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HOUSE BILL 224

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO TAX ADMINISTRATION; CLARIFYING DISTRIBUTIONS OF FEES IN THE TAX ADMINISTRATION ACT; PROVIDING FOR THE DISTRIBUTION OF FEES IMPOSED BY THE TAXATION AND REVENUE DEPARTMENT FOR ADMINISTERING THE FOOD AND MEDICAL GROSS RECEIPTS TAX DEDUCTIONS.

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

**SECTION 1.** Section 7-1-6.12 NMSA 1978 (being Laws 1983, Chapter 211, Section 17, as amended) is amended to read:

"7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION GROSS RECEIPTS TAXES.--

A. A transfer pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality for which the department is collecting a local option gross receipts tax imposed by that municipality in an amount, subject to any increase or decrease

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1 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net  
2 receipts attributable to the local option gross receipts tax  
3 imposed by that municipality, less any deduction for  
4 administrative cost determined and made by the department  
5 pursuant to the provisions of the act authorizing imposition by  
6 that municipality of the local option gross receipts tax and  
7 any ~~[additional administrative]~~ fee withheld pursuant to  
8 ~~[Subsection C of]~~ Section 7-1-6.41 NMSA 1978.

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

14 SECTION 2. Section 7-1-6.13 NMSA 1978 (being Laws 1983,  
15 Chapter 211, Section 18, as amended) is amended to read:

16 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION  
17 GROSS RECEIPTS TAXES.--

18 A. Except as provided in Subsections B and C of  
19 this section, a transfer pursuant to Section 7-1-6.1 NMSA 1978  
20 shall be made to each county for which the department is  
21 collecting a local option gross receipts tax imposed by that  
22 county in an amount, subject to any increase or decrease made  
23 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net  
24 receipts attributable to the local option gross receipts tax  
25 imposed by that county, less any deduction for administrative

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1 cost determined and made by the department pursuant to the  
2 provisions of the act authorizing imposition by that county of  
3 the local option gross receipts tax and any ~~[additional~~  
4 ~~administrative]~~ fee withheld pursuant to ~~[Subsection C of]~~  
5 Section 7-1-6.41 NMSA 1978.

6 B. A transfer pursuant to this section may be  
7 adjusted for a distribution made to a tax increment development  
8 district with respect to a portion of a gross receipts tax  
9 increment dedicated by a county pursuant to the Tax Increment  
10 for Development Act.

11 C. Through June 30, 2009, a distribution pursuant  
12 to Section 7-1-6.1 NMSA 1978 shall be made to the sole  
13 community provider fund from revenue attributable to the county  
14 gross receipts tax imposed by a county pursuant to Section  
15 7-20E-9 NMSA 1978, subject to the approval of the board of  
16 county commissioners of that county. The distribution shall be  
17 in an amount equal to one-twelfth of the county's annual  
18 approved contribution for support of sole community provider  
19 payments. Revenue in excess of the amount required for the  
20 contribution shall be transferred to the county pursuant to the  
21 provisions of Subsection A of this section."

22 SECTION 3. Section 7-1-6.41 NMSA 1978 (being Laws 1997,  
23 Chapter 125, Section 1) is amended to read:

24 "7-1-6.41. ADMINISTRATIVE FEE IMPOSED--APPROPRIATION.--

25 ~~[A. The taxation and revenue department is directed~~

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1 ~~to withhold an administrative fee of three percent of the net~~  
2 ~~amount to be distributed under the provisions of:~~

3 ~~(1) Section 7-1-6.32 NMSA 1978;~~

4 ~~(2) Section 66-12-20 NMSA 1978; and~~

5 ~~(3) Section 74-1-13 NMSA 1978.~~

6 ~~B. The administrative fee to be withheld pursuant~~  
7 ~~to Subsection A of this section shall be withheld on~~  
8 ~~distributions made on or after July 1, 1997 and shall continue~~  
9 ~~until the earlier of December 31, 2006 or the date on which the~~  
10 ~~New Mexico finance authority certifies to the taxation and~~  
11 ~~revenue department that all obligations for bonds issued~~  
12 ~~pursuant to Section 12 of this 1997 act have been fully~~  
13 ~~discharged and directs the department to cease distributing~~  
14 ~~money to the authority pursuant to this section.~~

15 ~~C. The taxation and revenue department is directed~~  
16 ~~to withhold an additional administrative fee at the following~~  
17 ~~percentage of the net amount to be distributed pursuant to the~~  
18 ~~following provisions of law:~~

19 ~~(1) two percent of the net amount to be~~  
20 ~~distributed pursuant to Section 7-1-6.12 NMSA 1978; and~~

21 ~~(2) six-tenths of one percent of the net~~  
22 ~~amount to be distributed pursuant to Section 7-1-6.13 NMSA~~  
23 ~~1978.~~

24 ~~D. The administrative fee to be withheld under~~  
25 ~~Subsection C of this section shall be withheld on distributions~~

