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HOUSE BILL 240

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

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

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

A. The provisions of this section apply to:

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

(2) any transfer to a municipality with

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1 respect to any local option gross receipts tax imposed by that  
2 municipality;

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

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

7 (5) any distribution to a municipality or a  
8 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA  
9 1978;

10 (6) any transfer to a county with respect to  
11 any tax imposed in accordance with the Local Liquor Excise Tax  
12 Act;

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

16 (8) any distribution to a county from the  
17 county government road fund pursuant to Section 7-1-6.26 NMSA  
18 1978;

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

21 (10) any distribution to a municipality,  
22 county, school district or special district of oil and gas ad  
23 valorem production tax reduced as a result of a refund  
24 requested in December 1998 with respect to production of  
25 carbon dioxide; and

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1                                   (11) any distribution to a municipality of  
2                                   compensating taxes pursuant to Section 7-1-6.43 NMSA 1978.

3                                   B. If the secretary determines that any prior  
4 distribution or transfer to a political subdivision was  
5 erroneous, the secretary shall increase or decrease the next  
6 distribution or transfer amount for that political subdivision  
7 after the determination, except as provided in Subsection C, D  
8 or E of this section, by the amount necessary to correct the  
9 error. Subject to the provisions of Subsection E of this  
10 section, the secretary shall notify the political subdivision  
11 of the amount of each increase or decrease.

12                                  C. No decrease shall be made to current or future  
13 distributions or transfers to a political subdivision for any  
14 excess distribution or transfer made to that political  
15 subdivision more than one year prior to the calendar year in  
16 which the determination of the secretary was made.

17                                  D. The secretary, in lieu of recovery from the  
18 next distribution or transfer amount, may recover an excess  
19 distribution or transfer of one hundred dollars (\$100) or more  
20 to the political subdivision in installments from current and  
21 future distributions or transfers to that political  
22 subdivision pursuant to an agreement with the officials of the  
23 political subdivision whenever the amount of the distribution  
24 or transfer decrease for the political subdivision exceeds ten  
25 percent of the average distribution or transfer amount for

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1 that political subdivision for the twelve months preceding the  
2 month in which the secretary's determination is made; provided  
3 that for the purposes of this subsection, the "average  
4 distribution or transfer amount" shall be the arithmetic mean  
5 of the distribution or transfer amounts within the twelve  
6 months immediately preceding the month in which the  
7 determination is made.

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

13 F. The secretary is authorized to decrease a  
14 distribution to a municipality or county upon being directed  
15 to do so by the secretary of finance and administration  
16 pursuant to the State Aid Intercept Act or to redirect a  
17 distribution to the New Mexico finance authority pursuant to  
18 an ordinance or a resolution passed by the county or  
19 municipality and a written agreement of the municipality or  
20 county and the New Mexico finance authority. Upon direction  
21 to decrease a distribution or notice to redirect a  
22 distribution to a municipality or county, the secretary  
23 shall decrease or redirect the next designated distribution,  
24 and succeeding distributions as necessary, by the amount of  
25 the state distributions intercept authorized by the

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

14 Section 2. A new section of the Tax Administration  
15 Act, Section 7-1-6.43 NMSA 1978, is enacted to read:

16 "7-1-6.43. [NEW MATERIAL] DISTRIBUTION--MUNICIPALITIES--  
17 COMPENSATING TAX.--A distribution pursuant to Section 7-1-6.1  
18 NMSA 1978 shall be made to each municipality in an amount,  
19 subject to any increase or decrease made pursuant to Section  
20 7-1-6.15 NMSA 1978, equal to the greater of one thousand five  
21 hundred dollars (\$1,500) or an amount determined by dividing one  
22 and two hundred twenty-five thousandths percent by the tax rate  
23 imposed by Section 7-9-7 NMSA 1978 multiplied by the net  
24 receipts for the month attributable to the compensating tax and  
25 allocating a portion of that amount to the municipality in the

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1 proportion of the taxable gross receipts reported from business  
2 locations within that municipality for the month to total  
3 taxable gross receipts reported for all municipalities for the  
4 month. For purposes of this section, business locations within  
5 a municipality include business locations:

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

9 B. outside the boundaries of any municipality on  
10 land owned by that municipality; and

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

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

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

23 Section 3. EFFECTIVE DATE. -- The effective date of the  
24 provisions of this act is July 1, 2002.