

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 163

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO TAXATION; PROVIDING A GROSS RECEIPTS TAX CREDIT
AGAINST THE STATE GROSS RECEIPTS TAX FOR CERTAIN SMALL
BUSINESSES; INCLUDING THE AMOUNT OF GROSS RECEIPTS FOR WHICH
THE CREDIT MAY BE APPLIED IN A CALCULATION FOR A DISTRIBUTION
TO MUNICIPALITIES.

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

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1 1978, equal to the product of the quotient of one and two
2 hundred twenty-five thousandths percent divided by the tax rate
3 imposed by Section 7-9-4 NMSA 1978 multiplied by the sum of the
4 net receipts, except net receipts attributable to a nonprofit
5 hospital licensed by the department of health, for the month
6 attributable to the gross receipts tax from the following
7 business locations plus the net receipts for the month that
8 would have been attributable to the gross receipts tax from the
9 following locations but for which a credit is applied pursuant
10 to Section 2 of this 2023 act:

11 (1) within that municipality;

12 (2) on land owned by the state, commonly known
13 as the "state fairgrounds", within the exterior boundaries of
14 that municipality;

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

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

22 (a) the contract describes an area in
23 which the municipality is required to perform services and
24 requires the municipality to perform services that are
25 substantially the same as the services the municipality

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1 performs for itself; and

2 (b) the governing body of the
 3 municipality has submitted a copy of the contract to the
 4 secretary.

5 B. If the reduction made by Laws 1991, Chapter 9,
 6 Section 9 to the distribution under this section impairs the
 7 ability of a municipality to meet its principal or interest
 8 payment obligations for revenue bonds outstanding prior to July
 9 1, 1991 that are secured by the pledge of all or part of the
 10 municipality's revenue from the distribution made under this
 11 section, then the amount distributed pursuant to this section
 12 to that municipality shall be increased by an amount sufficient
 13 to meet any required payment, provided that the distribution
 14 amount does not exceed the amount that would have been due that
 15 municipality under this section as it was in effect on June 30,
 16 1992.

17 C. A distribution pursuant to this section may be
 18 adjusted for a distribution made to a tax increment development
 19 district with respect to a portion of a gross receipts tax
 20 increment dedicated by a municipality pursuant to the Tax
 21 Increment for Development Act.

22 D. As used in this section, "nonprofit hospital"
 23 means a hospital that has been granted exemption from federal
 24 income tax by the United States commissioner of internal
 25 revenue as an organization described in Section 501(c)(3) of

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1 the Internal Revenue Code."

2 SECTION 2. A new section of the Gross Receipts and
3 Compensating Tax Act is enacted to read:

4 "[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX CREDIT--CERTAIN
5 SMALL BUSINESSES.--

6 A. Prior to July 1, 2028, a small business may
7 claim a tax credit in an amount equal to twenty-five percent of
8 the small business's tax liabilities in a taxable period
9 against the state gross receipts tax due; provided that the
10 small business received no more than one million dollars
11 (\$1,000,000) in gross receipts in the calendar year prior to
12 the taxable period in which the credit is claimed. The amount
13 of credit shall not exceed twenty thousand dollars (\$20,000)
14 per small business per calendar year.

15 B. To receive a credit provided by this section, a
16 small business shall apply to the department on forms and in
17 the manner required by the department.

18 C. That portion of credit that exceeds a taxpayer's
19 tax liability in the taxable period in which the credit is
20 claimed may be carried forward to succeeding taxable periods.

21 D. A taxpayer that claims another credit against
22 the gross receipts tax shall not be eligible to claim the
23 credit provided by this section in the same taxable period.

24 E. A taxpayer allowed a tax credit pursuant to this
25 section shall report the amount of the credit to the department

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1 in a manner required by the department.

2 F. The department shall compile an annual report on
 3 the credit that shall include the number of taxpayers approved
 4 by the department to receive the credit, the aggregate amount
 5 of credits approved and any other information necessary to
 6 evaluate the credit. The department shall present the report
 7 to the revenue stabilization and tax policy committee and the
 8 legislative finance committee with an analysis of the cost of
 9 the tax credit.

10 G. As used in this section:

11 (1) "small business" means a business that
 12 employs no more than four full- or part-time employees who are
 13 employed by the business for at least forty-four weeks in the
 14 twelve months prior to the month for which the deduction
 15 pursuant to this section is claimed; and

16 (2) "tax liabilities" means state gross
 17 receipts tax liability and any local option gross receipts tax
 18 liabilities in a taxable period."

19 **SECTION 3. APPLICABILITY.**--The provisions of Section 2 of
 20 this act apply to tax liabilities from taxable periods
 21 beginning on or after July 1, 2023.

22 **SECTION 4. EFFECTIVE DATE.**--The effective date of the
 23 provisions of this act is July 1, 2023.