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Bill

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

AN ACT

RELATING TO TAXATION; REALLOCATING GROSS RECEIPTS AND INCOME TAX REVENUES AMONG THE STATE AND MUNICIPALITIES; AMENDING AND ENACTING SECTIONS OF THE TAX ADMINISTRATION ACT.

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

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

“7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS TAX. --

A. Except as provided in Subsection B of this section, 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 NMSA 1978, equal to the product of the quotient of one [~~and two hundred twenty five thousandths~~] percent divided by the tax rate imposed by Section 7-

1 9-4 NMSA 1978 multiplied by the net receipts, except net receipts  
2 attributable to a nonprofit hospital licensed by the department of  
3 health, for the month attributable to the gross receipts tax from  
4 business locations:

5 (1) within that municipality;

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

9 (3) outside the boundaries of any  
10 municipality 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 between  
14 the municipality and the Indian tribe or Indian pueblo if:

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

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

21 B. If the reduction made by Laws 1991, Chapter 9,  
22 Section 9 to the distribution under this section impairs the  
23 ability of a municipality to meet its principal or interest  
24 payment obligations for revenue bonds outstanding prior to July 1,  
25 1991 that are secured by the pledge of all or part of the

1 municipality's revenue from the distribution made under this  
2 section, then the amount distributed pursuant to this section to  
3 that municipality shall be increased by an amount sufficient to  
4 meet any required payment, provided that the distribution amount  
5 does not exceed the amount that would have been due that  
6 municipality under this section as it was in effect on June 30,  
7 1992.

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

13 D. As used in this section, "nonprofit hospital" means  
14 a hospital that has been granted exemption from federal income tax  
15 by the United States commissioner of internal revenue as an  
16 organization described in Section 501(c)(3) of the Internal  
17 Revenue Code."

18 **SECTION 2.** A new section of the Tax Administration Act,  
19 Section 7-1-6.65 NMSA 1978, is enacted to read:

20 "7-1-6.65. [NEW MATERIAL] DISTRIBUTION TO MUNICIPALITIES–  
21 GREATER OF PORTION OF INCOME TAX OR GROSS RECEIPTS TAX. –

22 A. Beginning with January, 2021, a distribution  
23 pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each  
24 municipality in an amount equal to the greater of:

25 (1) the amount that would be distributed pursuant

1 to Section 7-1-6.4 NMSA 1978 to the municipality if the percentage  
2 used for purposes of that section for the month were two hundred  
3 twenty-five thousandths percent; or

4 (2) one-twelfth of an amount shown in the  
5 schedule prepared in accordance with Subsection C of this section  
6 for the municipality for the applicable year.

7 B. For the purposes of this section:

8 (1) "adjusted gross income reported" means the  
9 aggregate for all returns filed for the most recent taxable year  
10 in the period January 1 through October 31 immediately preceding  
11 the date on which a ratio determination must be made of the  
12 adjusted gross income reported on each return multiplied by the  
13 New Mexico percentage for that return;

14 (2) "municipal gross receipts share" means the  
15 total taxable gross receipts reported in a calendar year for all  
16 municipalities multiplied by two hundred twenty-five ten  
17 thousandths;

18 (3) "municipal income base" means the sum for an  
19 income taxable year of the adjusted gross income reported by  
20 residents of all New Mexico municipalities; and

21 (4) "New Mexico percentage" means a percentage  
22 equal to one hundred percent minus the non-New Mexico percentage  
23 determined pursuant to Section 7-2-11 NMSA 1978, expressed as a  
24 decimal to at least three significant places.

25 C. The taxation and revenue department will determine

1 by December 1, 2021 the ratio of municipal gross receipts share to  
2 municipal income base for 2019 and by each subsequent December 1  
3 the ratio for the year ending the prior December 31. The ratio  
4 shall be calculated in decimal form, to at least three significant  
5 places. The department shall report to the municipalities, the  
6 New Mexico municipal league, the legislative finance committee and  
7 the department of finance and administration no later than  
8 December 10, 2021 and December 10 of each year thereafter the  
9 ratio determined for the year and a schedule showing for each  
10 municipality an amount equal to the product of the aggregate  
11 adjusted gross income reported by the residents of the  
12 municipality for the prior taxable year multiplied by the ratio.

13 D. The distribution made pursuant to this section is  
14 subject to and impressed with any pledge in effect on January 1,  
15 2021, of all or part of the municipality's revenue from the  
16 distribution made pursuant to Section 7-1-6.4 NMSA 1978 until the  
17 obligation secured by the pledge is discharged."

18 **SECTION 3. [NEW MATERIAL] REPORT TO REVENUE STABILIZATION**  
19 **AND TAX POLICY COMMITTEE.** --The secretary of taxation and revenue,  
20 the secretary of finance and administration and the executive  
21 director of the New Mexico municipal league shall report annually  
22 in the period 2021 through 2024 to the revenue stabilization and  
23 tax policy committee the distributions made in the most recent  
24 fiscal year or calendar year to the municipalities pursuant to  
25 Sections 7-1-6.4 and 7-1-6.65 NMSA 1978 and any recommendation for

