

AN ACT

RELATING TO TAXATION; AUTHORIZING A MUNICIPAL HIGHER EDUCATION FACILITIES GROSS RECEIPTS TAX; AUTHORIZING ISSUANCE OF MUNICIPAL REVENUE BONDS.

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

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

"MUNICIPAL HIGHER EDUCATION FACILITIES GROSS RECEIPTS TAX.--

A. The majority of the members of the governing body of an eligible municipality may impose by ordinance an excise tax at a rate not to exceed one-fourth of one percent of the gross receipts of a person engaging in business in the municipality for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth of one percent not to exceed an aggregate rate of one-fourth of one percent. The tax shall be imposed for a period of not more than twenty years from the effective date of the ordinance imposing the tax.

B. The tax imposed pursuant to this section may be referred to as the "municipal higher education facilities gross receipts tax".

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of

this section, shall dedicate the revenue only for:

(1) acquisition, construction, renovation or improvement of facilities of a four-year post-secondary public educational institution located in the municipality and acquisition of or improvements to land for those facilities;
or

(2) payment of municipal higher education facilities gross receipts tax revenue bonds issued pursuant to Chapter 3, Article 31 NMSA 1978.

D. An ordinance imposing any increment of the municipal higher education facilities gross receipts tax shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election on the question of imposing the tax at the next regular municipal election. The question shall be submitted to the voters of the municipality as a separate question. If a majority of the voters voting on the question approves the ordinance imposing the municipal higher education facilities gross receipts tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the municipal higher education facilities gross receipts tax fails, the governing body shall not again propose the imposition of any increment

of the tax for a period of one year from the date of the election.

E. For the purposes of this section, "eligible municipality" means a municipality that has a population greater than fifty thousand according to the most recent federal decennial census and that is located in a class B county having a net taxable value for rate-setting purposes for the 2006 property tax year or any subsequent year of more than two billion dollars (\$2,000,000,000)."

Section 2. Section 3-31-1 NMSA 1978 (being Laws 1973, Chapter 395, Section 3, as amended) is amended to read:

"3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--In addition to any other law and constitutional home rule powers authorizing a municipality to issue revenue bonds, a municipality may issue revenue bonds pursuant to Chapter 3, Article 31 NMSA 1978 for the purposes specified in this section. The term "pledged revenues", as used in Chapter 3, Article 31 NMSA 1978, means the revenues, net income or net revenues authorized to be pledged to the payment of particular revenue bonds as specifically provided in Subsections A through J of this section.

A. Utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving a municipal utility or for any combination

of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of the municipal utility or of any one or more of other such municipal utilities for payment of the interest on and principal of the revenue bonds. These bonds are sometimes referred to in Chapter 3, Article 31 NMSA 1978 as "utility revenue bonds" or "utility bonds".

B. Joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving joint water facilities, sewer facilities, gas facilities or electric facilities or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of these municipal utilities for the payment of the interest on and principal of the bonds. These bonds are sometimes referred to in Chapter 3, Article 31 NMSA 1978 as "joint utility revenue bonds" or "joint utility bonds".

C. For the purposes of this subsection, "gross receipts tax revenue bonds" means gross receipts tax revenue bonds or sales tax revenue bonds. Gross receipts tax revenue bonds may be issued for any one or more of the following purposes:

(1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or

improving any ground relating thereto, including but not necessarily limited to acquiring and improving parking lots, or any combination of the foregoing;

(2) acquiring or improving municipal or public parking lots, structures or facilities or any combination of the foregoing;

(3) purchasing, acquiring or rehabilitating firefighting equipment or any combination of the foregoing;

(4) acquiring, extending, enlarging, bettering, repairing, otherwise improving or maintaining storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants or water utilities, including but not necessarily limited to the acquisition of rights of way and water and water rights, or any combination of the foregoing;

(5) reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys, streets, roads or bridges or any combination of the foregoing or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads or bridges or any combination of the foregoing; provided that any of the foregoing improvements may include but are not limited to the acquisition of rights of way;

(6) purchasing, acquiring, constructing, making additions to, enlarging, bettering, extending or equipping airport facilities or any combination of the

foregoing, including without limitation the acquisition of land, easements or rights of way therefor;

(7) purchasing or otherwise acquiring or clearing land or for purchasing, otherwise acquiring and beautifying land for open space;

(8) acquiring, constructing, purchasing, equipping, furnishing, making additions to, renovating, rehabilitating, beautifying or otherwise improving public parks, public recreational buildings or other public recreational facilities or any combination of the foregoing;

(9) acquiring, constructing, extending, enlarging, bettering, repairing, otherwise improving or maintaining solid waste disposal equipment, equipment for operation and maintenance of sanitary landfills, sanitary landfills, solid waste facilities or any combination of the foregoing; and

(10) acquiring, constructing, extending, bettering, repairing or otherwise improving a public transit system or regional transit systems or facilities.

