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SENATE BILL 247

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO HEAVY RAIL MASS TRANSIT; PROVIDING FOR AN EXCISE TAX TO FUND HEAVY RAIL MASS TRANSIT SYSTEMS; CREATING THE HEAVY RAIL MASS TRANSIT FUND; PROVIDING FOR USE OF THE HEAVY RAIL MASS TRANSIT FUND; AUTHORIZING JOINT POWERS AGREEMENTS; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "Heavy Rail Mass Transit Excise Tax Act".

SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of the Heavy Rail Mass Transit Excise Tax Act is to provide a dedicated funding source for the operation and maintenance costs of heavy rail mass transit systems that fairly imposes these costs on the locales and persons that are primarily

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1 served by the operation of heavy rail mass transit systems.

2 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
3 Heavy Rail Mass Transit Excise Tax Act:

4 A. "county served by" means a county in which a
5 portion of a heavy rail mass transit system operates and in
6 which its residents use the heavy rail mass transit system on a
7 regular basis;

8 B. "heavy rail mass transit system" means an
9 intercity passenger railway, for which the state is in whole or
10 part financially responsible, with the capacity to handle heavy
11 volumes of traffic and that operates over a dedicated or
12 partially dedicated track on a right of way that is separated
13 from foot traffic or other vehicular traffic and that follows
14 gentle grades and curves; and

15 C. "operation and maintenance costs" means the
16 costs incurred in all reasonable and necessary activity
17 involved in operating and maintaining a heavy rail mass transit
18 system, including activity related to service delivery,
19 signaling, scheduling, track, right of way, rolling stock and
20 locomotives, and scheduled and unscheduled reasonable and
21 necessary repair, care and upkeep of a heavy rail mass transit
22 system.

23 SECTION 4. [NEW MATERIAL] IMPOSITION AND RATE OF TAX--
24 DENOMINATION AS "HEAVY RAIL MASS TRANSIT EXCISE TAX".--

25 A. For the privilege and benefit of being served by
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1 a state-financed heavy rail mass transit system, a countywide
2 excise tax is imposed on any person engaging in business in a
3 county served by a heavy rail mass transit system. The tax
4 shall be set and adjusted for each affected county annually by
5 the taxation and revenue department in one-sixteenth percent
6 increments by multiplying the total unfunded operation and
7 maintenance costs of the heavy rail mass transit system for the
8 previous twelve-month period by a fraction, the numerator of
9 which is the population in the county and the denominator of
10 which is the total population served by the entire heavy rail
11 mass transit system serving that county, and dividing the
12 product of that calculation by the previous twelve-month period
13 taxable gross receipts for that county to determine the
14 appropriate excise tax rate for the next year. In no case
15 shall the heavy rail mass transit excise tax rate in a county
16 in any year be higher than one-fourth percent.

17 B. The tax imposed by this section shall be
18 referred to as the "heavy rail mass transit excise tax".

19 C. Annually, on a date set by the taxation and
20 revenue department, the secretary of transportation shall
21 certify to the taxation and revenue department those counties
22 that are served by a heavy rail mass transit system and the
23 total unfunded operation and maintenance costs of each heavy
24 rail mass transit system in this state.

25 SECTION 5. A new section of the Tax Administration Act is

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1 enacted to read:

2 "[NEW MATERIAL] DISTRIBUTION--HEAVY RAIL MASS TRANSIT
3 EXCISE TAX.--A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to the heavy rail mass transit fund in an
5 amount equal to the net receipts attributable to the taxes,
6 surcharges, penalties and interest imposed pursuant to the
7 Heavy Rail Mass Transit Excise Tax Act."

8 SECTION 6. A new section of Chapter 67, Article 3 NMSA
9 1978 is enacted to read:

10 "[NEW MATERIAL] HEAVY RAIL MASS TRANSIT FUND CREATED--
11 USE.--

12 A. The "heavy rail mass transit fund" is created as
13 a nonreverting fund in the state treasury. The fund consists
14 of money from taxes distributed to the fund and earnings on
15 investment of the fund. Except as provided in Subsections B
16 and C of this section, money in the fund shall not be
17 transferred to any other fund. The department shall administer
18 the fund, and money in the fund is appropriated to the
19 department for expenditures as provided in this section.
20 Disbursements from the fund shall be by warrant of the
21 secretary of finance and administration on vouchers signed by
22 the secretary of transportation or the secretary's authorized
23 representative.

24 B. The department shall use money in the heavy rail
25 mass transit fund to pay unfunded operation and maintenance

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1 costs of a heavy rail mass transit system as they come due to
2 the extent money in the fund is available to pay those costs.
3 When two or more heavy rail mass transit systems have unfunded
4 operation and maintenance costs but there is insufficient money
5 in the fund to pay all the costs, the department shall
6 apportion payments based on each system's share of the
7 aggregate operation and maintenance costs for all systems for
8 the time period being considered. At the end of each fiscal
9 year, if there is money remaining in the fund after all due
10 operation and maintenance costs have been paid, the department
11 shall use the remaining amount for payment of debt service on
12 any outstanding bonds that may have been issued by or on behalf
13 of the department or the commission to create or build the
14 heavy rail mass transit system.

15 C. If operation and maintenance costs of a heavy
16 rail mass transit system are the responsibility of a public
17 agency, as defined in the Joint Powers Agreements Act, other
18 than the department, the department may enter into a joint
19 powers agreement pursuant to that act to contribute money from
20 the heavy rail mass transit fund to that public agency to pay
21 or help defray those costs.

22 D. As used in this section:

23 (1) "heavy rail mass transit system" means an
24 intercity passenger railway, for which the state is in whole or
25 part financially responsible, with the capacity to handle heavy

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1 volumes of traffic and that operates over a dedicated or
2 partially dedicated track on a right of way that is separated
3 from foot traffic or other vehicular traffic and that follows
4 gentle grades and curves; and

5 (2) "operation and maintenance costs" means
6 the costs incurred in all reasonable and necessary activity
7 involved in operating and maintaining a heavy rail mass transit
8 system, including activity related to service delivery,
9 signaling, scheduling, track, right of way, rolling stock and
10 locomotives, and scheduled and unscheduled reasonable and
11 necessary repair, care and upkeep of a heavy rail mass transit
12 system."

13 SECTION 7. APPLICABILITY.--The distributions pursuant to
14 Section 5 of this act apply to receipts from the heavy rail
15 mass transit excise tax that are attributable to gross receipts
16 received on and after July 1, 2012.

17 SECTION 8. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2012.