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HOUSE BILL 476

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Jose A. Campos

AN ACT

RELATING TO TAXATION; PROVIDING FOR A MUNICIPAL INCOME TAX DISTRIBUTION; PROVIDING FOR ADJUSTMENTS OF DISTRIBUTIONS TO MUNICIPALITIES; REQUIRING AN ANNUAL REPORT TO THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE REGARDING MUNICIPAL INCOME TAX AND GROSS RECEIPTS TAX DISTRIBUTIONS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1990.

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

Section 1. Section 7-1-6.1 NMSA 1978 (being Laws 1983, Chapter 211, Section 6, as amended by Laws 1990, Chapter 6, Section 19 and also by Laws 1990, Chapter 86, Section 3) is amended to read:

"7-1-6.1. IDENTIFICATION OF MONEY IN TAX ADMINISTRATION SUSPENSE FUND--DISTRIBUTION.--After the necessary disbursements have been made from the tax administration suspense fund, the .160276.1

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1 money remaining, except for remittances received within the
2 previous sixty days that are unidentified as to source or
3 disposition, in the suspense fund as of the last day of the
4 month shall be identified by tax source and distributed or
5 transferred in accordance with the [~~provisions of Sections~~
6 ~~7-1-6.2 through 7-1-6.19, 7-1-6.24 through 7-1-6.26 and~~
7 ~~7-1-6.28 through 7-1-6.40 NMSA 1978~~] applicable distribution
8 provisions of the Tax Administration Act. After the necessary
9 distributions and transfers, any balance shall be distributed
10 to the general fund."

11 Section 2. Section 7-1-6.4 NMSA 1978 (being Laws 1983,
12 Chapter 211, Section 9, as amended) is amended to read:

13 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS
14 TAX.--

15 A. Except as provided in Subsection B of this
16 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
17 shall be made to each municipality in an amount, subject to any
18 increase or decrease made pursuant to Section 7-1-6.15 NMSA
19 1978, equal to the product of the quotient of one [~~and two~~
20 ~~hundred twenty-five thousandths~~] percent divided by the tax
21 rate imposed by Section 7-9-4 NMSA 1978 [~~times~~] multiplied by
22 the net receipts for the month attributable to the gross
23 receipts tax from business locations:

24 (1) within that municipality;

25 (2) on land owned by the state, commonly known

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1 as the "state [~~fair grounds~~] fairgrounds", within the exterior
2 boundaries of that municipality;

3 (3) outside the boundaries of any municipality
4 on land owned by that municipality; and

5 (4) on an Indian reservation or pueblo grant
6 in an area that is contiguous to that municipality and in which
7 the municipality performs services pursuant to a contract
8 between the municipality and the Indian tribe or Indian pueblo
9 if:

10 (a) the contract describes an area in
11 which the municipality is required to perform services and
12 requires the municipality to perform services that are
13 substantially the same as the services the municipality
14 performs for itself; and

15 (b) the governing body of the
16 municipality has submitted a copy of the contract to the
17 secretary.

18 B. If the reduction made by Laws 1991, Chapter 9,
19 Section 9 to the distribution under this section impairs the
20 ability of a municipality to meet its principal or interest
21 payment obligations for revenue bonds outstanding prior to July
22 1, 1991 that are secured by the pledge of all or part of the
23 municipality's revenue from the distribution made under this
24 section, then the amount distributed pursuant to this section
25 to that municipality shall be increased by an amount sufficient

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1 to meet any required payment, provided that the distribution
2 amount does not exceed the amount that would have been due that
3 municipality under this section as it was in effect on June 30,
4 1992.

5 C. If the reduction made by this 2006 act in the
6 distribution pursuant to Subsection A of this section impairs
7 the ability of a municipality to meet its principal or interest
8 payment obligations for revenue bonds outstanding prior to
9 January 1, 2007 that are secured by the pledge of all or part
10 of the municipality's revenue from the distribution made under
11 this section, the municipality may pledge any amount of the
12 distribution pursuant to Section 7-1-6.54 NMSA 1978 to meet any
13 required payment."

