

HOUSE BILL 191

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Nate Gentry and Rodolpho "Rudy" S. Martinez

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO TAXATION; ALLOWING CERTAIN MUNICIPALITIES TO RETAIN EIGHTY-TWO PERCENT OF A DISTRIBUTION TO OFFSET GROSS RECEIPTS DEDUCTIONS FOR FOOD AND HEALTH CARE PRACTITIONER SERVICES; CLARIFYING THAT CERTAIN OTHER MUNICIPALITIES AND COUNTIES THAT DO NOT HAVE IN EFFECT A HOLD HARMLESS GROSS RECEIPTS TAX ARE EXEMPT FROM THE PHASE-OUT OF THAT DISTRIBUTION.

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

SECTION 1. Section 7-1-6.46 NMSA 1978 (being Laws 2004, Chapter 116, Section 1, as amended) is amended to read:

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"7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

A. For a municipality that [~~has not elected to impose~~] does not have in effect a municipal hold harmless gross receipts tax through an ordinance and that has a population of less than ten thousand according to the most recent federal decennial census, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to [~~a~~] the municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the [~~sum of:~~

~~(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent; and~~

~~(2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent]~~ applicable maximum distribution for the municipality.

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B. For a municipality that does not have in effect a municipal hold harmless gross receipts tax through an ordinance and that has a population of at least ten thousand but less than twenty-five thousand according to the most recent federal decennial census, Hfl→except a municipality in an H class county,←Hfl a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to eighty-two percent of the applicable maximum distribution for the municipality.

[B-] C. For a municipality not described in Subsection A or B of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the [sum of:

~~(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent in the following percentages:~~

~~(a) prior to July 1, 2015, one hundred percent;~~

~~(b) on or after July 1, 2015 and prior~~

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~~to July 1, 2016, ninety-four percent;~~

~~(c) on or after July 1, 2016 and prior
to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior
to July 1, 2018, eighty-two percent;~~

~~(e) on or after July 1, 2018 and prior
to July 1, 2019, seventy-six percent;~~

~~(f) on or after July 1, 2019 and prior
to July 1, 2020, seventy percent;~~

~~(g) on or after July 1, 2020 and prior
to July 1, 2021, sixty-three percent;~~

~~(h) on or after July 1, 2021 and prior
to July 1, 2022, fifty-six percent;~~

~~(i) on or after July 1, 2022 and prior
to July 1, 2023, forty-nine percent;~~

~~(j) on or after July 1, 2023 and prior
to July 1, 2024, forty-two percent;~~

~~(k) on or after July 1, 2024 and prior
to July 1, 2025, thirty-five percent;~~

~~(l) on or after July 1, 2025 and prior
to July 1, 2026, twenty-eight percent;~~

~~(m) on or after July 1, 2026 and prior
to July 1, 2027, twenty-one percent;~~

~~(n) on or after July 1, 2027 and prior
to July 1, 2028, fourteen percent; and~~

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~~(e) on or after July 1, 2028 and prior to July 1, 2029, seven percent; and~~

~~(2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent in] applicable maximum distribution for the municipality multiplied by the following percentages:~~

~~[(a) prior to July 1, 2015, one hundred percent;~~

~~(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~(e)] (1) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~[(f)] (2) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~[(g)] (3) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

~~[(h)] (4) on or after July 1, 2021 and prior~~

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to July 1, 2022, fifty-six percent;

[~~(i)~~] (5) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;

[~~(j)~~] (6) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;

[~~(k)~~] (7) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;

[~~(l)~~] (8) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;

[~~(m)~~] (9) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;

[~~(n)~~] (10) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; ~~and~~

~~(o)~~ (11) on or after July 1, 2028 and prior to July 1, 2029, seven percent; and

(12) on and after July 1, 2029, zero percent.

[G.—The] D. A distribution pursuant to

[Subsections A and B of] this section is in lieu of revenue

that would have been received by the municipality but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978.