The municipality may pledge irrevocably any or all of the gross receipts tax revenue received by the municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978 to the payment of the interest on and principal of the gross receipts tax revenue bonds for any of the purposes authorized in this section or for specific purposes or for any area of municipal

government services, including but not limited to those specified in Subsection C of Section 7-19D-9 NMSA 1978, or for public purposes authorized by municipalities having constitutional home rule charters. A law that imposes or authorizes the imposition of a municipal gross receipts tax or that affects the municipal gross receipts tax, or a law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal gross receipts tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

Revenues in excess of the annual principal and interest due on gross receipts tax revenue bonds secured by a pledge of gross receipts tax revenue may be accumulated in a debt service reserve account. The governing body of the municipality may appoint a commercial bank trust department to act as trustee of the gross receipts tax revenue and to administer the payment of principal of and interest on the bonds.

D. As used in this section, the term "public building" includes but is not limited to fire stations, police buildings, municipal jails, regional jails or juvenile detention facilities, libraries, museums, auditoriums,

convention halls, hospitals, buildings for administrative offices, city halls and garages for housing, repairing and maintaining city vehicles and equipment. As used in Chapter 3, Article 31 NMSA 1978, the term "gross receipts tax revenue bonds" means the bonds authorized in Subsection C of this section, and the term "gross receipts tax revenue" means the amount of money distributed to the municipality as authorized by Section 7-1-6.4 NMSA 1978 or the amount of money transferred to the municipality as authorized by Section 7-1-6.12 NMSA 1978 for any municipal gross receipts tax imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act. As used in Chapter 3, Article 31 NMSA 1978, the term "bond" means any obligation of a municipality issued under Chapter 3, Article 31 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a municipality to make payments.

E. Gasoline tax revenue bonds may be issued for laying off, opening, constructing, reconstructing, resurfacing, maintaining, acquiring rights of way, repairing and otherwise improving municipal buildings, alleys, streets, public roads and bridges or any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the gasoline tax revenue received by the municipality to the payment of the interest on and principal of the gasoline

tax revenue bonds. As used in Chapter 3, Article 31 NMSA 1978, "gasoline tax revenue bonds" means the bonds authorized in this subsection, and "gasoline tax revenue" means all or portions of the amounts of tax revenues distributed to municipalities pursuant to Sections 7-1-6.9 and 7-1-6.27 NMSA 1978, as from time to time amended and supplemented.

F. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any revenue-producing project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, including but not necessarily limited to acquiring and improving parking lots, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project may not be pledged to the project revenue bonds issued for a revenue-producing project that clearly is unrelated in nature; but nothing in this subsection shall prevent the pledge to such project revenue bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular

revenue-producing project. A general determination by the governing body that any facilities or equipment is reasonably related to and constitutes a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds. As used in Chapter 3, Article 31 NMSA 1978:

(1) "project revenue bonds" means the bonds authorized in this subsection; and

(2) "project revenues" means the net revenues of revenue-producing projects that may be pledged to project revenue bonds pursuant to this subsection.

G. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any fire district project, including where applicable purchasing, otherwise acquiring or improving the ground therefor, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of any fire district project shall not be pledged to the bonds issued for a fire district project that

clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the municipality that any facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district bonds.

H. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The municipality may pledge irrevocably any or all of the revenues received by the municipality from the law enforcement protection fund distributions pursuant to the Law Enforcement Protection Fund Act to the payment of the interest on and principal of the law enforcement protection revenue bonds.

I. Economic development gross receipts tax revenue bonds may be issued for the purpose of furthering economic development projects as defined in the Local Economic Development Act. The municipality may pledge irrevocably any or all of the revenue received from the municipal infrastructure gross receipts tax to the payment of the

interest on and principal of the economic development gross receipts tax revenue bonds for any of the purposes authorized in this subsection. A law that imposes or authorizes the imposition of a municipal infrastructure gross receipts tax or that affects the municipal infrastructure gross receipts tax, or a law supplemental to or otherwise pertaining to the tax, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of the municipal infrastructure gross receipts tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made for their discharge. As used in Chapter 3, Article 31 NMSA 1978, "economic development gross receipts tax revenue bonds" means the bonds authorized in this subsection, and "municipal infrastructure gross receipts tax revenue" means any or all of the revenue from the municipal infrastructure gross receipts tax transferred to the municipality pursuant to Section 7-1-6.12 NMSA 1978.

J. Municipal higher education facilities gross receipts tax revenue bonds may be issued for the purpose of acquisition, construction, renovation or improvement of facilities of a four-year post-secondary public educational institution located in the municipality and acquisition of or improvements to land for those facilities. The municipality may pledge irrevocably any or all of the revenue received from

the municipal higher education facilities gross receipts tax to the payment of the interest on and principal of the municipal higher education facilities gross receipts tax revenue bonds. A law that imposes or authorizes the imposition of a municipal higher education facilities gross receipts tax or that affects the municipal higher education facilities gross receipts tax, or a law supplemental to or otherwise pertaining to the tax, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of the municipal higher education facilities gross receipts tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made for their discharge. As used in Chapter 3, Article 31 NMSA 1978, "municipal higher education facilities gross receipts tax revenue bonds" means the bonds authorized in this subsection and "municipal higher education facilities gross receipts tax revenue" means any or all of the revenue from the municipal higher education facilities gross receipts tax transferred to the municipality pursuant to Section 7-1-6.12 NMSA 1978.

K. Except for the purpose of refunding previous revenue bond issues, no municipality may sell revenue bonds payable from pledged revenues after the expiration of two years from the date of the ordinance authorizing the issuance

of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section 3-31-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007. _____