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HOUSE BILL 657

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Bobbie K. Mallory

AN ACT

RELATING TO TAXATION; PROVIDING FOR ADJUSTMENTS OF  
DISTRIBUTIONS TO POLITICAL SUBDIVISIONS OF CERTAIN EXTRACTIVE  
INDUSTRY TAXES; DECLARING AN EMERGENCY.

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  
9 1978;

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

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

16 (8) any distribution to a county from the  
17 county government road fund pursuant to Section 7-1-6.26 NMSA  
18 1978; [and]

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

21 (10) any distribution to a municipality,  
22 county, school district or special district of oil and gas ad  
23 valorem production tax, oil and gas production equipment ad  
24 valorem tax and copper production ad valorem tax pursuant to  
25 Section 7-1-6.22 NMSA 1978.

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

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

17           D. The secretary, in lieu of recovery from the  
18 next distribution or transfer amount, may recover an excess  
19 distribution or transfer of one hundred dollars (\$100) or more  
20 to the [~~municipality or county~~] political subdivision in  
21 installments from current and future distributions or  
22 transfers to that [~~municipality or county~~] political  
23 subdivision pursuant to an agreement with the officials of the  
24 [~~municipality or county~~] political subdivision whenever the  
25 amount of the distribution or transfer decrease for the

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1     ~~[municipality or county]~~ political subdivision exceeds ten  
2     percent of the average distribution or transfer amount for  
3     that ~~[municipality or county]~~ political subdivision for the  
4     twelve months preceding the month in which the secretary's  
5     determination is made; provided that for the purposes of this  
6     subsection, the "average distribution or transfer amount"  
7     shall be the arithmetic mean of the distribution or transfer  
8     amounts within the twelve months immediately preceding the  
9     month in which the determination is made.

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

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

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

16 Section 2. EMERGENCY.--It is necessary for the public  
17 peace, health and safety that this act take effect  
18 immediately.