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SENATE BILL 809

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

INTRODUCED BY

JOHN ARTHUR SMITH

AN ACT

RELATING TO TAXATION; INCREASING THE GASOLINE TAX AND SPECIAL FUEL EXCISE TAX RATES CONTINGENT UPON CERTIFICATION BY THE GOVERNOR THAT THE TAX INCREASE IS NECESSARY FOR ISSUANCE OF STATE HIGHWAY BONDS TO PROVIDE ADDITIONAL REVENUE FOR STATEWIDE ROAD IMPROVEMENTS; AUTHORIZING THE ISSUANCE OF AN ADDITIONAL AMOUNT OF STATE HIGHWAY BONDS; AMENDING 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

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1 1978 shall be made to the state aviation fund in an amount equal
2 to three and fifty-nine hundredths percent of the gross receipts
3 attributable to the sale of fuel specially prepared and sold for
4 use in turboprop or jet-type engines as determined by the
5 department.

6 B. A distribution pursuant to Section 7-1-6.1 NMSA
7 1978 shall be made to the state aviation fund in an amount equal
8 to [~~twenty-six hundredths~~] two-tenths of one percent of gasoline
9 taxes, exclusive of penalties and interest, collected pursuant
10 to the Gasoline Tax Act. "

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

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

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

20 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO MUNICIPALITIES
21 AND COUNTIES. --

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

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1 imposed by the Gasoline Tax Act.

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

4 (1) ninety percent of the amount shall be paid
5 to the treasurers of municipalities and H class counties in the
6 proportion that the taxable motor fuel sales in each of the
7 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 to
11 the treasurers of the counties, including H class counties, in
12 the proportion that the taxable motor fuel sales outside of
13 incorporated municipalities in each of the counties bears to the
14 aggregate taxable motor fuel sales outside of incorporated
15 municipalities in all of the counties.

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

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1 impressed with and subject to these pledges. "

2 Section 4. Section 7-1-6.10 NMSA 1978 (being Laws 1983,
3 Chapter 211, Section 15, as amended by Laws 1995, Chapter 6,
4 Section 4 and also by Laws 1995, Chapter 16, Section 11) is
5 amended to read:

6 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

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

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

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

19 (3) the amount distributed to municipalities
20 and counties pursuant to Subsection A of Section 7-1-6.9 NMSA
21 1978;

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

24 (5) the amount distributed to the [corrective
25 action] local governments road fund pursuant to Section

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1 ~~[7-1-6.25]~~ 7-1-6.39 NMSA 1978;

2 (6) the amount distributed to the
3 municipalities pursuant to Section 7-1-6.27 NMSA 1978; and

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

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

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

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

15 "7-1-6.19. DISTRIBUTION-- COUNTY GOVERNMENT ROAD FUND
16 CREATED. --

17 A. There is created in the state treasury the
18 "county government road fund".

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

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

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1 "7-1-6. 27. DISTRIBUTION-- MUNICIPAL ROADS. --

2 A. A distribution pursuant to Section 7-1-6.1 NMSA
3 1978 shall be made to municipalities for the purposes and
4 amounts specified in this section in an aggregate amount equal
5 to [~~five and seventy-six hundredths~~] four and forty-five
6 hundredths percent of the net receipts attributable to the
7 gasoline tax.

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

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

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

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1 and equip the buildings with all the necessary machinery and
2 facilities for the operation, maintenance, modification, repair
3 and storage of the cars, trucks, motor buses and other equipment
4 needed. A municipality may do all things necessary for the
5 acquisition and the conduct of the business of public
6 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 seventeen
14 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 section
24 in an amount equal to the greater of:

