

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:

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

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

C. An ordinance imposing the county business

retention gross receipts tax shall not go into effect until after an election is held and a majority of the voters in the county voting in the election vote in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the voters of the county as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the ordinance imposing the county business retention gross receipts tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option Gross Receipts Taxes Act. If the question of imposing the county business retention gross receipts tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election.

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

(1) an amount not to exceed seven hundred fifty thousand dollars (\$750,000) of the money from the county business retention gross receipts tax shall be distributed to the state to reduce the impact to the general fund of gaming

tax lost to the state from the county from reduced gaming tax revenue due to decreased economic activity in the county; and

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

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

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

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

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

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

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

"DISTRIBUTION--COUNTY BUSINESS RETENTION GROSS RECEIPTS TAX.--Beginning September 1, 2011, an annual distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to a county that has imposed and the electors have approved a county business retention gross receipts tax. The distribution shall be in an amount equal to the balance of the net receipts attributable to that tax collected in the prior fiscal year, exclusive of penalties and interest, after the state has deducted an amount for deposit to the general fund equal to the reduction in gaming tax revenue from the gaming operator licensees that are racetracks located in that county resulting from county gaming tax credits allowed in the

immediately prior fiscal year for gaming operator licensees located in that county. The total receipts from any county transferred to the general fund in any fiscal year shall not exceed seven hundred fifty thousand dollars (\$750,000) or the total amount of the decrease in gaming tax revenue calculated for the county pursuant to this section, whichever is less."

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

"COUNTY GAMING TAX CREDIT.--

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

(1) is located in a county in which the board of county commissioners has imposed and the electors have approved a county business retention gross receipts tax; and

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

(\$15,000,000).

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

C. If in the prior fiscal year the total amount of county gaming tax credit claimed by the taxpayer exceeded the amount distributed to the state from the proceeds of a county business retention gross receipts tax imposed by the county in which the taxpayer is located, the taxpayer shall be deemed to owe an amount equal to the excess credit and shall remit to the state an amount equal to the excess credit. The taxpayer may not again claim the county gaming tax credit until the excess amount calculated pursuant to this subsection has been remitted to the state.

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

E. Subject to the provisions of Subsection C of this section, the credit created in this section may be claimed on a monthly basis against the gaming tax remitted to the state on a form provided by the department. The credit claimed each month may not exceed one-twelfth of fifty percent of the gaming tax paid in the prior calendar year. Any additional credit that may be allowed may be claimed in the last month of the fiscal year. The maximum county gaming tax

credit claimed shall not exceed fifty percent of the gaming tax due from the taxpayer in the fiscal year."

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

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