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SENATE BILL 87

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Steven P. Neville

AN ACT

RELATING TO TAXATION; PROVIDING A DISTRIBUTION OF THE GROSS RECEIPTS TAX TO MUNICIPALITIES AND COUNTIES; REDUCING THE AMOUNT OF A MUNICIPAL OR COUNTY HOLD HARMLESS GROSS RECEIPTS TAX THAT MAY BE IMPOSED; PROVIDING CONDITIONS FOR WHEN A MUNICIPAL OR COUNTY HOLD HARMLESS GROSS RECEIPTS TAX MAY BE IMPOSED.

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

SECTION 1. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION--GROSS RECEIPTS TAX TO MUNICIPALITIES AND COUNTIES.--

A. 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 .195482.1

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1 NMSA 1978, equal to the product of the quotient of twenty-five
2 hundredths percent divided by the tax rate imposed by Section
3 7-9-4 NMSA 1978 multiplied by the net receipts for the month
4 attributable to the gross receipts tax from business locations:

5 (1) within that municipality;

6 (2) on land owned by the state, commonly known
7 as the "state fairgrounds", within the exterior boundaries of
8 that municipality;

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

11 (4) on an Indian reservation or pueblo grant
12 in 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 pueblo
15 if:

16 (a) the contract describes an area in
17 which 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 (b) the governing body of the
22 municipality has submitted a copy of the contract to the
23 secretary.

24 B. A distribution pursuant to Section 7-1-6.1 NMSA
25 1978 shall be made to each county in an amount, subject to any

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1 increase or decrease made pursuant to Section 7-1-6.15 NMSA
2 1978, equal to the product of the quotient of twenty-five
3 hundredths percent divided by the tax rate imposed by Section
4 7-9-4 NMSA 1978 multiplied by the net receipts for the month
5 attributable to the gross receipts tax from business locations
6 in the county area not within a municipality.

7 C. A distribution pursuant to this section may be
8 adjusted for a distribution made to a tax increment development
9 district with respect to a portion of a gross receipts tax
10 increment dedicated by a municipality or county pursuant to the
11 Tax Increment for Development Act."

12 SECTION 2. Section 7-19D-18 NMSA 1978 (being Laws 2013,
13 Chapter 160, Section 11) is amended to read:

14 "7-19D-18. MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX.--

15 A. The majority of the members of the governing
16 body of any municipality may impose by ordinance an excise tax
17 not to exceed a rate of [~~three-eighths~~] one-eighth percent of
18 the gross receipts of any person engaging in business in the
19 municipality for the privilege of engaging in business in the
20 municipality if the revenue from the distribution made to a
21 municipality pursuant to Section 1 of this 2014 act is less
22 than one hundred percent of the sum of the total deductions
23 claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for
24 the month by taxpayers from business locations attributable to
25 the municipality multiplied by the sum of the combined rate of

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1 all municipal local option gross receipts taxes in effect in
2 the municipality on January 1, 2007 plus one and two hundred
3 twenty-five thousandths percent.

4 B. A tax imposed pursuant to this section shall be
5 imposed by the enactment of one or more ordinances, each
6 imposing any number of gross receipts tax rate increments, but
7 the total gross receipts tax rate imposed by all ordinances
8 pursuant to this section shall not exceed an aggregate rate of
9 [~~three-eighths~~] one-eighth percent of the gross receipts of a
10 person engaging in business. Municipalities may impose
11 increments of [~~one-eighth of one~~] one-sixteenth percent.

12 [~~B.~~] C. The tax imposed pursuant to Subsection A of
13 this section may be referred to as the "municipal hold harmless
14 gross receipts tax". The imposition of a municipal hold
15 harmless gross receipts tax is not subject to referendum.

16 [~~C.~~] D. The governing body of a municipality may,
17 at the time of enacting an ordinance imposing the tax
18 authorized in Subsection A of this section, dedicate the
19 revenue for a specific purpose or area of municipal government
20 services, including but not limited to police protection, fire
21 protection, public transportation or street repair and
22 maintenance. If the governing body proposes to dedicate such
23 revenue, the ordinance and any revenue so dedicated shall be
24 used by the municipality for that purpose unless a subsequent
25 ordinance is adopted to change the purpose to which the revenue

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1 is dedicated or to place the revenue in the general fund of the
2 municipality.

