

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 101

3 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

4
5
6
7
8
9
10 AN ACT

11 RELATING TO TAXATION; DECREASING THE GROSS RECEIPTS TAX;
12 REPEALING THE MUNICIPAL AND COUNTY HOLD HARMLESS GROSS RECEIPTS
13 TAXES; ALLOWING A PREVIOUSLY IMPOSED HOLD HARMLESS GROSS
14 RECEIPTS TAX TO REMAIN IN EFFECT; AUTHORIZING A MUNICIPALITY OR
15 COUNTY TO IMPOSE A NEW HOLD HARMLESS GROSS RECEIPTS TAX;
16 REPEALING THE HOLD HARMLESS DISTRIBUTIONS.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 7-9-4 NMSA 1978 (being Laws 1966,
20 Chapter 47, Section 4, as amended) is amended to read:

21 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS
22 "GROSS RECEIPTS TAX".--

23 A. For the privilege of engaging in business, an
24 excise tax equal to [~~five and one-eighth~~] four and seven-
25 eighths percent of gross receipts is imposed on any person

.199617.4

underscored material = new
[bracketed material] = delete

1 engaging in business in New Mexico.

2 B. The tax imposed by this section shall be
3 referred to as the "gross receipts tax"."

4 SECTION 2. A new section of the Municipal Local Option
5 Gross Receipts Taxes Act is enacted to read:

6 "[NEW MATERIAL] MUNICIPAL NEW HOLD HARMLESS GROSS RECEIPTS
7 TAX.--

8 A. Except as provided in Subsection B of this
9 section, the majority of the members of the governing body of
10 any municipality may impose by ordinance an excise tax not to
11 exceed a rate of one-half percent of the gross receipts of any
12 person engaging in business in the municipality for the
13 privilege of engaging in business in the municipality or the
14 hold harmless rate, whichever is less. A tax imposed pursuant
15 to this section shall be imposed by the enactment of one or
16 more ordinances, each imposing any number of gross receipts tax
17 rate increments of one-sixteenth percent.

18 B. The majority of the members of the governing
19 body of any municipality that imposed a municipal hold harmless
20 gross receipts tax pursuant to Section 7-19D-18 NMSA 1978, as
21 that section was in effect prior to July 1, 2015, prior to
22 January 1, 2016 that is still in effect may impose by ordinance
23 an excise tax not to exceed a rate of one-fourth percent of the
24 gross receipts of any person engaging in business in the
25 municipality for the privilege of engaging in business in the

.199617.4

1 municipality or the hold harmless rate, whichever is less. A
2 tax imposed pursuant to this section shall be imposed by the
3 enactment of one or more ordinances, each imposing any number
4 of gross receipts tax rate increments of one-sixteenth percent.

5 C. The tax imposed pursuant to Subsections A and B
6 of this section may be referred to as the "municipal new hold
7 harmless gross receipts tax". The imposition of a municipal
8 new hold harmless gross receipts tax is not subject to
9 referendum.

10 D. The governing body of a municipality may, at the
11 time of enacting an ordinance imposing the tax authorized in
12 Subsection A or B of this section, dedicate the revenue for a
13 specific purpose or area of municipal government services,
14 including police protection, fire protection, public
15 transportation or street repair and maintenance. If the
16 governing body proposes to dedicate such revenue, the ordinance
17 and any revenue so dedicated shall be used by the municipality
18 for that purpose unless a subsequent ordinance is adopted to
19 change the purpose to which the revenue is dedicated or to
20 place the revenue in the general fund of the municipality.

21 E. Any law that imposes or authorizes the
22 imposition of a municipal new hold harmless gross receipts tax
23 or that affects the municipal new hold harmless gross receipts
24 tax, or any law supplemental thereto or otherwise appertaining
25 thereto, shall not be repealed or amended or otherwise directly

.199617.4

1 or indirectly modified in such a manner as to impair adversely
2 any outstanding revenue bonds that may be secured by a pledge
3 of such municipal new hold harmless gross receipts tax unless
4 such outstanding revenue bonds have been discharged in full or
5 provision has been fully made therefor.

6 F. As used in this section, "hold harmless rate"
7 means the rate, rounded to the nearest one-sixteenth percent
8 increment, of a municipal new hold harmless gross receipts tax
9 that, if imposed, would result in an amount of revenue equal
10 to:

11 (1) for a municipality that has a population
12 of less than ten thousand according to the most recent federal
13 decennial census, the monthly average of the total deductions
14 claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for
15 the previous calendar year by taxpayers from business locations
16 attributable to the municipality multiplied by the sum of the
17 combined rate of all municipal local option gross receipts
18 taxes in effect in the municipality on July 1, 2015 plus one
19 and two hundred twenty-five thousandths percent; and

20 (2) for a municipality that has a population
21 of ten thousand or more according to the most recent federal
22 decennial census, the monthly average of the total deductions
23 claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for
24 the previous calendar year by taxpayers from business locations
25 attributable to the municipality multiplied by the sum of the

.199617.4

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

4 SECTION 3. A new section of the County Local Option Gross
 5 Receipts Taxes Act is enacted to read:

6 "[NEW MATERIAL] COUNTY NEW HOLD HARMLESS GROSS RECEIPTS
 7 TAX.--

8 A. Except as provided in Subsection B of this
 9 section, the majority of the members of the governing body of
 10 any county may impose by ordinance an excise tax not to exceed
 11 a rate of one-half percent of the gross receipts of any person
 12 engaging in business in the county for the privilege of
 13 engaging in business in the county or the hold harmless rate,
 14 whichever is less. A tax imposed pursuant to this section
 15 shall be imposed by the enactment of one or more ordinances,
 16 each imposing any number of gross receipts tax rate increments
 17 of one-sixteenth percent.

