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HOUSE BILL 542

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Don Tripp

AN ACT

**RELATING TO TAXATION; PROVIDING A PHASED-IN CREDIT FOR THE
STATE PORTION OF GROSS RECEIPTS TAX ON RECEIPTS FROM THE SALE
OF FOOD; MODIFYING CERTAIN DISTRIBUTIONS TO MUNICIPALITIES AND
COUNTIES.**

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

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

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

**A. Except as provided in Subsection B of this
section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
shall be made to each municipality in an amount, subject to any
increase or decrease made pursuant to Section 7-1-6.15 NMSA
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 rate
2 imposed by Section 7-9-4 NMSA 1978 [~~times~~] multiplied by the
3 sum of the net receipts for the month plus the amount of the
4 food credit claimed for the month pursuant to Section 7-9-92
5 NMSA 1978 attributable to the gross receipts tax from business
6 locations:

7 (1) within that municipality;

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

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

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

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

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

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1 B. If the reduction made by Laws 1991, Chapter 9,
2 Section 9 to the distribution under this section impairs the
3 ability of a municipality to meet its principal or interest
4 payment obligations for revenue bonds outstanding prior to July
5 1, 1991 that are secured by the pledge of all or part of the
6 municipality's revenue from the distribution made under this
7 section, then the amount distributed pursuant to this section
8 to that municipality shall be increased by an amount sufficient
9 to meet any required payment, provided that the distribution
10 amount does not exceed the amount that would have been due that
11 municipality under this section as it was in effect on June 30,
12 1992. "

13 Section 2. Section 7-1-6.16 NMSA 1978 (being Laws 1983,
14 Chapter 213, Section 27, as amended) is amended to read:

15 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION. --

16 A. Beginning on September 15, 1989 and on September
17 15 of each year thereafter, the department shall distribute to
18 any county that has imposed or continued in effect during the
19 state's preceding fiscal year a county gross receipts tax
20 pursuant to [~~the County Gross Receipts Tax Act~~] Section 7-20E-9
21 NMSA 1978 an amount equal to:

22 (1) the product of a fraction, the numerator
23 of which is the county's population and the denominator of
24 which is the state's population, multiplied by the annual sum
25 for the county; less

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1 (2) the net receipts received by the
2 department during the report year, including any increase or
3 decrease made pursuant to Section 7-1-6.15 NMSA 1978,
4 attributable to the county gross receipts tax at a rate of one-
5 eighth percent; provided that for any month in the report year,
6 if no county gross receipts tax was in effect in the county in
7 the previous month, the net receipts, for the purposes of this
8 section, for that county for that month shall be zero.

9 B. If the amount determined by the calculation in
10 Subsection A of this section is zero or a negative number for a
11 county, no distribution shall be made to that county.

12 C. As used in this section:

13 (1) "annual sum" means for each county the sum
14 of the monthly amounts for those months in the report year
15 [~~which~~] that follow a month in which the county had in effect a
16 county gross receipts tax;

17 (2) "monthly amount" means an amount equal to
18 the product of the sum of the net receipts received by the
19 department in the month attributable to the state gross
20 receipts tax plus the amount of the food credit claimed for the
21 month pursuant to Section 7-9-92 NMSA 1978 multiplied by a
22 fraction, the numerator of which is one-eighth percent and the
23 denominator of which is the tax rate imposed by Section 7-9-4
24 NMSA 1978 in effect on the last day of the previous month;

25 (3) "population" means the most recent

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1 official census or estimate determined by the [~~bureau of the~~
2 United States census bureau for the unit or, if neither is
3 available, the most current estimated population for the unit
4 provided in writing by the bureau of business and economic
5 research at the university of New Mexico; and

6 (4) "report year" means the twelve-month
7 period ending on the July 31 immediately preceding the date
8 upon which a distribution pursuant to this section is required
9 to be made. "

10 Section 3. A new section of the Gross Receipts and
11 Compensating Tax Act, Section 7-9-92 NMSA 1978, is enacted to
12 read:

13 "7-9-92. [NEW MATERIAL] FOOD CREDIT--GROSS RECEIPTS TAX--
14 RECEIPTS FROM SALE OF FOOD AT RETAIL FOOD STORES.--

15 A. The credit provided for in this section may be
16 referred to as the "food credit". A food credit shall be
17 allowed for each reporting period against the gross receipts
18 tax due for that reporting period as follows:

19 (1) for a taxpayer located in the
20 unincorporated area of a county:

21 (a) on or after July 1, 2004 and before
22 July 1, 2005, an amount equal to one and one-fourth percent of
23 the taxpayer's taxable gross receipts from the sale of food at
24 a retail food store for that reporting period;

25 (b) on or after July 1, 2005 and before

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1 July 1, 2006, an amount equal to two and one-half percent of
2 the taxpayer's taxable gross receipts from the sale of food at
3 a retail food store for that reporting period;

4 (c) on or after July 1, 2006 and before
5 July 1, 2007, an amount equal to three and three-fourths
6 percent of the taxpayer's taxable gross receipts from the sale
7 of food at a retail food store for that reporting period; and

8 (d) on or after July 1, 2007, an amount
9 equal to five percent of the taxpayer's taxable gross receipts
10 from the sale of food at a retail food store for that reporting
11 period; and

12 (2) for a taxpayer located in a municipality:

13 (a) on or after July 1, 2004 and before
14 July 1, 2005, an amount equal to eighty-two hundredths percent
15 of the taxpayer's taxable gross receipts from the sale of food
16 at a retail food store for that reporting period;

17 (b) on or after July 1, 2005 and before
18 July 1, 2006, an amount equal to one and sixty-four hundredths
19 percent of the taxpayer's taxable gross receipts from the sale
20 of food at a retail food store for that reporting period;

21 (c) on or after July 1, 2006 and before
22 July 1, 2007, an amount equal to two and forty-six hundredths
23 percent of the taxpayer's taxable gross receipts from the sale
24 of food at a retail food store for that reporting period; and

25 (d) on or after July 1, 2007, an amount

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1 equal to three and two hundred seventy-five thousandths percent
2 of the taxpayer's taxable gross receipts from the sale of food
3 at a retail food store for that reporting period.

4 B. For the purposes of this section:

5 (1) "food" means any food or food product for
6 home consumption that meets the definition of food in 7 USCA
7 2012(g)(1) for purposes of the federal food stamp program; and

8 (2) "retail food store" means an establishment
9 that sells food for home preparation and consumption that meets
10 the definition of retail food store in 7 USCA 2012(k)(1) for
11 purposes of the federal food stamp program, whether or not the
12 establishment participates in the food stamp program."

13 Section 4. EFFECTIVE DATE. --The effective date of the
14 provisions of this act is July 1, 2004.