



The Legislature
of the
State of New Mexico

49th Legislature, 2nd Session

LAWS 2010

CHAPTER 31

HOUSE BILL 203, as amended

with emergency clause

Introduced by

REPRESENTATIVE THOMAS A. GARCÍA AND REPRESENTATIVE ZACHARY J. COOK



EMERGENCY CLAUSE

CHAPTER 31

AN ACT

1
2 RELATING TO TAXATION; AUTHORIZING COUNTIES TO IMPOSE A LOCAL
3 OPTION COUNTY BUSINESS RETENTION GROSS RECEIPTS TAX; AMENDING
4 THE GAMING CONTROL ACT TO PROVIDE A GAMING TAX CREDIT FOR
5 CERTAIN GAMING OPERATORS THAT ARE RACETRACKS; DECLARING AN
6 EMERGENCY.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

11 "COUNTY BUSINESS RETENTION GROSS RECEIPTS TAX--
12 IMPOSITION--RATE.--

13 A. A majority of the members of a governing body
14 may enact an ordinance imposing an excise tax on a person
15 engaging in business in the county for the privilege of
16 engaging in business in the county to provide funds to retain
17 local businesses in the county. The maximum rate of the tax
18 shall be one-fourth percent of the gross receipts of the
19 person engaging in business. The tax may be imposed in its
20 entirety or in increments of one-sixteenth percent not to
21 exceed an aggregate rate of one-fourth percent.

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

25 C. An ordinance imposing the county business

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

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

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

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

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

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

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

1 G. An ordinance enacted pursuant to the provisions
2 of this section shall include an effective date of either July
3 1 or January 1 as required by the County Local Option Gross
4 Receipts Taxes Act.

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

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

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

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

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

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

9 "COUNTY GAMING TAX CREDIT.--

10 A. Subject to the provisions of Subsection C of
11 this section, beginning January 1, 2011, a taxpayer that is a
12 gaming operator licensee that is a racetrack may claim, and
13 the department may allow, a tax credit in an amount of up to
14 fifty percent of the taxpayer's monthly gaming tax liability
15 pursuant to Section 60-2E-47 NMSA 1978, not to exceed a
16 maximum credit of seven hundred fifty thousand dollars
17 (\$750,000) per state fiscal year, if the taxpayer:

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

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

1 (\$15,000,000).

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

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

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

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

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

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

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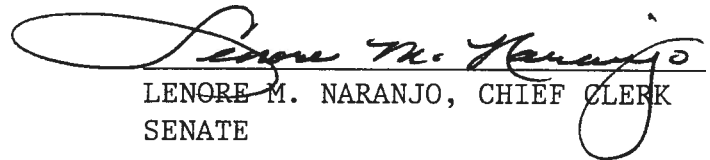
BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES



STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES



DIANE D. DENISH, PRESIDENT
SENATE



LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 3rd day of March, 2010



BILL RICHARDSON, GOVERNOR
STATE OF NEW MEXICO

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