The distribution shall be considered gross receipts tax revenue and shall be used by the municipality in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds. [~~A distribution pursuant to this section to a municipality not described in Subsection A of this section or~~

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~~to a municipality that has imposed a gross receipts tax through an ordinance that does not provide a deduction contained in the Gross Receipts and Compensating Tax Act shall not be made on or after July 1, 2029.~~

~~D.]~~ E. If the [~~reductions~~] changes made by this [2013] 2018 act to the distributions made pursuant to [~~Subsections A and B of~~] this section impair the ability of a municipality to meet its principal or interest payment obligations for revenue bonds that are outstanding prior to July 1, [2013] 2018 and that are secured by the pledge of all or part of the municipality's revenue from the distribution made pursuant to this section, then the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet the required payment; provided that the total amount distributed to that municipality pursuant to this section does not exceed the amount that would have been due that municipality pursuant to this section as it was in effect on June 30, [2013] 2018.

~~E.]~~ F. For the purposes of this section:

(1) "business locations attributable to the municipality" means business locations:

- [~~(1)~~] (a) within the municipality;
- [~~(2)~~] (b) on land owned by the state, commonly known as the "state fairgrounds", within the exterior boundaries of the municipality;

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~~[(3)]~~ (c) outside the boundaries of the municipality on land owned by the municipality; and

~~[(4)]~~ (d) on an Indian reservation or pueblo grant in an area that is contiguous to the municipality and in which the municipality performs services pursuant to a contract between the municipality and the Indian tribe or Indian pueblo if: ~~[(a)]~~ 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 ~~[(b)]~~ 2) the governing body of the municipality has submitted a copy of the contract to the secretary; and

(2) "maximum distribution" means:

(a) for a municipality that does not have in effect a municipal hold harmless gross receipts tax and that has a population of less than twenty-five thousand according to the most recent federal decennial census, the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent; and

(b) for a municipality not described in

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Subparagraph (a) of this paragraph, the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent.

[F-] G. A distribution pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a municipality pursuant to the Tax Increment for Development Act."

SECTION 2. Section 7-1-6.47 NMSA 1978 (being Laws 2004, Chapter 116, Section 2, as amended) is amended to read:

"7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

A. For a county that ~~[has not elected to impose]~~ does not have in effect a county hold harmless gross receipts tax through an ordinance and that has a population of less than forty-eight thousand according to the most recent federal decennial census, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to [a] the county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the ~~[sum of:~~

~~(1) the total deductions claimed pursuant to~~

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~~Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county;~~

~~(2) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality;~~

~~(3) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county; and~~

~~(4) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality] applicable~~
maximum distribution for the county.

B. For a county not described in Subsection A of
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this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the ~~[sum of:~~

~~(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county in the following percentages:~~

~~(a) prior to July 1, 2015, one hundred percent;~~

~~(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

~~(h) on or after July 1, 2021 and prior~~

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~~to July 1, 2022, fifty-six percent;~~

~~(i) on or after July 1, 2022 and prior
to July 1, 2023, forty-nine percent;~~

~~(j) on or after July 1, 2023 and prior
to July 1, 2024, forty-two percent;~~

~~(k) on or after July 1, 2024 and prior
to July 1, 2025, thirty-five percent;~~

~~(l) on or after July 1, 2025 and prior
to July 1, 2026, twenty-eight percent;~~

~~(m) on or after July 1, 2026 and prior
to July 1, 2027, twenty-one percent;~~

~~(n) on or after July 1, 2027 and prior
to July 1, 2028, fourteen percent; and~~

~~(o) on or after July 1, 2028 and prior
to July 1, 2029, seven percent;~~

~~(2) the total deductions claimed pursuant to
Section 7-9-92 NMSA 1978 for the month by taxpayers from
business locations in the county but not within a municipality
multiplied by the combined rate of all county local option
gross receipts taxes in effect on January 1, 2007 that are
imposed in the county area not within a municipality in the
following percentages:~~

~~(a) prior to July 1, 2015, one hundred
percent;~~

~~(b) on or after July 1, 2015 and prior~~

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~~to July 1, 2016, ninety-four percent;~~

~~(c) on or after July 1, 2016 and prior
to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior
to July 1, 2018, eighty-two percent;~~

