amount  
23 equal to the redistribution amount times a fraction, the  
24 numerator of which is the difference between the floor amount  
25 and the municipality's computed distribution amount and the

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1 denominator of which is the difference between the product of  
2 the floor amount multiplied by the number of floor  
3 municipalities and the total of the computed distribution  
4 amounts for all floor municipalities.

5 F. If a balance remains after the redistribution  
6 amount has been reduced pursuant to Subsection E of this  
7 section, there shall be added to the computed distribution  
8 amount of each municipality that is neither a full distribution  
9 municipality nor a floor municipality an amount that equals the  
10 balance of the redistribution amount times a fraction, the  
11 numerator of which is the computed distribution amount of the  
12 municipality and the denominator of which is the sum of the  
13 computed distribution amounts of all municipalities that are  
14 neither full distribution municipalities nor floor  
15 municipalities."

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

18 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF  
19 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to  
20 Section 7-1-6.1 NMSA 1978 shall be made to the municipal  
21 arterial program of the local governments road fund created in  
22 Section 67-3-28.2 NMSA 1978 in an amount equal to [~~one and~~  
23 ~~forty-four~~] ninety-one hundredths percent of the net receipts  
24 attributable to the gasoline tax."

25 SECTION 8. Section 7-1-6.39 NMSA 1978 (being Laws 1995,

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1 Chapter 6, Section 9, as amended) is amended to read:

2 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO  
3 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to  
4 Section 7-1-6.1 NMSA 1978 shall be made to the local  
5 governments road fund in an amount equal to [~~nine and fifty-~~  
6 ~~two~~] seven and forty-one hundredths percent of the net receipts  
7 attributable to the taxes, exclusive of penalties and interest,  
8 from the special fuel excise tax imposed by the Special Fuels  
9 Supplier Tax Act."

10 SECTION 9. A new section of the Tax Administration Act is  
11 enacted to read:

12 "[NEW MATERIAL] ADDITIONAL DISTRIBUTION OF THE GASOLINE  
13 TAX AND THE SPECIAL FUEL EXCISE TAX TO MUNICIPALITIES AND  
14 COUNTIES.--

15 A. A distribution pursuant to Section 7-1-6.1 NMSA  
16 1978 shall be made in an amount equal to seventeen and ninety-  
17 six hundredths percent of the net receipts attributable to the  
18 gasoline tax and eleven and eleven-hundredths percent of the  
19 net receipts attributable to the special fuel excise tax.  
20 Except as provided in Subsection C of this section, this  
21 distribution shall be paid into a maintenance and repair road  
22 fund in the municipal treasury or county road fund for  
23 expenditure only for reconstruction, resurfacing or other  
24 improvement or maintenance of existing public roads, streets,  
25 alleys or bridges, including right-of-way and materials

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1 acquisition.

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

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

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

16 C. The distributions made pursuant to this section  
17 may be paid into a separate road fund or the general fund of  
18 the municipality or county if the municipality has a population  
19 less than three thousand or the county has a population less  
20 than four thousand.

21 D. Money from the distribution made pursuant to  
22 this section shall not be pledged for the payment of bonds or  
23 debentures or expended to pay the principal or interest of  
24 outstanding bonds or debentures."

25 SECTION 10. A new section of the Tax Administration Act

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1 is enacted to read:

2 "[NEW MATERIAL] DISTRIBUTION OF THE GASOLINE TAX AND THE  
3 SPECIAL FUEL EXCISE TAX--STATE ROAD MAINTENANCE FUND.--

4 A. The "state road maintenance fund" is created as  
5 a nonreverting fund in the state treasury. No income earned on  
6 the fund shall be transferred to another fund.

7 B. A distribution pursuant to Section 7-1-6.1 NMSA  
8 1978 shall be made to the state road maintenance fund in an  
9 amount equal to seventeen and ninety-six hundredths percent of  
10 the net receipts attributable to the gasoline tax and eleven  
11 and eleven-hundredths percent of the net receipts attributable  
12 to the special fuel excise tax.

13 C. The department of transportation shall  
14 administer the fund, and money in the fund is subject to  
15 appropriation by the legislature only to the department of  
16 transportation for expenditure for reconstruction, resurfacing  
17 or other improvement or maintenance of existing public roads,  
18 streets, alleys or bridges, including right-of-way and  
19 materials acquisition.

20 D. Money in the fund shall not be pledged for the  
21 payment of bonds or debentures or expended to pay the principal  
22 or interest of outstanding bonds or debentures.

23 E. Money in the fund shall be disbursed on warrants  
24 signed by the secretary of finance and administration pursuant  
25 to vouchers signed by the secretary of transportation or the

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1 secretary's authorized representative."

2 SECTION 11. Section 7-13-3 NMSA 1978 (being Laws 1971,  
3 Chapter 207, Section 3, as amended) is amended to read:

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

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

10 B. The tax imposed by Subsection A of this section  
11 shall be [~~seventeen cents (\$.17)~~] twenty-seven cents (\$.27) per  
12 gallon received in New Mexico.

13 C. The tax imposed by this section may be called  
14 the "gasoline tax".

15 SECTION 12. Section 7-16A-3 NMSA 1978 (being Laws 1992,  
16 Chapter 51, Section 3, as amended) is amended to read:

17 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
18 SPECIAL FUEL EXCISE TAX.--

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

23 B. The tax imposed by Subsection A of this section  
24 shall be [~~twenty-one cents (\$.21)~~] twenty-seven cents (\$.27)  
25 per gallon of special fuel received or used in New Mexico.

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1 C. The tax imposed by this section may be called  
2 the "special fuel excise tax".

3 SECTION 13. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is July 1, 2019.

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