

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 684

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO TAXATION; PROVIDING A DISTRIBUTION OF THE
COMPENSATING TAX TO MUNICIPALITIES; AMENDING AND ENACTING
SECTIONS OF THE TAX ADMINISTRATION ACT.

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

Section 1. A new section of the Tax Administration Act,
Section 7-1-6.42 NMSA 1978, is enacted to read:

"7-1-6.42. [NEW MATERIAL] DISTRIBUTION--MUNICIPALITIES--
COMPENSATING TAX.--A distribution pursuant to Section 7-1-6.1
NMSA 1978 shall be made to each municipality in an amount,
subject to any increase or decrease made pursuant to Section
7-1-6.15 NMSA 1978, equal to the greater of one thousand five
hundred dollars (\$1,500) or an amount determined by dividing one
and two hundred twenty-five thousandths percent by the tax rate
imposed by Section 7-9-7 NMSA 1978 multiplied by the net

.135845.2

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 receipts for the month attributable to the compensating tax
2 and allocating a portion of that amount to the municipality in
3 the proportion of the taxable gross receipts reported from
4 business locations within that municipality for the month to
5 total taxable gross receipts reported for all municipalities
6 for the month. For purposes of this section, business
7 locations within a municipality include business locations:

8 A. on land owned by the state, commonly known as
9 the "state fair grounds", within the exterior boundaries of
10 that municipality;

11 B. outside the boundaries of any municipality on
12 land owned by that municipality; and

13 C. on an Indian reservation or pueblo grant in an
14 area that is contiguous to that municipality and in which the
15 municipality performs services pursuant to a contract between
16 the municipality and the Indian tribe or Indian pueblo if:

17 (1) the contract describes an area in which
18 the municipality is required to perform services and requires
19 the municipality to perform services that are substantially
20 the same as the services the municipality performs for itself;
21 and

22 (2) the governing body of the municipality
23 has submitted a copy of the contract to the secretary. "

24 Section 2. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
25 Chapter 211, Section 20, as amended) is amended to read:

. 135845. 2

underscored material = new
[bracketed material] = delete

1 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
2 MUNICIPALITIES OR COUNTIES. --

3 A. The provisions of this section apply to:

4 (1) any distribution to a municipality of
5 gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or
6 of interstate telecommunications gross receipts tax pursuant
7 to Section 7-1-6.36 NMSA 1978;

8 (2) any transfer to a municipality with
9 respect to any local option gross receipts tax imposed by that
10 municipality;

11 (3) any transfer to a county with respect to
12 any local option gross receipts tax imposed by that county;

13 (4) any distribution to a county pursuant to
14 Section 7-1-6.16 NMSA 1978;

15 (5) any distribution to a municipality or a
16 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA
17 1978;

18 (6) any transfer to a county with respect to
19 any tax imposed in accordance with the Local Liquor Excise Tax
20 Act;

21 (7) any distribution to a municipality or a
22 county of cigarette taxes pursuant to Sections 7-1-6.11,
23 7-12-15 and 7-12-16 NMSA 1978;

24 (8) any distribution to a county from the
25 county government road fund pursuant to Section 7-1-6.26 NMSA

underscored material = new
[bracketed material] = delete

1 1978;

2 (9) any distribution to a municipality of
3 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; [~~and~~]

4 (10) any distribution to a municipality,
5 county, school district or special district of oil and gas ad
6 valorem production tax reduced as a result of a refund
7 requested in December 1998 with respect to production of
8 carbon dioxide; and

9 (11) any distribution to a municipality of
10 compensating taxes pursuant to Section 7-1-6.42 NMSA 1978.

11 B. If the secretary determines that any prior
12 distribution or transfer to a political subdivision was
13 erroneous, the secretary shall increase or decrease the next
14 distribution or transfer amount for that political subdivision
15 after the determination, except as provided in Subsection C, D
16 or E of this section, by the amount necessary to correct the
17 error. Subject to the provisions of Subsection E of this
18 section, the secretary shall notify the political subdivision
19 of the amount of each increase or decrease.

20 C. No decrease shall be made to current or future
21 distributions or transfers to a political subdivision for any
22 excess distribution or transfer made to that political
23 subdivision more than one year prior to the calendar year in
24 which the determination of the secretary was made.

25 D. The secretary, in lieu of recovery from the

underscored material = new
[bracketed material] = delete

1 next distribution or transfer amount, may recover an excess
2 distribution or transfer of one hundred dollars (\$100) or more
3 to the political subdivision in installments from current and
4 future distributions or transfers to that political
5 subdivision pursuant to an agreement with the officials of the
6 political subdivision whenever the amount of the distribution
7 or transfer decrease for the political subdivision exceeds ten
8 percent of the average distribution or transfer amount for
9 that political subdivision for the twelve months preceding the
10 month in which the secretary's determination is made; provided
11 that for the purposes of this subsection, the "average
12 distribution or transfer amount" shall be the arithmetic mean
13 of the distribution or transfer amounts within the twelve
14 months immediately preceding the month in which the
15 determination is made.

16 E. Except for the provisions of this section, if
17 the amount by which a distribution or transfer would be
18 adjusted pursuant to Subsection B of this section is one
19 hundred dollars (\$100) or less, no adjustment or notice need
20 be made.

21 F. The secretary is authorized to decrease a
22 distribution to a municipality or county upon being directed
23 to do so by the secretary of finance and administration
24 pursuant to the State Aid Intercept Act or to redirect a
25 distribution to the New Mexico finance authority pursuant to

underscored material = new
[bracketed material] = delete

1 an ordinance or a resolution passed by the county or
2 municipality and a written agreement of the municipality or
3 county and the New Mexico finance authority. Upon direction
4 to decrease a distribution or notice to redirect a
5 distribution to a municipality or county, the secretary
6 shall decrease or redirect the next designated distribution,
7 and succeeding distributions as necessary, by the amount of
8 the state distributions intercept authorized by the
9 secretary of finance and administration pursuant to the
10 State Aid Intercept Act or by the amount of the state
11 distribution intercept authorized pursuant to an ordinance
12 or a resolution passed by the county or municipality and a
13 written agreement with the New Mexico finance authority.
14 The secretary shall transfer the state distributions
15 intercept amount to the municipal or county treasurer or
16 other person designated by the secretary of finance and
17 administration or to the New Mexico finance authority
18 pursuant to written agreement to pay the debt service to
19 avoid default on qualified local revenue bonds or meet other
20 local revenue bond, loan or other debt obligations of the
21 municipality or county to the New Mexico finance authority. "

22 Section 3. EFFECTIVE DATE. -- The effective date of the
23 provisions of this act is July 1, 2001.