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HOUSE BILL 562

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO TAXATION; PROVIDING A DISTRIBUTION OF THE
COMPENSATING TAX TO MUNICIPALITIES.

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
month shall be identified by tax source and distributed or

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1 transferred in accordance with the provisions of Sections
2 7-1-6.2 through 7-1-6.19, 7-1-6.24 through 7-1-6.26 and
3 7-1-6.28 through [~~7-1-6.40~~] 7-1-6.43 NMSA 1978. After the
4 necessary distributions and transfers, any balance shall be
5 distributed to the general fund."

6 Section 2. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
7 Chapter 211, Section 20, as amended) is amended to read:

8 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
9 MUNICIPALITIES OR COUNTIES. --

10 A. The provisions of this section apply to:

11 (1) any distribution to a municipality of
12 gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or
13 of interstate telecommuunications gross receipts tax pursuant to
14 Section 7-1-6.36 NMSA 1978;

15 (2) any transfer to a municipality with
16 respect to any local option gross receipts tax imposed by that
17 municipality;

18 (3) any transfer to a county with respect to
19 any local option gross receipts tax imposed by that county;

20 (4) any distribution to a county pursuant to
21 Section 7-1-6.16 NMSA 1978;

22 (5) any distribution to a municipality or a
23 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

24 (6) any transfer to a county with respect to
25 any tax imposed in accordance with the Local Liquor Excise Tax

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1 Act;

2 (7) any distribution to a municipality or a
3 county of cigarette taxes pursuant to Sections 7-1-6.11,
4 7-12-15 and 7-12-16 NMSA 1978;

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

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

10 (10) any distribution to a municipality,
11 county, school district or special district of oil and gas ad
12 valorem production tax reduced as a result of a refund
13 requested in December 1998 with respect to production of carbon
14 dioxide; and

15 (11) any distribution to a municipality of
16 compensating taxes pursuant to Section 7-1-6.43 NMSA 1978.

17 B. If the secretary determines that any prior
18 distribution or transfer to a political subdivision was
19 erroneous, the secretary shall increase or decrease the next
20 distribution or transfer amount for that political subdivision
21 after the determination, except as provided in Subsection C, D
22 or E of this section, by the amount necessary to correct the
23 error. Subject to the provisions of Subsection E of this
24 section, the secretary shall notify the political subdivision
25 of the amount of each increase or decrease.

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1 C. No decrease shall be made to current or future
2 distributions or transfers to a political subdivision for any
3 excess distribution or transfer made to that political
4 subdivision more than one year prior to the calendar year in
5 which the determination of the secretary was made.

6 D. The secretary, in lieu of recovery from the next
7 distribution or transfer amount, may recover an excess
8 distribution or transfer of one hundred dollars (\$100) or more
9 to the political subdivision in installments from current and
10 future distributions or transfers to that political subdivision
11 pursuant to an agreement with the officials of the political
12 subdivision whenever the amount of the distribution or transfer
13 decrease for the political subdivision exceeds ten percent of
14 the average distribution or transfer amount for that political
15 subdivision for the twelve months preceding the month in which
16 the secretary's determination is made; provided that for the
17 purposes of this subsection, the "average distribution or
18 transfer amount" shall be the arithmetic mean of the
19 distribution or transfer amounts within the twelve months
20 immediately preceding the month in which the determination is
21 made.

22 E. Except for the provisions of this section, if
23 the amount by which a distribution or transfer would be
24 adjusted pursuant to Subsection B of this section is one
25 hundred dollars (\$100) or less, no adjustment or notice need be

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1 made.

2 F. The secretary is authorized to decrease a
3 distribution to a municipality or county upon being directed
4 to do so by the secretary of finance and administration
5 pursuant to the State Aid Intercept Act or to redirect a
6 distribution to the New Mexico finance authority pursuant to
7 an ordinance or a resolution passed by the county or
8 municipality and a written agreement of the municipality or
9 county and the New Mexico finance authority. Upon direction
10 to decrease a distribution or notice to redirect a
11 distribution to a municipality or county, the secretary shall
12 decrease or redirect the next designated distribution, and
13 succeeding distributions as necessary, by the amount of the
14 state distributions intercept authorized by the secretary of
15 finance and administration pursuant to the State Aid
16 Intercept Act or by the amount of the state distribution
17 intercept authorized pursuant to an ordinance or a resolution
18 passed by the county or municipality and a written agreement
19 with the New Mexico finance authority. The secretary shall
20 transfer the state distributions intercept amount to the
21 municipal or county treasurer or other person designated by
22 the secretary of finance and administration or to the New
23 Mexico finance authority pursuant to written agreement to pay
24 the debt service to avoid default on qualified local revenue
25 bonds or meet other local revenue bond, loan or other debt

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1 obligations of the municipality or county to the New Mexico
2 finance authority. "

3 Section 3. A new section of the Tax Administration Act,
4 Section 7-1-6.43 NMSA 1978, is enacted to read:

5 "7-1-6.43. [NEW MATERIAL] DISTRIBUTION--
6 MUNICIPALITIES--COMPENSATING TAX.--A distribution pursuant to
7 Section 7-1-6.1 NMSA 1978 shall be made to each municipality
8 in an amount, subject to any increase or decrease made
9 pursuant to Section 7-1-6.15 NMSA 1978, equal to the greater
10 of one thousand five hundred dollars (\$1,500) or an amount
11 determined by dividing one and two hundred twenty-five
12 thousandths percent by the tax rate imposed by Section 7-9-7
13 NMSA 1978 multiplied by the net receipts for the month
14 attributable to the compensating tax and allocating a portion
15 of that amount to the municipality in the proportion of the
16 taxable gross receipts reported from business locations
17 within that municipality for the month to total taxable gross
18 receipts reported for all municipalities for the month. For
19 purposes of this section, business locations within a
20 municipality include business locations:

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

24 B. outside the boundaries of any municipality on
25 land owned by that municipality; and

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C. on an Indian reservation or pueblo grant in an area that is contiguous to that municipality and in which the municipality performs services pursuant to a contract between the municipality and the Indian tribe or Indian pueblo if:

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

(2) the governing body of the municipality has submitted a copy of the contract to the secretary."

Section 4. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2003.