3 ~~[D-]~~ E. Any law that imposes or authorizes the
4 imposition of a municipal hold harmless gross receipts tax or
5 that affects the municipal hold harmless gross receipts tax, or
6 any law supplemental thereto or otherwise appertaining thereto,
7 shall not be repealed or amended or otherwise directly or
8 indirectly modified in such a manner as to impair adversely any
9 outstanding revenue bonds that may be secured by a pledge of
10 such municipal hold harmless gross receipts tax unless such
11 outstanding revenue bonds have been discharged in full or
12 provision has been fully made therefor."

13 **SECTION 3.** Section 7-20E-28 NMSA 1978 (being Laws 2013,
14 Chapter 160, Section 12) is amended to read:

15 "7-20E-28. COUNTY HOLD HARMLESS GROSS RECEIPTS TAX.--

16 A. The majority of the members of the governing
17 body of any county may impose by ordinance an excise tax not to
18 exceed a rate of ~~[three-eighths]~~ one-eighth percent of the
19 gross receipts of any person engaging in business in the county
20 area for the privilege of engaging in business in the county
21 area if the revenue from the distribution made to a county
22 pursuant to Section 1 of this 2014 act is less than one hundred
23 percent of the sum of the total deductions claimed pursuant to
24 Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers
25 from business locations:

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1 (1) in the county multiplied by the combined
2 rate of all local county option gross receipts taxes in effect
3 on January 1, 2007 that are imposed throughout the county; and

4 (2) in the county but not within a
5 municipality multiplied by the combined rate of all local
6 county option gross receipts taxes in effect on January 1, 2007
7 that are imposed throughout the county area not within a
8 municipality.

9 B. A tax imposed pursuant to this section shall be
10 imposed by the enactment of one or more ordinances, each
11 imposing any number of gross receipts tax rate increments, but
12 the total gross receipts tax rate imposed by all ordinances
13 pursuant to this section shall not exceed an aggregate rate of
14 [~~three-eighths~~] one-eighth percent of the gross receipts of a
15 person engaging in business. Counties may impose increments of
16 [~~one-eighth of one~~] one-sixteenth percent.

17 [~~B.~~] C. The tax imposed pursuant to Subsection A of
18 this section may be referred to as the "county hold harmless
19 gross receipts tax". The imposition of a county hold harmless
20 gross receipts tax is not subject to referendum.

21 [~~C.~~] D. The governing body of a county may, at the
22 time of enacting an ordinance imposing the tax authorized in
23 Subsection A of this section, dedicate the revenue for a
24 specific purpose or area of county government services,
25 including but not limited to police protection, fire

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1 protection, public transportation or street repair and
2 maintenance. If the governing body proposes to dedicate such
3 revenue, the ordinance and any revenue so dedicated shall be
4 used by the county for that purpose unless a subsequent
5 ordinance is adopted to change the purpose to which the revenue
6 is dedicated or to place the revenue in the general fund of the
7 county.

8 ~~[D-]~~ E. Any law that imposes or authorizes the
9 imposition of a county hold harmless gross receipts tax or that
10 affects the county hold harmless gross receipts tax, or any law
11 supplemental thereto or otherwise appertaining thereto, shall
12 not be repealed or amended or otherwise directly or indirectly
13 modified in such a manner as to impair adversely any
14 outstanding revenue bonds that may be secured by a pledge of
15 such county hold harmless gross receipts tax unless such
16 outstanding revenue bonds have been discharged in full or
17 provision has been fully made therefor."

18 **SECTION 4. TEMPORARY PROVISION--MUNICIPAL OR COUNTY HOLD**
19 **HARMLESS GROSS RECEIPTS TAX IMPOSED PRIOR TO THE EFFECTIVE DATE**
20 **OF THIS ACT.--An ordinance imposing a municipal hold harmless**
21 **gross receipts tax or county hold harmless gross receipts tax**
22 **prior to the effective date of this act shall conform to the**
23 **provisions of this act. The governing body of a municipality**
24 **or county that has passed an ordinance imposing a municipal or**
25 **county hold harmless gross receipts tax that does not conform**

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1 to the provisions of this act shall repeal such ordinance on or
2 before July 1, 2014.

3 SECTION 5. REPEAL.--Sections 7-1-6.46 and 7-1-6.47 NMSA
4 1978 (being Laws 2004, Chapter 116, Sections 1 and 2, as
5 amended) are repealed.

6 SECTION 6. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2014.