

1 SENATE BILL 217

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Bill Tallman

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9  
10 AN ACT

11 RELATING TO TAXATION; REDUCING A DISTRIBUTION OF GROSS RECEIPTS  
12 TAX REVENUE TO MUNICIPALITIES; DISTRIBUTING THE GREATER OF A  
13 PORTION OF GROSS RECEIPTS TAX REVENUE OR INCOME TAX REVENUE TO  
14 MUNICIPALITIES.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

19 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS  
20 TAX.--

21 A. Except as provided in Subsection B of this  
22 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978  
23 shall be made to each municipality in an amount, subject to any  
24 increase or decrease made pursuant to Section 7-1-6.15 NMSA  
25 1978, equal to the product of the quotient of one [~~and two~~

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1 ~~hundred twenty-five thousandths~~] percent divided by the tax  
2 rate imposed by Section 7-9-4 NMSA 1978 multiplied by the net  
3 receipts, except net receipts attributable to a nonprofit  
4 hospital licensed by the department of health, for the month  
5 attributable to the gross receipts tax from business locations:

6 (1) within that municipality;

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

10 (3) outside the boundaries of any municipality  
11 on land owned by that municipality; and

12 (4) on an Indian reservation or pueblo grant  
13 in an area that is contiguous to that municipality and in which  
14 the municipality performs services pursuant to a contract  
15 between the municipality and the Indian tribe or Indian pueblo  
16 if:

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

22 (b) the governing body of the  
23 municipality has submitted a copy of the contract to the  
24 secretary.

25 B. If the reduction made by Laws 1991, Chapter 9,

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1 Section 9 to the distribution under this section impairs the  
2 ability of a municipality to meet its principal or interest  
3 payment obligations for revenue bonds outstanding prior to July  
4 1, 1991 that are secured by the pledge of all or part of the  
5 municipality's revenue from the distribution made under this  
6 section, then the amount distributed pursuant to this section  
7 to that municipality shall be increased by an amount sufficient  
8 to meet any required payment, provided that the distribution  
9 amount does not exceed the amount that would have been due that  
10 municipality under this section as it was in effect on June 30,  
11 1992.

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

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

22 SECTION 2. A new section of the Tax Administration Act is  
23 enacted to read:

24 "[NEW MATERIAL] DISTRIBUTION TO MUNICIPALITIES--GREATER OF  
25 PORTION OF INCOME TAX OR GROSS RECEIPTS TAX.--

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1           A. A distribution pursuant to Section 7-1-6.1 NMSA  
2 1978 shall be made to each municipality in an amount equal to  
3 the greater of:

4                   (1) the amount that would be distributed  
5 pursuant to Section 7-1-6.4 NMSA 1978 to the municipality if  
6 the percentage used for purposes of that section for the month  
7 were two hundred twenty-five thousandths percent; or

8                   (2) one-twelfth of an amount shown in the  
9 schedule prepared in accordance with Subsection B of this  
10 section for the municipality for the applicable year.

11           B. The department shall determine by December 1 of  
12 each year the ratio of municipal gross receipts share to  
13 municipal income base for the taxable year ending the prior  
14 December 31. The ratio shall be calculated in decimal form, to  
15 at least three significant places. The department shall report  
16 to the municipalities, the legislative finance committee and  
17 the department of finance and administration no later than  
18 December 10 of each year the ratio determined and a schedule  
19 showing for each municipality an amount equal to the sum of the  
20 net income reported by the taxpayers whose address reported on  
21 the return is within the municipality for the prior taxable  
22 year multiplied by the ratio.

23           C. The distribution made pursuant to this section  
24 is subject to and impressed with any pledge in effect on  
25 January 1, 2021 of all or part of the municipality's revenue

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1 from the distribution made pursuant to Section 7-1-6.4 NMSA  
2 1978 until the obligation secured by the pledge is discharged.

3 D. As used in this section:

4 (1) "municipal gross receipts share" means the  
5 total taxable gross receipts reported in a calendar year for  
6 all municipalities multiplied by two hundred twenty-five ten-  
7 thousandths;

8 (2) "municipal income base" means the sum for  
9 an income taxable year of the net income reported by all  
10 taxpayers whose addresses reported on the taxpayers' returns  
11 are within a New Mexico municipality;

12 (3) "net income" means "net income" as that  
13 term is used in the Income Tax Act; and

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

18 SECTION 3. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is January 1, 2021.