25 (1) the floor amount; or

Underscored material = new
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1 (2) eighty-five percent of the aggregate amount
2 distributable under this section times a fraction, the numerator
3 of which is the municipality's reported taxable gallons of
4 gasoline for the immediately preceding state fiscal year and the
5 denominator of which is the reported total taxable gallons for
6 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 distribution
12 amount of every floor municipality to the floor amount. In the
13 event that the redistribution amount is insufficient for this
14 purpose, the computed distribution amount for each floor
15 municipality shall be increased by an amount equal to the
16 redistribution amount times a fraction, the numerator of which
17 is the difference between the floor amount and the
18 municipality's computed distribution amount and the denominator
19 of which is the difference between the product of the floor
20 amount multiplied by the number of floor municipalities and the
21 total of the computed distribution amounts for all floor
22 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 Section
13 7-1-6.1 NMSA 1978 shall be made to the municipal arterial
14 program of the local governments road fund created in Section
15 67-3-28.2 NMSA 1978 in an amount equal to [~~one and forty-four~~
16 ~~hundredths~~] one and eleven hundredths percent of the net
17 receipts attributable to the gasoline tax. "

18 Section 8. Section 7-1-6.39 NMSA 1978 (being Laws 1995,
19 Chapter 6, Section 9) is amended to read:

20 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO
21 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to Section
22 7-1-6.1 NMSA 1978 shall be made to the local governments road
23 fund in an amount equal to [~~eleven and eleven hundredths~~] nine
24 and fifty-two hundredths percent of the net receipts
25 attributable to the taxes, exclusive of penalties and interest,

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1 from the special fuel excise tax imposed by the Special Fuels
2 Supplier Tax Act. "

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

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

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

11 B. The tax imposed by Subsection A of this section
12 shall be [~~seventeen cents (\$.17)~~] twenty-two cents (\$.22) per
13 gallon received in New Mexico.

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

16 Section 10. That version of Section 7-13-3 NMSA 1978
17 (being Laws 1995, Chapter 6, Section 11) is amended to read:

18 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
19 "GASOLINE TAX". --

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

24 B. The tax imposed by Subsection A of this section
25 shall be [~~sixteen cents (\$.16)~~] twenty-one cents (\$.21) per

Underscored material = new
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1 gallon received in New Mexico.

2 C. The tax imposed by this section may be called the
3 "gasoline tax". "

4 Section 11. Section 7-16A-3 NMSA 1978 (being Laws 1992,
5 Chapter 51, Section 3, as amended) is amended to read:

6 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
7 SPECIAL FUEL EXCISE TAX. --

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

12 B. The tax imposed by Subsection A of this section
13 shall be [~~eighteen cents (\$.18)~~] twenty-one cents (\$.21) per
14 gallon of special fuel received or used in New Mexico.

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

17 Section 12. Section 67-3-59.1 NMSA 1978 (being Laws 1989,
18 Chapter 157, Section 1, as amended) is amended to read:

19 "67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--LIMITS--
20 APPROVAL--COUPONS. --

21 A. In order to provide funds to finance state
22 highway projects, including state highway projects that are
23 required for the waste isolation pilot project and are eligible
24 for federal reimbursement as authorized by federal legislation,
25 the state highway commission is authorized to issue bonds from

Underscored material = new
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1 time to time, payable from the proceeds of the collection of
2 gasoline excise taxes and motor vehicle registration fees that
3 are required by law to be paid into the state road fund and not
4 otherwise pledged solely to the payment of outstanding bonds and
5 debentures.

6 B. Except as provided in Subsection C of this
7 section, the total aggregate outstanding principal amount of
8 bonds issued from time to time pursuant to this section, secured
9 by or payable from the gasoline excise taxes and motor vehicle
10 registration fees, shall not, without additional authorization
11 of the state legislature, exceed one hundred fifty million
12 dollars (\$150,000,000) at any given time, subject to the
13 following provisions:

14 (1) the total aggregate outstanding principal
15 amount of bonds issued for state highway projects that are
16 required for the waste isolation pilot project and are eligible
17 for federal reimbursement as authorized by federal legislation
18 shall not exceed one hundred million dollars (\$100,000,000); and

19 (2) the total aggregate outstanding principal
20 amount of bonds issued for state highway projects other than
21 state highway projects that are required for the waste isolation
22 pilot project and are eligible for federal reimbursement as
23 authorized by federal legislation shall not exceed fifty million
24 dollars (\$50,000,000).