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1 ~~made on or after July 1, 1997 and shall continue until the~~  
2 ~~earlier of July 1, 2000 or the date on which the New Mexico~~  
3 ~~finance authority certifies to the taxation and revenue~~  
4 ~~department that all obligations for bonds issued pursuant to~~  
5 ~~Section 12 of this 1997 act have been fully discharged and~~  
6 ~~directs the department to cease distributing money to the~~  
7 ~~authority pursuant to this section.~~

8           ~~E.]~~ A. The administrative fee to be withheld by the  
9 ~~[taxation and revenue] department [under Section] pursuant to~~  
10 ~~Sections 7-1-6.12 and 7-1-6.13 NMSA 1978 shall be set at three~~  
11 ~~percent of the net [amount] amounts to be distributed pursuant~~  
12 ~~to the provisions of those sections.~~

13           ~~[F.—The administrative fee to be withheld under~~  
14 ~~Subsection E of this section shall be withheld on distributions~~  
15 ~~made on or after July 1, 2000 and shall continue until the~~  
16 ~~earlier of December 31, 2006 or the date on which the New~~  
17 ~~Mexico finance authority certifies to the taxation and revenue~~  
18 ~~department that all obligations for bonds issued pursuant to~~  
19 ~~Section 12 of this 1997 act have been fully discharged and~~  
20 ~~directs the department to cease distributing money to the~~  
21 ~~authority pursuant to this section. After the department has~~  
22 ~~been directed by the authority to cease distributing money to~~  
23 ~~the authority pursuant to this section, the administrative fee~~  
24 ~~shall be remitted to the state treasurer for deposit in the~~  
25 ~~state general fund each month.~~

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1           G. ~~The administrative fee shall be distributed~~  
2 ~~monthly to the New Mexico finance authority to be pledged~~  
3 ~~irrevocably for the payment of principal, interest and any~~  
4 ~~expenses or obligations related to the bonds issued by the~~  
5 ~~authority to finance the taxation and revenue information~~  
6 ~~management systems project]~~ Fees withheld pursuant to this  
7 subsection shall be distributed to the state treasurer every  
8 month for deposit only in the general fund.

9           B. Any amount of fees authorized to be withheld  
10 pursuant to Sections 7-1-6.12 and 7-1-6.13 NMSA 1978, or by  
11 reference to those sections pursuant to the general  
12 appropriation act of any year, that exceeds the three percent  
13 authorized in Subsection A of this section shall be retained by  
14 the department and is appropriated to the department for audit  
15 and collection activities.

16           C. The administrative fee to be withheld by the  
17 department pursuant to Sections 7-1-6.46 and 7-1-6.47 NMSA 1978  
18 shall be three and twenty-five hundredths percent of the net  
19 amounts to be distributed pursuant to the provisions of those  
20 sections. Fees withheld pursuant to Sections 7-1-6.46 and  
21 7-1-6.47 NMSA 1978 shall be retained by the department and are  
22 appropriated to the department for audit and collection  
23 activities."

24           SECTION 4. Section 7-1-6.46 NMSA 1978 (being Laws 2004,  
25 Chapter 116, Section 1, as amended) is amended to read:

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

4 A. A distribution pursuant to Section 7-1-6.1 NMSA  
5 1978 shall be made to a municipality in an amount, subject to  
6 any increase or decrease made pursuant to Section 7-1-6.15 NMSA  
7 1978, equal to the sum of:

8 (1) for a municipality having a population of  
9 less than ten thousand according to the most recent federal  
10 decennial census and having per capita taxable gross receipts  
11 for the previous calendar year that are less than the average  
12 per capita taxable gross receipts for all municipalities for  
13 that same calendar year:

14 (a) the total deductions claimed  
15 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers  
16 from business locations attributable to the municipality  
17 multiplied by the sum of the combined rate of all municipal  
18 local option gross receipts taxes in effect in the municipality  
19 for the month plus one and two hundred twenty-five thousandths  
20 percent less the administrative fee withheld pursuant to  
21 Section 7-1-6.41 NMSA 1978; and

22 (b) the total deductions claimed  
23 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers  
24 from business locations attributable to the municipality  
25 multiplied by the sum of the combined rate of all municipal

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1 local option gross receipts taxes in effect in the municipality  
2 for the month plus one and two hundred twenty-five thousandths  
3 percent less the administrative fee withheld pursuant to  
4 Section 7-1-6.41 NMSA 1978; or

5 (2) for a municipality not described in  
6 Paragraph (1) of this subsection:

7 (a) the total deductions claimed  
8 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers  
9 from business locations attributable to the municipality  
10 multiplied by the sum of the combined rate of all municipal  
11 local option gross receipts taxes in effect in the municipality  
12 on January 1, 2007 plus one and two hundred twenty-five  
13 thousandths percent less the administrative fee withheld  
14 pursuant to Section 7-1-6.41 NMSA 1978; and

15 (b) the total deductions claimed  
16 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers  
17 from business locations attributable to the municipality  
18 multiplied by the sum of the combined rate of all municipal  
19 local option gross receipts taxes in effect in the municipality  
20 on January 1, 2007 plus one and two hundred twenty-five  
21 thousandths percent less the administrative fee withheld  
22 pursuant to Section 7-1-6.41 NMSA 1978.

