

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 440

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO FINANCE; AUTHORIZING MUNICIPALITIES TO IMPOSE FEES  
FOR USE OF A MUNICIPAL EVENT CENTER AND TO IMPOSE A SURCHARGE  
ON REVENUES ARISING FROM ACTIVITIES AT A MUNICIPAL EVENT  
CENTER; PERMITTING MUNICIPALITIES TO ISSUE REVENUE BONDS;  
PROVIDING LEGAL REMEDIES; CREATING AN EXEMPTION FROM THE  
GOVERNMENTAL GROSS RECEIPTS TAX FOR MUNICIPAL EVENT CENTER  
RECEIPTS; ENACTING A NEW SECTION OF THE GROSS RECEIPTS AND  
COMPENSATING TAX ACT; ENACTING THE MUNICIPAL EVENT CENTER  
FUNDING ACT; PROVIDING DISTRIBUTIONS; 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-- MUNICIPAL EVENT CENTER

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underscored material = new  
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1 SURCHARGE. --

2 A. A distribution pursuant to Section 7-1-6.1 NMSA  
3 1978 shall be made to the public project revolving fund  
4 administered by the New Mexico finance authority in an amount  
5 equal to seventy-five percent of the amount of event center  
6 surcharge proceeds transferred to the tax administration  
7 suspense fund pursuant to the Municipal Event Center Funding  
8 Act.

9 B. A distribution pursuant to Section 7-1-6.1 NMSA  
10 1978 shall be made to the energy, minerals and natural  
11 resources department in an amount equal to twenty-four percent  
12 of the amount of event center surcharge proceeds transferred to  
13 the tax administration suspense fund pursuant to the Municipal  
14 Event Center Funding Act.

15 C. A distribution pursuant to Section 7-1-6.1 NMSA  
16 1978 shall be made to the cultural affairs department in an  
17 amount equal to one percent of the amount of event center  
18 surcharge proceeds transferred to the tax administration  
19 suspense fund pursuant to the Municipal Event Center Funding  
20 Act. "

21 Section 2. A new section of the Gross Receipts and  
22 Compensating Tax Act is enacted to read:

23 " [NEW MATERIAL] EXEMPTION--GROSS RECEIPTS TAX AND  
24 GOVERNMENTAL GROSS RECEIPTS TAX--EVENT CENTER SURCHARGE. --  
25 Exempted from the gross receipts tax and from the governmental  
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1 gross receipts tax are the receipts from selling tickets,  
 2 parking, souvenirs, concessions, programs, advertising,  
 3 merchandise, corporate suites or boxes, broadcast revenues and  
 4 all other products or services sold at or related to a  
 5 municipal event center or related to activities occurring at  
 6 the event center on which an event center surcharge is imposed  
 7 pursuant to the Municipal Event Center Funding Act. "

8 Section 3. [NEW MATERIAL] SHORT TITLE. -- Sections 3  
 9 through 11 of this act may be cited as the "Municipal Event  
 10 Center Funding Act".

11 Section 4. [NEW MATERIAL] FINDINGS AND PURPOSE. --

12 A. The legislature finds that:

13 (1) the costs of acquiring land for and of  
 14 designing, purchasing, constructing, remodeling,  
 15 rehabilitating, renovating, improving, equipping, furnishing,  
 16 operating and maintaining municipal event centers have  
 17 increased to a level that local financial resources are  
 18 inadequate to meet all of the costs;

19 (2) functional and modern municipal event  
 20 centers are essential in retaining and attracting cultural,  
 21 educational, entertainment and sporting events to  
 22 municipalities and the state and are essential for the economic  
 23 development and prosperity of municipalities and the state; and

24 (3) even after using local financial  
 25 resources, municipalities need additional means to provide

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1 complete funding for functional and modern municipal event  
2 centers.

3 B. The purpose of the Municipal Event Center  
4 Funding Act is to provide an additional method of accessing the  
5 capital markets to meet the need for a complete funding package  
6 for functional and modern municipal event centers.