14 Section 3. Section 7-1-6.46 NMSA 1978 (being Laws 2004,
15 Chapter 116, Section 1) is amended to read:

16 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR
17 FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES
18 DEDUCTION.--

19 A. A distribution pursuant to Section 7-1-6.1 NMSA
20 1978 shall be made to a municipality in an amount, subject to
21 any increase or decrease made pursuant to Section 7-1-6.15 NMSA
22 1978, equal to the sum of:

23 (1) the total deductions claimed pursuant to
24 Section 7-9-92 NMSA 1978 for the month by taxpayers from
25 business locations attributable to the municipality multiplied
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1 by the sum of the combined rate of all municipal local option
2 gross receipts taxes in effect in the municipality for the
3 month, plus one [~~and two hundred twenty-five thousandths~~]
4 percent, plus an additional two hundred twenty-five thousandths
5 percent if a distribution is made to the municipality pursuant
6 to Subsection A of Section 7-1-6.54 NMSA 1978; and

7 (2) the total deductions claimed pursuant to
8 Section 7-9-93 NMSA 1978 for the month by taxpayers from
9 business locations attributable to the municipality multiplied
10 by the sum of the combined rate of all municipal local option
11 gross receipts taxes in effect in the municipality for the
12 month, plus one [~~and two hundred twenty-five thousandths~~]
13 percent, plus an additional two hundred twenty-five thousandths
14 percent if a distribution is made to the municipality pursuant
15 to Subsection A of Section 7-1-6.54 NMSA 1978.

16 B. The distribution pursuant to Subsection A of
17 this section is in lieu of revenue that would have been
18 received by the municipality but for the deductions provided by
19 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall
20 be considered gross receipts tax revenue and shall be used by
21 the municipality in the same manner as gross receipts tax
22 revenue, including payment of gross receipts tax revenue bonds.

23 C. For the purposes of this section, "business
24 locations attributable to the municipality" means business
25 locations:

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- 1 (1) within the municipality;
- 2 (2) on land owned by the state, commonly known
3 as the "state fairgrounds", within the exterior boundaries of
4 the municipality;
- 5 (3) outside the boundaries of the municipality
6 on land owned by the municipality; and
- 7 (4) on an Indian reservation or pueblo grant
8 in an area that is contiguous to the municipality and in which
9 the municipality performs services pursuant to a contract
10 between the municipality and the Indian tribe or Indian pueblo
11 if:

12 (a) the contract describes an area in
13 which the municipality is required to perform services and
14 requires the municipality to perform services that are
15 substantially the same as the services the municipality
16 performs for itself; and

17 (b) the governing body of the
18 municipality has submitted a copy of the contract to the
19 secretary."

20 Section 4. A new section of the Tax Administration Act,
21 Section 7-1-6.54 NMSA 1978, is enacted to read:

22 "7-1-6.54. [NEW MATERIAL] DISTRIBUTION TO MUNICIPALITIES--
23 INCOME TAX.--In addition to any other distribution made to each
24 municipality pursuant to the Tax Administration Act, a
25 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made

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1 to each municipality in an amount equal to the greater of:

2 A. the amount, subject to any increase or decrease
3 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the
4 product of the quotient of two hundred twenty-five thousandths
5 percent divided by the tax rate imposed by Section 7-9-4 NMSA
6 1978 multiplied by the net receipts for the month attributable
7 to the gross receipts tax from business locations:

8 (1) within that municipality;

9 (2) on land owned by the state, commonly known
10 as the "state fairgrounds", within the exterior boundaries of
11 that municipality;

12 (3) outside the boundaries of any municipality
13 on land owned by that municipality; and

14 (4) on an Indian reservation or pueblo grant
15 in an area that is contiguous to that municipality and in which
16 the municipality performs services pursuant to a contract
17 between the municipality and the Indian tribe or Indian pueblo
18 if:

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

24 (b) the governing body of the
25 municipality has submitted a copy of the contract to the

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1 secretary; or

2 B. one-twelfth of an amount equal to two hundred
3 seventy-five thousandths percent of the adjusted gross income
4 reported pursuant to the Income Tax Act by residents of the
5 municipality for taxable years beginning on or after January 1
6 in the taxable year two years prior to the calendar year in
7 which the distribution is being made; provided that "adjusted
8 gross income reported" does not include adjusted gross income
9 reported on returns filed after October 15 of the calendar year
10 following that taxable year."

11 Section 5. [NEW MATERIAL] REPORT TO REVENUE STABILIZATION
12 AND TAX POLICY COMMITTEE.--The secretary of taxation and
13 revenue, the secretary of finance and administration and the
14 executive director of the New Mexico municipal league shall
15 report annually to the revenue stabilization and tax policy
16 committee the distributions made in the most recent fiscal year
17 or calendar year to the municipalities pursuant to Sections
18 7-1-6.4 and 7-1-6.54 NMSA 1978 and any recommendations for
19 changes in the distribution formulas or revenue sources.

20 Section 6. TEMPORARY PROVISION.--For calendar year 2007,
21 the secretary of taxation and revenue shall develop a method of
22 determining as accurately as practicable the site of residence
23 of income tax payers for purposes of determining the
24 distribution to each municipality pursuant to the provisions of
25 Section 7-1-6.54 NMSA 1978.

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1 Section 7. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is January 1, 2007.

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