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HOUSE BILL 969

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO TAXATION; PROVIDING FOR A DISTRIBUTION OF A PORTION
OF THE COMPENSATING TAX TO MUNICIPALITIES; MAKING AN
APPROPRIATION.

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 1978;

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

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

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

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

20 (10) any distribution to a municipality
21 [~~county, school district or special district of oil and gas ad~~
22 ~~valorem production tax reduced as a result of a refund~~
23 ~~requested in December 1998 with respect to production of carbon~~
24 ~~dioxide] of compensating taxes pursuant to Section 7-1-6.55
25 NMSA 1978.~~

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

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

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

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1 purposes of this subsection, the "average distribution or
2 transfer amount" shall be the arithmetic mean of the
3 distribution or transfer amounts within the twelve months
4 immediately preceding the month in which the determination is
5 made.

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

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

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

12 Section 2. A new section of the Tax Administration Act,
13 Section 7-1-6.55 NMSA 1978, is enacted to read:

14 "7-1-6.55. [NEW MATERIAL] DISTRIBUTION--MUNICIPALITY
15 FROM COMPENSATING TAX.--

16 A. A distribution pursuant to Section 7-1-6.1
17 NMSA 1978 shall be made to each municipality from the net
18 receipts attributable to the compensating tax in an amount
19 calculated pursuant to Subsection B of this section, subject
20 to any increase or decrease made pursuant to Section 7-1-6.15
21 NMSA 1978; provided that the distribution shall be phased in
22 according to the following schedule:

23 (1) from July 1, 2008 until June 30, 2009,
24 the distribution shall be equal to one-third of the amount
25 calculated according to Subsection B of this section;

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1 (2) from July 1, 2009 until June 30, 2010,
2 the distribution shall be equal to two-thirds of the amount
3 calculated according to Subsection B of this section; and

4 (3) on or after July 1, 2010, the
5 distribution shall be in the full amount calculated according
6 to Subsection B of this section.

7 B. The amount of the distribution provided for in
8 this section shall be equal to the quotient of one and two
9 hundred twenty-five thousandths percent divided by the tax
10 rate imposed by Section 7-9-7 NMSA 1978, multiplied by the
11 net receipts for the month attributable to the compensating
12 tax and further multiplied by the ratio of the net receipts
13 from the gross receipts tax attributable to business
14 locations in the municipality to the net receipts from the
15 gross receipts tax attributable to all business locations."