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HOUSE BILL 119

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO TAXATION; TEMPORARILY INCREASING THE RATE OF THE GROSS RECEIPTS TAX AND THE COMPENSATING TAX; TEMPORARILY RESTRICTING THE IMPOSITION OF LOCAL OPTION GROSS RECEIPTS TAXES; PROVIDING A GROSS RECEIPTS TAX CREDIT.

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

Section 1. Section 7-9-4 NMSA 1978 (being Laws 1966, Chapter 47, Section 4, as amended) is amended to read:

"7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS "GROSS RECEIPTS TAX".--

A. For the privilege of engaging in business, an excise tax equal to ~~[five percent of gross receipts]~~ the amount specified in Subsection B of this section is imposed on any person engaging in business in New Mexico. ~~[B.]~~ The tax imposed by this section shall be referred to as the "gross

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1 receipts tax".

2 B. The gross receipts tax shall be equal to:

3 (1) from July 1, 2010 to June 30, 2011, five  
4 and one-half percent of gross receipts;

5 (2) from July 1, 2011 to June 30, 2012, five  
6 and three-eighths percent of gross receipts;

7 (3) from July 1, 2012 to June 30, 2013, five  
8 and one-fourth percent of gross receipts;

9 (4) from July 1, 2013 to June 30, 2014, five  
10 and one-eighth percent of gross receipts; and

11 (5) on or after July 1, 2014, five percent of  
12 gross receipts."

13 Section 2. Section 7-9-7 NMSA 1978 (being Laws 1966,  
14 Chapter 47, Section 7, as amended) is amended to read:

15 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
16 "COMPENSATING TAX".--

17 A. For the privilege of using tangible property in  
18 New Mexico, there is imposed on the person using the property  
19 an excise tax equal to ~~[five percent]~~ the percent specified in  
20 Subsection E of this section of the value of tangible property  
21 that was:

22 (1) manufactured by the person using the  
23 property in the state;

24 (2) acquired outside this state as the result  
25 of a transaction that would have been subject to the gross

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1 receipts tax had it occurred within this state; or

2 (3) acquired as the result of a transaction  
3 [~~which~~] that was not initially subject to the compensating tax  
4 imposed by Paragraph (2) of this subsection or the gross  
5 receipts tax but which transaction, because of the buyer's  
6 subsequent use of the property, should have been subject to the  
7 compensating tax imposed by Paragraph (2) of this subsection or  
8 the gross receipts tax.

9 B. For the purpose of Subsection A of this section,  
10 value of tangible property shall be the adjusted basis of the  
11 property for federal income tax purposes determined as of the  
12 time of acquisition or introduction into this state or of  
13 conversion to use, whichever is later. If no adjusted basis  
14 for federal income tax purposes is established for the  
15 property, a reasonable value of the property shall be used.

16 C. For the privilege of using services rendered in  
17 New Mexico, there is imposed on the person using such services  
18 an excise tax equal to [~~five percent~~] the percent specified in  
19 Subsection E of this section of the value of the services at  
20 the time they were rendered. The services, to be taxable under  
21 this subsection, must have been rendered as the result of a  
22 transaction [~~which~~] that was not initially subject to the gross  
23 receipts tax but which transaction, because of the buyer's  
24 subsequent use of the services, should have been subject to the  
25 gross receipts tax.

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1 D. The tax imposed by this section shall be  
2 referred to as the "compensating tax".

3 E. The compensating tax rate shall be:

4 (1) from July 1, 2010 to June 30, 2011, five  
5 and one-half percent;

6 (2) from July 1, 2011 to June 30, 2012, five  
7 and three-eighths percent;

8 (3) from July 1, 2012 to June 30, 2013, five  
9 and one-fourth percent;

10 (4) from July 1, 2013 to June 30, 2014, five  
11 and one-eighth percent; and

12 (5) on or after July 1, 2014, five percent."

