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SENATE BILL

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; REMOVING A REQUIREMENT THAT A TRIBE'S TAX  
MUST BE NOT GREATER THAN THE STATE'S GROSS RECEIPTS TAX RATE  
AND LOCAL OPTION GROSS RECEIPTS TAX RATES TO BE CREDITED  
AGAINST GROSS RECEIPTS TAX DUE PURSUANT TO THE GROSS RECEIPTS  
AND COMPENSATING TAX ACT.

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

**SECTION 1.** Section 7-9-88.1 NMSA 1978 (being Laws 1999,  
Chapter 223, Section 2, as amended) is amended to read:

"7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO  
CERTAIN TRIBES.--

A. If on a taxable transaction taking place on  
tribal land a qualifying gross receipts, sales or similar tax  
has been levied by the tribe, the amount of the tribe's tax may  
be credited against gross receipts tax due this state or its

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1 political subdivisions pursuant to the Gross Receipts and  
2 Compensating Tax Act and a local option gross receipts tax on  
3 the same transaction. The amount of the credit shall be equal  
4 to the lesser of seventy-five percent of the tax imposed by the  
5 tribe on the receipts from the transaction or seventy-five  
6 percent of the revenue produced by the sum of the rate of tax  
7 imposed pursuant to the Gross Receipts and Compensating Tax Act  
8 and the total of the rates of local option gross receipts taxes  
9 imposed on the receipts from the same transaction.

10 Notwithstanding any other provision of law to the contrary, the  
11 amount of credit taken and allowed shall be applied  
12 proportionately against the amount of the gross receipts tax  
13 and local option gross receipts taxes and against the amount of  
14 distribution of those taxes pursuant to Section 7-1-6.1 NMSA  
15 1978.

16 B. A qualifying gross receipts, sales or similar  
17 tax levied by the tribe shall be limited to a tax that:

18 (1) is substantially similar to the gross  
19 receipts tax imposed by the Gross Receipts and Compensating Tax  
20 Act;

21 (2) does not unlawfully discriminate among  
22 persons or transactions based on membership in the tribe;

23 ~~[(3) is levied on the taxable transaction at a~~  
24 ~~rate not greater than the total of the gross receipts tax rate~~  
25 ~~and local option gross receipts tax rates imposed by this state~~

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1 ~~and its political subdivisions located within the exterior~~  
2 ~~boundaries of the tribe;~~

3 ~~(4)~~ (3) provides a credit against the tribe's  
4 tax equal to the lesser of twenty-five percent of the tax  
5 imposed by the tribe on the receipts from the transactions or  
6 twenty-five percent of the tax revenue produced by the sum of  
7 the rate of tax imposed pursuant to the Gross Receipts and  
8 Compensating Tax Act and the total of the rates of the local  
9 option gross receipts taxes imposed on the receipts from the  
10 same transactions; and

11 ~~(5)~~ (4) is subject to a cooperative  
12 agreement between the tribe and the secretary entered into  
13 pursuant to Section 9-11-12.1 NMSA 1978 and in effect at the  
14 time of the taxable transaction.

15 C. For purposes of the tax credit allowed by this  
16 section:

17 (1) "pueblo" means the Pueblo of Acoma,  
18 Cochiti, Isleta, Jemez, Laguna, Nambe, Picuris, Pojoaque,  
19 Sandia, San Felipe, San Ildefonso, San Juan, Santa Ana, Santa  
20 Clara, Santo Domingo, Taos, Tesuque, Zia or Zuni or the  
21 nineteen New Mexico pueblos acting collectively;

22 (2) "tribal land" means all land that is owned  
23 by a tribe located within the exterior boundaries of a tribe's  
24 reservation or grant and all land held by the United States in  
25 trust for that tribe; and

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(3) "tribe" means a pueblo, the Jicarilla Apache Nation or the Mescalero Apache Tribe."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

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