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SENATE BILL 1

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Peter Wirth and Jacob R. Candelaria and Siah Hemphill

AN ACT

RELATING TO TAXATION; CREATING A 2020 INCOME TAX REBATE;
CREATING A TEMPORARY GROSS RECEIPTS TAX DEDUCTION FOR CERTAIN
FOOD AND BEVERAGE ESTABLISHMENTS; DISTRIBUTING THE LOSS OF
LOCAL OPTION GROSS RECEIPTS TAX REVENUE ATTRIBUTABLE TO THE
DEDUCTION TO LOCAL GOVERNMENTS; MAKING AN APPROPRIATION;
DECLARING AN EMERGENCY.

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--OFFSET FOR FOOD SERVICE
ESTABLISHMENTS DEDUCTION.--

A. A distribution pursuant to Section 7-1-6.1 NMSA
1978 shall be made to a municipality in an amount, subject to
any increase or decrease made pursuant to Section 7-1-6.15 NMSA
.218982.4

underscoring material = new
~~[bracketed material] = delete~~

1 1978, equal to the sum of the deductions claimed pursuant to
2 Section 3 of this 2021 act for the month by taxpayers from
3 business locations attributable to the municipality multiplied
4 by the sum of the combined rate of all municipal local option
5 gross receipts taxes in effect in the municipality on January
6 1, 2021 plus one and two hundred twenty-five thousandths
7 percent.

8 B. A distribution pursuant to Section 7-1-6.1 NMSA
9 1978 shall be made to a county in an amount, subject to any
10 increase or decrease made pursuant to Section 7-1-6.15 NMSA
11 1978, equal to the sum of the total deductions claimed pursuant
12 to Section 3 of this 2021 act for the month by taxpayers from
13 business locations:

14 (1) within a municipality in the county
15 multiplied by the combined rate of all county local option
16 gross receipts taxes in effect on January 1, 2021 that are
17 imposed in the county; and

18 (2) in the county but not within a
19 municipality multiplied by the combined rate of all county
20 local option gross receipts taxes in effect on January 1, 2021
21 that are imposed in the county area not within a municipality.

22 C. A distribution pursuant to this section may be
23 adjusted for a distribution made to a tax increment development
24 district with respect to a portion of a gross receipts tax
25 increment dedicated by a municipality pursuant to the Tax

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underscored material = new
~~[bracketed material] = delete~~

1 Increment for Development Act.

2 D. For the purposes of this section, "business
3 locations attributable to the municipality" means business
4 locations:

5 (1) within the municipality;

6 (2) on land owned by the state, commonly known
7 as the "state fairgrounds", within the exterior boundaries of
8 the municipality;

9 (3) outside the boundaries of the municipality
10 on land owned by the municipality; and

11 (4) on an Indian reservation or pueblo grant
12 in an area that is contiguous to the municipality and in which
13 the municipality performs services pursuant to a contract
14 between the municipality and the Indian tribe or Indian pueblo
15 if:

16 (a) the contract describes an area in
17 which the municipality is required to perform services and
18 requires the municipality to perform services that are
19 substantially the same as the services the municipality
20 performs for itself; and

21 (b) the governing body of the
22 municipality has submitted a copy of the contract to the
23 secretary."

24 SECTION 2. A new section of the Income Tax Act is enacted
25 to read:

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1 "[NEW MATERIAL] 2020 INCOME TAX REBATE.--

2 A. A resident who is not a dependent of another
3 individual, had adjusted gross income of thirty-one thousand
4 two hundred dollars (\$31,200) or less for taxable year 2020 and
5 has received a working families tax credit for which the
6 taxpayer was eligible to claim against the resident's income
7 tax liability for taxable year 2020 may be eligible for a tax
8 rebate of six hundred dollars (\$600). The rebate provided by
9 this section may be deducted from the taxpayer's New Mexico
10 income tax liability.

11 B. If the amount of rebate exceeds the taxpayer's
12 income tax liability, the excess shall be refunded to the
13 taxpayer.

14 C. The department may require a taxpayer to claim
15 the rebate provided by this section on forms and in a manner
16 required by the department."

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

19 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--FOOD SERVICE
20 ESTABLISHMENTS.--

21 A. Beginning March 1, 2021 and prior to July 1,
22 2021, receipts of a food and beverage establishment from the
23 sale of prepared food or non-packaged beverages that are served
24 or picked up at the restaurant or bar by or delivered to
25 customers for immediate consumption may be deducted from gross

.218982.4

1 receipts.

2 B. The deduction provided by this section shall be
3 applied only to gross receipts remaining after all other
4 allowable deductions available under the Gross Receipts and
5 Compensating Tax Act have been taken and shall be separately
6 stated by the taxpayer.

7 C. As used in this section:

8 (1) "craft distiller" means an establishment
9 owned or managed by person issued a craft distiller's license
10 pursuant to Section 60-6A-6.1 NMSA 1978 that is in good
11 standing;

12 (2) "food and beverage establishment" means a
13 craft distiller; mobile food service establishment; restaurant;
14 small brewer; and winegrower;

15 (3) "mobile food service establishment" means
16 a mobile establishment where meals are prepared for sale to or
17 consumption by the general public either on or off the premises
18 and has been issued a permit pursuant to Section 25-1-7 NMSA
19 1978 that is in good standing;

20 (4) "restaurant" means an establishment that
21 is held out to the public as a place where meals and beverages
22 are prepared and primarily intended to be served for
23 on-premises consumption to the general public in consideration
24 of payment and that has a dining room, a kitchen and the
25 employees necessary for preparing, cooking and serving meals;

.218982.4

1 provided the restaurant has been issued a permit pursuant to
2 Section 25-1-7 NMSA 1978 that is in good standing and, if the
3 restaurant serves alcoholic beverages, has been issued a
4 license pursuant to Section 60-6A-4 NMSA 1978. "Restaurant"
5 does not include establishments as defined in rules promulgated
6 by the director of the alcoholic beverage control division of
7 the regulation and licensing department as serving only
8 hamburgers, sandwiches, salads and other fast foods;

9 (5) "small brewer" means an establishment
10 owned or managed by a person issued a small brewer's license
11 pursuant to Section 60-6A-26.1 NMSA 1978 that is in good
12 standing; and

13 (6) "winegrower" means an establishment owned
14 or managed by a person issued a winegrower's license pursuant
15 to Section 60-6A-11 NMSA 1978 that is in good standing."

16 SECTION 4. APPROPRIATION.--Three hundred thousand dollars
17 (\$300,000) is appropriated from the general fund to the
18 taxation and revenue department for expenditure in fiscal years
19 2021 and 2022 to administer the income tax rebate and gross
20 receipts tax deduction provided by this act. Any unexpended or
21 unencumbered balance remaining at the end of fiscal year 2022
22 shall revert to the general fund.

23 SECTION 5. EMERGENCY.--It is necessary for the public
24 peace, health and safety that this act take effect immediately.