13 Section 3. A new section of the Gross Receipts and  
14 Compensating Tax Act is enacted to read:

15 "[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--RECEIPTS OF  
16 CERTAIN MEDICAID PROVIDERS.--

17 A. An eligible medicaid dental provider may claim a  
18 credit for a reporting period against gross receipts tax due  
19 for that reporting period as follows:

20 (1) on or after July 1, 2010 but before July  
21 1, 2011, in an amount equal to one-half percent of the  
22 provider's taxable gross receipts for that reporting period  
23 from the provision of pediatric dental services to medicaid or  
24 state children's health insurance program recipients;

25 (2) on or after July 1, 2011 but before July

1 1, 2012, in an amount equal to three-eighths percent of the  
2 provider's taxable gross receipts for that reporting period  
3 from the provision of pediatric dental services to medicaid or  
4 state children's health insurance program recipients;

5 (3) on or after July 1, 2012 but before July  
6 1, 2013, in an amount equal to one-fourth percent of the  
7 provider's taxable gross receipts for that reporting period  
8 from the provision of pediatric dental services to medicaid or  
9 state children's health insurance program recipients; and

10 (4) on or after July 1, 2013 but before July  
11 1, 2014, in an amount equal to one-eighth percent of the  
12 provider's taxable gross receipts for that reporting period  
13 from the provision of pediatric dental services to medicaid or  
14 state children's health insurance program recipients.

15 B. For the purposes of this section:

16 (1) "eligible medicaid dental provider" means  
17 a person whose primary business is the provision of pediatric  
18 dental services to patients and whose patient base in the  
19 previous fiscal year was at least seventy-five percent  
20 pediatric dental medicaid or state children's health insurance  
21 program recipients;

22 (2) "medicaid or state children's health  
23 insurance program recipients" means persons receiving services  
24 pursuant to Title 19 or Title 21 of the federal Social Security  
25 Act as administered by the human services department; and

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1 (3) "pediatric dental services" means services  
2 that are provided to persons eighteen years of age or younger  
3 by a dentist or dental hygienist licensed pursuant to the  
4 Dental Health Care Act and that are within the scope of  
5 services of that act."

6 Section 4. Section 7-19D-5 NMSA 1978 (being Laws 1993,  
7 Chapter 346, Section 5, as amended) is amended to read:

8 "7-19D-5. RESTRICTIONS ON IMPOSITION OF TAX--SPECIFIC  
9 EXEMPTIONS.--

10 A. No tax authorized by the provisions of the  
11 Municipal Local Option Gross Receipts Taxes Act shall be  
12 imposed if the tax is to take effect after July 1, 2010 but  
13 before July 1, 2014 and the total local option gross receipts  
14 tax rate in effect in the municipality exceeds, or with the  
15 imposition of the tax will exceed, two and one-half percent.  
16 For the purposes of this subsection, "total local option gross  
17 receipts tax rate in effect" means the aggregate rate of all  
18 local option gross receipts taxes imposed and in effect,  
19 including taxes imposed pursuant to the Municipal Local Option  
20 Gross Receipts Taxes Act, the County Local Option Gross  
21 Receipts Taxes Act, the Local Hospital Gross Receipts Tax Act  
22 and the County Correctional Facility Gross Receipts Tax Act.

23 B. No tax authorized by the provisions of the  
24 Municipal Local Option Gross Receipts Taxes Act shall be  
25 imposed on the gross receipts arising from:

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1                   [~~A-~~] (1) transporting persons or property for  
2 hire by railroad, motor vehicle, air transportation or any  
3 other means from one point within the municipality to another  
4 point outside the municipality; or

5                   [~~B-~~] (2) a business located outside the  
6 boundaries of a municipality on land owned by that municipality  
7 for which a state gross receipts tax distribution is made  
8 pursuant to Section 7-1-6.4 NMSA 1978."

9                   Section 5. Section 7-20C-5 NMSA 1978 (being Laws 1991,  
10 Chapter 176, Section 5, as amended) is amended to read:

11                   "7-20C-5. RESTRICTIONS ON IMPOSITION OF TAX--SPECIFIC  
12 EXEMPTIONS.--

13                   A. No local hospital gross receipts tax shall be  
14 imposed on a countywide basis if the tax is to take effect  
15 after July 1, 2010 but before July 1, 2014 and the total local  
16 option gross receipts tax rate in effect in the county or in  
17 any municipality located within the county exceeds, or with the  
18 imposition of the tax will exceed, two and one-half percent;  
19 provided, however, that the tax may be imposed in those areas  
20 of the county in which the total local option gross receipts  
21 tax rate that would be in effect upon imposition of the tax  
22 does not exceed two and one-half percent. For the purposes of  
23 this subsection, "total local option gross receipts tax rate in  
24 effect" means the aggregate rate of all local option gross  
25 receipts taxes imposed and in effect, including taxes imposed

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1 pursuant to the Municipal Local Option Gross Receipts Taxes  
2 Act, the County Local Option Gross Receipts Taxes Act, the  
3 Local Hospital Gross Receipts Tax Act and the County  
4 Correctional Facility Gross Receipts Tax Act.