23 B. The distribution pursuant to Subsection A of  
24 this section is in lieu of revenue that would have been  
25 received by the municipality but for the deductions provided by

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1 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall  
2 be considered gross receipts tax revenue and shall be used by  
3 the municipality in the same manner as gross receipts tax  
4 revenue, including payment of gross receipts tax revenue bonds.

5 C. For the purposes of this section, "business  
6 locations attributable to the municipality" means business  
7 locations:

8 (1) within the municipality;

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

12 (3) outside the boundaries of the municipality  
13 on land owned by the municipality; and

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

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

24 (b) the governing body of the  
25 municipality has submitted a copy of the contract to the

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1 secretary.

2 D. A distribution pursuant to this section may be  
3 adjusted for a distribution made to a tax increment development  
4 district with respect to a portion of a gross receipts tax  
5 increment dedicated by a municipality pursuant to the Tax  
6 Increment for Development Act."

7 SECTION 5. Section 7-1-6.47 NMSA 1978 (being Laws 2004,  
8 Chapter 116, Section 2, as amended) is amended to read:

9 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD  
10 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

11 A. A distribution pursuant to Section 7-1-6.1 NMSA  
12 1978 shall be made to a county in an amount, subject to any  
13 increase or decrease made pursuant to Section 7-1-6.15 NMSA  
14 1978, equal to the sum of:

15 (1) for a county having a population of less  
16 than forty-eight thousand according to the most recent federal  
17 decennial census:

18 (a) the total deductions claimed  
19 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers  
20 from business locations within a municipality in the county  
21 multiplied by the combined rate of all county local option  
22 gross receipts taxes in effect for the month that are imposed  
23 throughout the county less the administrative fee withheld  
24 pursuant to Section 7-1-6.41 NMSA 1978;

25 (b) the total deductions claimed

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1 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers  
2 from business locations in the county but not within a  
3 municipality multiplied by the combined rate of all county  
4 local option gross receipts taxes in effect for the month that  
5 are imposed in the county area not within a municipality less  
6 the administrative fee withheld pursuant to Section 7-1-6.41  
7 NMSA 1978;

8 (c) the total deductions claimed  
9 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers  
10 from business locations within a municipality in the county  
11 multiplied by the combined rate of all county local option  
12 gross receipts taxes in effect for the month that are imposed  
13 throughout the county less the administrative fee withheld  
14 pursuant to Section 7-1-6.41 NMSA 1978; and

15 (d) the total deductions claimed  
16 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers  
17 from business locations in the county but not within a  
18 municipality multiplied by the combined rate of all county  
19 local option gross receipts taxes in effect for the month that  
20 are imposed in the county area not within a municipality; or

21 (2) for a county not described in Paragraph  
22 (1) of this subsection:

23 (a) the total deductions claimed  
24 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers  
25 from business locations within a municipality in the county

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1 multiplied by the combined rate of all county local option  
2 gross receipts taxes in effect on January 1, 2007 that are  
3 imposed throughout the county less the administrative fee  
4 withheld pursuant to Section 7-1-6.41 NMSA 1978;

5 (b) the total deductions claimed  
6 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers  
7 from business locations in the county but not within a  
8 municipality multiplied by the combined rate of all county  
9 local option gross receipts taxes in effect on January 1, 2007  
10 that are imposed in the county area not within a municipality  
11 less the administrative fee withheld pursuant to Section  
12 7-1-6.41 NMSA 1978;

13 (c) the total deductions claimed  
14 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers  
15 from business locations within a municipality in the county  
16 multiplied by the combined rate of all county local option  
17 gross receipts taxes in effect on January 1, 2007 that are  
18 imposed throughout the county less the administrative fee  
19 withheld pursuant to Section 7-1-6.41 NMSA 1978; and

20 (d) the total deductions claimed  
21 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers  
22 from business locations in the county but not within a  
23 municipality multiplied by the combined rate of all county  
24 local option gross receipts taxes in effect on January 1, 2007  
25 that are imposed in the county area not within a municipality

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1 less the administrative fee withheld pursuant to Section  
2 7-1-6.41 NMSA 1978.

3 B. The distribution pursuant to Subsection A of  
4 this section is in lieu of revenue that would have been  
5 received by the county but for the deductions provided by  
6 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall  
7 be considered gross receipts tax revenue and shall be used by  
8 the county in the same manner as gross receipts tax revenue,  
9 including payment of gross receipts tax revenue bonds.

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

15 SECTION 6. EFFECTIVE DATE.--The effective date of the  
16 provisions of this act is July 1, 2012.