18 B. The majority of the members of the governing
 19 body of any county that imposed a county hold harmless gross
 20 receipts tax pursuant to Section 7-20E-28 NMSA 1978, as that
 21 section was in effect prior to July 1, 2015, prior to January
 22 1, 2016 that is in effect may impose by ordinance an excise tax
 23 not to exceed a rate of one-fourth percent of the gross
 24 receipts of any person engaging in business in the county for
 25 the privilege of engaging in business in the county or the hold

.199617.4

underscored material = new
 [bracketed material] = delete

1 harmless rate, whichever is less. A tax imposed pursuant to
2 this section shall be imposed by the enactment of one or more
3 ordinances, each imposing any number of gross receipts tax rate
4 increments of one-sixteenth percent.

5 C. The tax imposed pursuant to Subsections A and B
6 of this section may be referred to as the "county new hold
7 harmless gross receipts tax". The imposition of a county new
8 hold harmless gross receipts tax is not subject to referendum.

9 D. The governing body of a county may, at the time
10 of enacting an ordinance imposing the tax authorized in
11 Subsection A or B of this section, dedicate the revenue for a
12 specific purpose or area of county government services,
13 including police protection, fire protection, public
14 transportation or street repair and maintenance. If the
15 governing body proposes to dedicate such revenue, the ordinance
16 and any revenue so dedicated shall be used by the county for
17 that purpose unless a subsequent ordinance is adopted to change
18 the purpose to which the revenue is dedicated or to place the
19 revenue in the general fund of the county.

20 E. Any law that imposes or authorizes the
21 imposition of a county new hold harmless gross receipts tax or
22 that affects the county new hold harmless gross receipts tax,
23 or any law supplemental thereto or otherwise appertaining
24 thereto, shall not be repealed or amended or otherwise directly
25 or indirectly modified in such a manner as to impair adversely

.199617.4

1 any outstanding revenue bonds that may be secured by a pledge
2 of such county new hold harmless gross receipts tax unless such
3 outstanding revenue bonds have been discharged in full or
4 provision has been fully made therefor.

5 F. As used in this section, "hold harmless rate"
6 means the rate, rounded to the nearest one-sixteenth percent
7 increment, of a county new hold harmless gross receipts tax
8 that, if imposed, would result in an amount of revenue equal
9 to:

10 (1) for counties that have a population of
11 less than forty-eight thousand according to the most recent
12 federal decennial census, the sum of:

13 (a) the monthly average of the total
14 deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA
15 1978 for the previous calendar year by taxpayers from business
16 locations within a municipality in the county multiplied by the
17 combined rate of all county local option gross receipts taxes
18 in effect on July 1, 2015 that are imposed throughout the
19 county; and

20 (b) the monthly average of the total
21 deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA
22 1978 for the previous calendar year by taxpayers from business
23 locations in the county but not within a municipality
24 multiplied by the combined rate of all county local option
25 gross receipts taxes in effect on July 1, 2015 that are imposed

.199617.4

1 in the county area not within a municipality; and

2 (2) for counties that have a population of
3 forty-eight thousand or more according to the most recent
4 federal decennial census, the sum of:

5 (a) the monthly average of the total
6 deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA
7 1978 for the previous calendar year by taxpayers from business
8 locations within a municipality in the county multiplied by the
9 combined rate of all county local option gross receipts taxes
10 in effect on January 1, 2007 that are imposed throughout the
11 county; and

12 (b) the monthly average of the total
13 deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA
14 1978 for the previous calendar year by taxpayers from business
15 locations in the county but not within a municipality
16 multiplied by the combined rate of all county local option
17 gross receipts taxes in effect on January 1, 2007 that are
18 imposed in the county area not within a municipality."

19 SECTION 4. TEMPORARY PROVISION--MUNICIPAL OR COUNTY HOLD
20 HARMLESS GROSS RECEIPTS TAX IMPOSED PRIOR TO THE EFFECTIVE DATE
21 OF THIS ACT.--If, prior to January 1, 2016, a municipality or
22 county has in effect a municipal hold harmless gross receipts
23 tax or county hold harmless gross receipts tax pursuant to
24 Sections 7-19D-18 and 7-20E-28 NMSA 1978, as those sections
25 were in effect prior to July 1, 2015, the ordinance imposing

.199617.4

1 the municipal hold harmless gross receipts tax or county hold
 2 harmless gross receipts tax shall remain in effect until the
 3 ordinance expires.

4 SECTION 5. TEMPORARY PROVISION--PUBLICATION OF HOLD
 5 HARMLESS RATE.--On or before December 1, 2015, the taxation and
 6 revenue department shall calculate the hold harmless rate for
 7 each municipality pursuant to Subsection F of Section 2 of this
 8 act and for each county pursuant to Subsection F of Section 3
 9 of this act and publish the calculated rates on the
 10 department's web site.

11 SECTION 6. REPEAL.--

12 A. Sections 7-19D-18 and 7-20E-28 NMSA 1978 (being
 13 Laws 2013, Chapter 160, Sections 11 and 12) are repealed
 14 effective July 1, 2015.

15 B. Sections 7-1-6.46 and 7-1-6.47 NMSA 1978 (being
 16 Laws 2004, Chapter 116, Sections 1 and 2, as amended) are
 17 repealed effective January 1, 2016.

18 SECTION 7. EFFECTIVE DATE.--

19 A. The effective date of the provisions of Sections
 20 5 and 6 of this act is July 1, 2015.

21 B. The effective date of the provisions of Sections
 22 1 through 4 of this act is January 1, 2016.

underscored material = new
 [bracketed material] = delete