25 C. An additional five hundred million dollars

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1 (\$500,000,000) shall be added to the total aggregate outstanding
2 principal amount of bonds authorized for issuance by the state
3 highway commission for state highway projects to be secured by
4 or payable from the gasoline excise taxes, motor vehicle
5 registration fees and fourteen percent of the special fuel
6 excise tax revenues required by law to be paid into the state
7 road fund. From this authorization, the state highway
8 commission shall issue the amount of bonds that the commission,
9 subject to the provisions of this section, determines can be
10 serviced with an amount approximately equal to the net receipts
11 attributable to five cents (\$.05) of the gasoline tax and three
12 cents (\$.03) of the special fuel excise tax distributed by law
13 into the state road fund.

14 [E-] D. The state highway commission may issue
15 bonds to refund other bonds issued pursuant to this section by
16 exchange or current or advance refunding.

17 [D-] E. Each series of bonds shall have a maturity
18 of no more than twenty-five years from the date of issuance;
19 provided, bonds issued pursuant to Subsection C of this section
20 shall have a maturity of no more than ten years from the date of
21 issuance. The state highway commission shall determine all
22 other terms, covenants and conditions of the bonds; provided
23 that the bonds shall not be issued pursuant to this section
24 unless the state board of finance approves the issuance of the
25 bonds and the principal amount of and interest rate or maximum

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1 net effective interest rate on the bonds.

2 [E-] E. The bonds shall be executed with the manual
3 or facsimile signatures of the chairman of the state highway
4 commission, countersigned by the state treasurer and attested to
5 by the secretary of the state highway commission, with the seal
6 of the state highway commission imprinted or otherwise affixed
7 to the bonds.

8 [F-] G. Proceeds of the bonds may be used to pay
9 expenses incurred in the preparation, issuance and sale of the
10 bonds and, together with the earnings on the proceeds of the
11 bonds, may be used to pay rebate, penalty, interest and other
12 obligations relating to the bonds and the proceeds of the bonds
13 under the Internal Revenue Code of 1986, as amended.

14 [G-] H. The bonds may be sold at public or private
15 sale. If sold at public sale, a notice of the time and place of
16 sale shall be published in a newspaper of general circulation in
17 the state, and in any other newspaper determined in the
18 resolution authorizing the issuance of the bonds, once each week
19 for two consecutive weeks prior to the date of sale. The bonds
20 may be purchased by the state treasurer or state investment
21 officer.

22 [H-] I. This section is full authority for the
23 issuance and sale of the bonds, and the bonds shall not be
24 invalid for any irregularity or defect in the proceedings for
25 their issuance and sale and shall be incontestable in the hands

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1 of bona fide purchasers or holders of the bond for value.

2 [H.] J. The bonds shall be legal investments for
3 any person or board charged with the investment of public funds
4 and may be accepted as security for any deposit of public money
5 and, with the interest thereon, are exempt from taxation by the
6 state and any political subdivision or agency of the state."

7 Section 13. EFFECTIVE DATE--CONTINGENCY.--The provisions
8 of this act shall become effective only upon certification by
9 the governor no later than August 31, 1996 that a fuel tax
10 increase is needed to issue state highway bonds to raise
11 additional revenues for statewide road improvements that are
12 necessary for purposes of safety, commerce and economic
13 development. If the governor does not certify the need for the
14 tax increase by August 31, 1996, the provisions of this act
15 shall not become effective. If the governor certifies the need
16 for the tax increase on or before August 31, 1996, the
17 provisions of this act shall take effect as follows:

18 A. the effective date of the provisions of Sections
19 9, 11 and 12 of this act is October 1, 1996; and

20 B. the effective date of the provisions of Sections
21 1 through 8 of this act is November 1, 1996.

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
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5 FEBRUARY 1, 1996
6

7 Mr. Presi dent:
8

9 Your COMMI TTEES' COMMI TTEE, to whom has been referred
10

11 SENATE BILL 809
12

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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22 _____
23 SENATOR MANNY M. ARAGON, Chai rman
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Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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