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HOUSE BILL 311

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Roberto "Bobby" J. Gonzales

FOR THE FUNDING FORMULA STUDY TASK FORCE

AN ACT

RELATING TO TAXATION; INCREASING THE RATE OF THE GROSS RECEIPTS  
TAX AND THE COMPENSATING TAX; DISTRIBUTING THE INCREASED  
REVENUE TO THE PUBLIC SCHOOL FUND.

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

Section 1. A new section of the Tax Administration Act is  
enacted to read:

"~~[NEW MATERIAL]~~ DISTRIBUTION--PUBLIC SCHOOL FUND--GROSS  
RECEIPTS.--A distribution pursuant to Section 7-1-6.1 NMSA 1978  
shall be made to the public school fund in an amount equal to  
nine and nine hundredths percent of the net receipts  
attributable to the gross receipts tax prior to any other  
distributions."

Section 2. A new section of the Tax Administration Act is  
enacted to read:

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1           "[NEW MATERIAL] DISTRIBUTION--PUBLIC SCHOOL FUND--  
2 COMPENSATING TAX.--A distribution pursuant to Section 7-1-6.1  
3 NMSA 1978 shall be made to the public school fund in an amount  
4 equal to nine and nine hundredths percent of the net receipts  
5 attributable to the compensating tax prior to any other  
6 distributions."

7           Section 3. Section 7-9-4 NMSA 1978 (being Laws 1966,  
8 Chapter 47, Section 4, as amended) is amended to read:

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

11           A. For the privilege of engaging in business, an  
12 excise tax equal to five and one-half percent of gross receipts  
13 is imposed on any person engaging in business in New Mexico.

14           B. The tax imposed by this section shall be  
15 referred to as the "gross receipts tax".

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

18           "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
19 "COMPENSATING TAX".--

20           A. For the privilege of using tangible property in  
21 New Mexico, there is imposed on the person using the property  
22 an excise tax equal to five and one-half percent of the value  
23 of tangible property that was:

24                       (1) manufactured by the person using the  
25 property in the state;

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1 (2) acquired outside this state as the result  
2 of a transaction that would have been subject to the gross  
3 receipts tax had it occurred within this state; or

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

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

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

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have been subject to the gross receipts tax.

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

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.