~~(e) on or after July 1, 2018 and prior
to July 1, 2019, seventy-six percent;~~

~~(f) on or after July 1, 2019 and prior
to July 1, 2020, seventy percent;~~

~~(g) on or after July 1, 2020 and prior
to July 1, 2021, sixty-three percent;~~

~~(h) on or after July 1, 2021 and prior
to July 1, 2022, fifty-six percent;~~

~~(i) on or after July 1, 2022 and prior
to July 1, 2023, forty-nine percent;~~

~~(j) on or after July 1, 2023 and prior
to July 1, 2024, forty-two percent;~~

~~(k) on or after July 1, 2024 and prior
to July 1, 2025, thirty-five percent;~~

~~(l) on or after July 1, 2025 and prior
to July 1, 2026, twenty-eight percent;~~

~~(m) on or after July 1, 2026 and prior
to July 1, 2027, twenty-one percent;~~

~~(n) on or after July 1, 2027 and prior
to July 1, 2028, fourteen percent; and~~

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~~(o) on or after July 1, 2028 and prior to July 1, 2029, seven percent;~~

~~(3) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county in the following percentages:~~

~~(a) prior to July 1, 2015, one hundred percent;~~

~~(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

~~(h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;~~

~~(i) on or after July 1, 2022 and prior~~

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~~to July 1, 2023, forty-nine percent;~~

~~(j) on or after July 1, 2023 and prior
to July 1, 2024, forty-two percent;~~

~~(k) on or after July 1, 2024 and prior
to July 1, 2025, thirty-five percent;~~

~~(l) on or after July 1, 2025 and prior
to July 1, 2026, twenty-eight percent;~~

~~(m) on or after July 1, 2026 and prior
to July 1, 2027, twenty-one percent;~~

~~(n) on or after July 1, 2027 and prior
to July 1, 2028, fourteen percent; and~~

~~(o) on or after July 1, 2028 and prior
to July 1, 2029, seven percent; and~~

~~(4) the total deductions claimed pursuant to
Section 7-9-93 NMSA 1978 for the month by taxpayers from
business locations in the county but not within a municipality
multiplied by the combined rate of all county local option
gross receipts taxes in effect on January 1, 2007 that are
imposed in the county area not within a municipality in]
applicable maximum distribution multiplied by the following
percentages:~~

~~[(a) prior to July 1, 2015, one hundred
percent;~~

~~(b) on or after July 1, 2015 and prior
to July 1, 2016, ninety-four percent;~~

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~~(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~(e)~~ (1) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;

~~(f)~~ (2) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;

~~(g)~~ (3) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;

~~(h)~~ (4) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;

~~(i)~~ (5) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;

~~(j)~~ (6) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;

~~(k)~~ (7) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;

~~(l)~~ (8) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;

~~(m)~~ (9) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;

~~(n)~~ (10) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; ~~and~~

~~(o)~~ (11) on or after July 1, 2028 and prior

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to July 1, 2029, seven percent; and

(12) on and after July 1, 2029, zero percent.

C. [The] A distribution pursuant to [~~Subsections A and B~~ of] this section is in lieu of revenue that would have been received by the county but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered gross receipts tax revenue and shall be used by the county in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds. [~~A distribution pursuant to this section to a county not described in Subsection A of this section or to a county that has imposed a gross receipts tax through an ordinance that does not provide a deduction contained in the Gross Receipts and Compensating Tax Act shall not be made on or after July 1, 2029.~~]

D. If the [~~reductions~~] changes made by this [~~2013~~] 2018 act to the distributions made pursuant to [~~Subsections A and B~~ of] this section impair the ability of a county to meet its principal or interest payment obligations for revenue bonds that are outstanding prior to July 1, [~~2013~~] 2018 and that are secured by the pledge of all or part of the county's revenue from the distribution made pursuant to this section, then the amount distributed pursuant to this section to that county shall be increased by an amount sufficient to meet the required payment; provided that the total amount distributed to that county pursuant to this section does not exceed the amount that .209297.2

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would have been due that county pursuant to this section as it was in effect on June 30, [2013] 2018.

E. A distribution pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a county pursuant to the Tax Increment for Development Act.

F. For purposes of this section, "maximum distribution" means:

(1) for a county that does not have in effect a county hold harmless gross receipts tax and that has a population of less than forty-eight thousand according to the most recent federal decennial census, the sum of:

(a) the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county; and

(b) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality; and

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(2) for a county not described in Paragraph (1) of this subsection, the sum of:

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

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

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.