5 B. No local hospital gross receipts tax shall be  
6 imposed on the gross receipts arising from transporting persons  
7 or property for hire by railroad, motor vehicle, air  
8 transportation or any other means from one point within the  
9 county to another point outside the county."

10 Section 6. Section 7-20E-5 NMSA 1978 (being Laws 1993,  
11 Chapter 354, Section 5, as amended) is amended to read:

12 "7-20E-5. RESTRICTIONS ON IMPOSITION OF TAX--SPECIFIC  
13 EXEMPTIONS.--

14 A. No tax authorized [~~under~~] by the provisions of  
15 the County Local Option Gross Receipts Taxes Act to be imposed  
16 in the county area shall be imposed if the tax is to take  
17 effect after July 1, 2010 but before July 1, 2014 and the total  
18 local option gross receipts tax rate in effect in the county  
19 area exceeds, or with the imposition of the tax will exceed,  
20 two and one-half percent.

21 B. No tax authorized by the provisions of the  
22 County Local Option Gross Receipts Taxes Act to be imposed on a  
23 countywide basis shall be imposed on a countywide basis if the  
24 tax is to take effect after July 1, 2010 but before July 1,  
25 2014 and the total local option gross receipts tax rate in

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1 effect in the county or in any municipality located within the  
2 county exceeds, or with the imposition of the tax will exceed,  
3 two and one-half percent; provided, however, that the tax may  
4 be imposed in those areas of the county in which the total  
5 local option gross receipts tax rate that would be in effect  
6 upon imposition of the tax does not exceed two and one-half  
7 percent.

8 C. For the purposes of this section, "total local  
9 option gross receipts tax rate in effect" means the aggregate  
10 rate of all local option gross receipts taxes imposed and in  
11 effect, including taxes imposed pursuant to the County Local  
12 Option Gross Receipts Taxes Act, the Local Hospital Gross  
13 Receipts Tax Act, the County Correctional Facility Gross  
14 Receipts Tax Act and the Municipal Local Option Gross Receipts  
15 Taxes Act.

16 D. No tax authorized by the provisions of the  
17 County Local Option Gross Receipts Taxes Act shall be imposed  
18 on the gross receipts arising from transporting persons or  
19 property for hire by railroad, motor vehicle, air  
20 transportation or any other means from one point within the  
21 county to another point outside the county."

22 Section 7. Section 7-20F-6 NMSA 1978 (being Laws 1993,  
23 Chapter 303, Section 6, as amended) is amended to read:

24 "7-20F-6. RESTRICTIONS ON IMPOSITION OF TAX--SPECIFIC  
25 EXEMPTIONS.--

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1           A. No county correctional facility gross receipts  
2 tax shall be imposed on a countywide basis if the tax is to  
3 take effect after July 1, 2010 but before July 1, 2014 and the  
4 total local option gross receipts tax rate in effect in the  
5 county or in any municipality located within the county  
6 exceeds, or with the imposition of the tax will exceed, two and  
7 one-half percent; provided, however, that the tax may be  
8 imposed in those areas of the county in which the total local  
9 option gross receipts tax rate that would be in effect upon  
10 imposition of the tax does not exceed two and one-half percent.  
11 For the purposes of this subsection, "total local option gross  
12 receipts tax rate in effect" means the aggregate rate of all  
13 local option gross receipts taxes imposed and in effect,  
14 including taxes imposed pursuant to the Municipal Local Option  
15 Gross Receipts Taxes Act, the County Local Option Gross  
16 Receipts Taxes Act, the Local Hospital Gross Receipts Tax Act  
17 and the County Correctional Facility Gross Receipts Tax Act.

18           B. No county correctional facility gross receipts  
19 tax shall be imposed on the gross receipts arising from  
20 transporting persons or property for hire by railroad, motor  
21 vehicle, air transportation or any other means from one point  
22 within the county to another point outside the county."

23           Section 8. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is July 1, 2010.