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**HOUSE BILL 37**

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

**INTRODUCED BY**

**Jose A. Campos**

**AN ACT**

**RELATING TO TAXATION; CREATING A MUNICIPAL INCOME TAX  
DISTRIBUTION; ADJUSTING THE MUNICIPAL GROSS RECEIPTS TAX  
DISTRIBUTION.**

**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  
money remaining, except for remittances received within the  
previous sixty days that are unidentified as to source or  
disposition, in the suspense fund as of the last day of the**

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1 month shall be identified by tax source and distributed or  
2 transferred in accordance with the provisions of Sections  
3 7-1-6.2 through 7-1-6.19, 7-1-6.24 through 7-1-6.26 and  
4 7-1-6.28 through [~~7-1-6.40~~] 7-1-6.45 NMSA 1978. After the  
5 necessary distributions and transfers, any balance shall be  
6 distributed to the general fund."

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

9 "7-1-6.4. DISTRIBUTION-- MUNICIPALITY FROM GROSS RECEIPTS  
10 TAX. --

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

20 (1) within that municipality;

21 (2) on land owned by the state, commonly known  
22 as the "state fair grounds", within the exterior boundaries of  
23 that municipality;

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

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

6 (a) the contract describes an area in  
7 which the municipality is required to perform services and  
8 requires the municipality to perform services that are  
9 substantially the same as the services the municipality  
10 performs for itself; and

11 (b) the governing body of the  
12 municipality has submitted a copy of the contract to the  
13 secretary.

14 B. If the reduction made by Laws 1991, Chapter 9,  
15 Section 9 to the distribution under this section impairs the  
16 ability of a municipality to meet its principal or interest  
17 payment obligations for revenue bonds outstanding prior to July  
18 1, 1991 that are secured by the pledge of all or part of the  
19 municipality's revenue from the distribution made under this  
20 section, then the amount distributed pursuant to this section  
21 to that municipality shall be increased by an amount sufficient  
22 to meet any required payment, provided that the distribution  
23 amount does not exceed the amount that would have been due that  
24 municipality under this section as it was in effect on June 30,  
25 1992.

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1                   C. If the reduction made by this 2004 act in the  
2 distribution pursuant to Subsection A of this section impairs  
3 the ability of a municipality to meet its principal or interest  
4 payment obligations for revenue bonds outstanding prior to  
5 January 1, 2005 that are secured by the pledge of all or part  
6 of the municipality's revenue from the distribution made under  
7 this section, the municipality may pledge any amount of the  
8 distribution pursuant to Section 7-1-6.45 NMSA 1978 to meet any  
9 required payment. "

10                   Section 3. A new section of the Tax Administration Act,  
11 Section 7-1-6.45 NMSA 1978, is enacted to read:

12                   "7-1-6.45. [NEW MATERIAL] DISTRIBUTION TO  
13 MUNICIPALITIES--INCOME TAX.--A distribution pursuant to Section  
14 7-1-6.1 NMSA 1978 shall be made to each municipality in an  
15 amount equal to the greater of:

16                   A. the amount that would be distributed pursuant to  
17 Section 7-1-6.4 NMSA 1978 to the municipality in the current  
18 month if the percentage used for purposes of that section was  
19 two hundred twenty-five thousandths percent; or

20                   B. one-twelfth of an amount equal to two hundred  
21 seventy-five thousandths percent of the adjusted gross income  
22 reported pursuant to the Income Tax Act by residents of the  
23 municipality for taxable years beginning on or after January 1  
24 in the taxable year two years prior to the calendar year in  
25 which the distribution is being made; provided that "adjusted

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1 gross income reported" does not include adjusted gross income  
2 reported on returns filed after October 15 of the calendar year  
3 following that taxable year. "

4 Section 4. [NEW MATERIAL] REPORT TO REVENUE STABILIZATION  
5 AND TAX POLICY COMMITTEE. --The secretary of taxation and  
6 revenue, the secretary of finance and administration and the  
7 executive director of the New Mexico municipal league shall  
8 report annually to the revenue stabilization and tax policy  
9 committee the distributions made in the most recent fiscal year  
10 or calendar year to the municipalities pursuant to Sections  
11 7-1-6.4 and 7-1-6.45 NMSA 1978 and any recommendations for  
12 changes in the distribution formulas or revenue sources.

13 Section 5. TEMPORARY PROVISION. --For calendar year 2005,  
14 the secretary of taxation and revenue shall develop a method of  
15 determining as accurately as practicable the site of residence  
16 of income tax payers for purposes of determining the  
17 distribution to each municipality pursuant to the provisions of  
18 Section 7-1-6.45 NMSA 1978.

19 Section 6. EFFECTIVE DATE. --The effective date of the  
20 provisions of this act is January 1, 2005.