

SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 39

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

AN ACT

RELATING TO TAXATION; AUTHORIZING COUNTIES TO IMPOSE A LOCAL
OPTION COUNTY BUSINESS RETENTION GROSS RECEIPTS TAX; AMENDING
THE GAMING CONTROL ACT TO PROVIDE A GAMING TAX CREDIT FOR
CERTAIN GAMING OPERATORS THAT ARE RACETRACKS; DECLARING AN
EMERGENCY.

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

Section 1. A new section of the County Local Option Gross
Receipts Taxes Act is enacted to read:

"[NEW MATERIAL] COUNTY BUSINESS RETENTION GROSS RECEIPTS
TAX--IMPOSITION--RATE.--

A. A majority of the members of a governing body
may enact an ordinance imposing an excise tax on a person
engaging in business in the county for the privilege of
engaging in business in the county to provide funds to retain

.181072.4

underscored material = new
[bracketed material] = delete

1 local businesses in the county. The maximum rate of the tax
2 shall be one-fourth percent of the gross receipts of the person
3 engaging in business. The tax may be imposed in its entirety
4 or in increments of one-sixteenth percent not to exceed an
5 aggregate rate of one-fourth percent.

6 B. The tax imposed pursuant to this section may be
7 referred to as the "county business retention gross receipts
8 tax".

9 C. An ordinance imposing the county business
10 retention gross receipts tax shall not go into effect until
11 after an election is held and a majority of the voters in the
12 county area voting in the election vote in favor of imposing
13 the tax. The governing body shall adopt a resolution calling
14 for an election within seventy-five days of the date the
15 ordinance is adopted on the question of imposing the tax. The
16 question shall be submitted to the voters of the county area as
17 a separate question at a general election or at a special
18 election called for that purpose by the governing body. A
19 special election shall be called, conducted and canvassed in
20 substantially the same manner as provided by law for general
21 elections. If a majority of the voters voting on the question
22 approves the ordinance imposing the county business retention
23 gross receipts tax, then the ordinance shall become effective
24 in accordance with the provisions of the County Local Option
25 Gross Receipts Taxes Act. If the question of imposing the

.181072.4

1 county business retention gross receipts tax fails, the
2 governing body shall not again propose the imposition of the
3 tax for a period of one year from the date of the election.

4 D. The governing body shall include in the
5 ordinance that:

6 (1) an amount not to exceed seven hundred
7 fifty thousand dollars (\$750,000) of the money from the county
8 business retention gross receipts tax shall be distributed to
9 the state to reduce the impact to the general fund of gaming
10 tax lost to the state from the county from reduced gaming tax
11 revenue due to decreased economic activity in the county; and

12 (2) the remainder of the revenue from the
13 county business retention gross receipts tax shall be
14 distributed back to the county for use for promotion or
15 administration of the county, instructional or general purposes
16 for a public post-secondary educational institution in the
17 county, capital outlay to expand or relocate a public post-
18 secondary educational institution in the county or funding
19 professional services contracts related to implementing an
20 economic development plan adopted by the governing body that
21 shall be updated on an annual basis during the period in which
22 the tax is imposed.

23 E. The county shall notify the department within
24 thirty days of adopting an ordinance and inform the department
25 of the date on which the tax will be imposed for collection

.181072.4

1 purposes.

2 F. The governing body of a county that has imposed
3 a county business retention gross receipts tax pursuant to this
4 section may adopt by a majority vote an ordinance repealing
5 that tax as of either July 1 or January 1, as stated in the
6 ordinance. If the county business retention gross receipts tax
7 is repealed, the governing body shall notify the department
8 within thirty days of the repeal and of the date on which the
9 repeal becomes effective.

10 G. An ordinance enacted pursuant to the provisions
11 of this section shall include an effective date of either July
12 1 or January 1 as required by the County Local Option Gross
13 Receipts Taxes Act.

14 H. A county business retention gross receipts tax
15 imposed pursuant to this section shall be in effect for no more
16 than five years from the effective date of the tax as stated in
17 the county ordinance.

18 I. As used in this section, "county" means a county
19 containing gaming operator licensees that are racetracks."

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

22 "[NEW MATERIAL] DISTRIBUTION--COUNTY BUSINESS RETENTION
23 GROSS RECEIPTS TAX.--Beginning September 1, 2011, an annual
24 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
25 made to a county that has imposed and the electors have

.181072.4

1 approved a county business retention gross receipts tax. The
2 distribution shall be in an amount equal to the balance of the
3 net receipts attributable to that tax collected in the prior
4 fiscal year, exclusive of penalties and interest, after the
5 state has deducted an amount for deposit to the general fund
6 equal to the reduction in gaming tax revenue from the gaming
7 operator licensees that are racetracks located in that county
8 resulting from county gaming tax credits allowed in the
9 immediately prior fiscal year for gaming operator licensees
10 located in that county. The total receipts from any county
11 transferred to the general fund in any fiscal year shall not
12 exceed seven hundred fifty thousand dollars (\$750,000) or the
13 total amount of the decrease in gaming tax revenue calculated
14 for the county pursuant to this section, whichever is less."

15 Section 3. A new section of the Gaming Control Act is
16 enacted to read:

17 "[NEW MATERIAL] COUNTY GAMING TAX CREDIT.--

18 A. Beginning January 1, 2011, a taxpayer that is a
19 gaming operator licensee that is a racetrack may claim, and the
20 department may allow, a tax credit in an amount of up to fifty
21 percent of the taxpayer's monthly gaming tax liability pursuant
22 to Section 60-2E-47 NMSA 1978, not to exceed a maximum credit
23 of seven hundred fifty thousand dollars (\$750,000) per state
24 fiscal year, if the taxpayer:

25 (1) is located in a county in which the board

.181072.4

1 of county commissioners has imposed and the electors have
2 approved a county business retention gross receipts tax; and

3 (2) had in the immediately prior calendar year
4 a combined net take and receipts, not including receipts for
5 purses, from an allocation agreement made pursuant to Section
6 60-2E-27 NMSA 1978 of under fifteen million dollars
7 (\$15,000,000).

8 B. The tax credit that may be claimed pursuant to
9 this section may be referred to as the "county gaming tax
10 credit".

11 C. The county gaming tax credit shall be
12 administered by the taxation and revenue department pursuant to
13 the Tax Administration Act.

14 D. The credit created in this section may be
15 claimed on a monthly basis against the gaming tax remitted to
16 the state on a form provided by the department. The credit
17 claimed each month may not exceed one-twelfth of fifty percent
18 of the gaming tax paid in the prior calendar year. Any
19 additional credit that may be allowed may be claimed in the
20 last month of the fiscal year. The maximum county gaming tax
21 credit claimed shall not exceed fifty percent of the gaming tax
22 due from the taxpayer in the fiscal year."

23 Section 4. EMERGENCY.--It is necessary for the public
24 peace, health and safety that this act take effect immediately.