7 Section 5. [NEW MATERIAL] DEFINITIONS. -- As used in the  
8 Municipal Event Center Funding Act:

9 A. "bonds" means revenue bonds issued by a  
10 municipality to pay for some or all of the costs of acquiring  
11 land for and designing, purchasing, constructing, remodeling,  
12 rehabilitating, renovating, improving, equipping and furnishing  
13 a municipal event center;

14 B. "chief executive officer" means the mayor or  
15 chief administrative officer of a municipality when designated  
16 in writing by the mayor to perform duties required by the  
17 Municipal Event Center Funding Act;

18 C. "debt service payments" means rentals, receipts,  
19 fees or other charges paid to a municipality for the rights to  
20 use, operate or manage a municipal event center by any person,  
21 corporation or other entity;

22 D. "event center revenues" means rentals, receipts,  
23 fees or other charges imposed by and paid to a municipality  
24 pursuant to the Municipal Event Center Funding Act for the  
25 rights to use, operate or manage a municipal event center by

1 any person, corporation or other entity;

2 E. "event center surcharge" means a surcharge to be  
3 included in each vendor contract on tickets, parking,  
4 souvenirs, concessions, programs, advertising, merchandise,  
5 corporate suites or boxes, broadcast revenues and all other  
6 products or services sold at or related to the municipal event  
7 center or related to activities occurring at the event center;

8 F. "governing body" means the council, commission  
9 or other group of elected officials of a municipality in which  
10 is vested the legislative authority of a municipality;

11 G. "municipal event center" means an event center  
12 providing seating for a minimum of four thousand people,  
13 including land, buildings and related improvements, primarily  
14 designed and intended for cultural, educational, entertainment  
15 and sporting events, but does not include a civic or convention  
16 center;

17 H. "municipality" means a political subdivision of  
18 the state, organized and operating under a home-rule charter or  
19 the Municipal Code;

20 I. "vendor" means every person, corporation,  
21 partnership or other entity, including a division or department  
22 of a municipality, providing products or services sold at or  
23 related to the municipal event center; and

24 J. "vendor contract" means a contract, agreement or  
25 other written arrangement between a municipality and a vendor

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1 pursuant to which the vendor provides products or services sold  
2 at or related to the municipal event center.

3 Section 6. [NEW MATERIAL] AUTHORIZATION OF SURCHARGE AND  
4 OTHER FEES--USE OF PROCEEDS--TRANSFER. --

5 A. A municipality in which a municipal event center  
6 is located may establish by ordinance an event center surcharge  
7 of not less than five percent of each vendor service contract  
8 entered into by that municipality. As otherwise established by  
9 that municipality, the event center surcharge may be any  
10 percentage greater than five percent of each vendor service  
11 contract entered into by the municipality.

12 B. A municipality shall include an event center  
13 surcharge in the terms of each vendor contract into which it  
14 enters. A chief executive officer of a municipality shall sign  
15 each vendor contract into which that municipality enters.

16 C. A municipality may establish charges and fees  
17 deemed necessary by the governing body or the chief executive  
18 officer for the use, operation or management of a municipal  
19 event center by a person, corporation or other entity.

20 D. Two percent of the proceeds from the event  
21 center surcharge shall be transferred monthly by the  
22 municipality that established the event center surcharge to the  
23 tax administration suspense fund.

24 E. A municipality shall establish a fund for  
25 construction, renovation, operation, equipment, maintenance and

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1 improvement of a municipal event center for deposit of all  
 2 event center revenues and event center surcharge proceeds that  
 3 exceed the required debt service payments, except for event  
 4 center surcharge proceeds transferred to the tax administration  
 5 suspense fund pursuant to this section. Money in the fund may  
 6 be used to pay:

7 (1) debt service payments;

8 (2) costs of operating a municipal event  
 9 center during the life of the bonds issued by the municipality  
 10 pursuant to the Municipal Event Center Funding Act;

11 (3) costs of constructing, renovating,  
 12 equipping, maintaining or improving that municipal event  
 13 center; or

14 (4) costs of collecting or administering the  
 15 event center surcharge.

16 Section 7. [NEW MATERIAL] COLLECTION OF EVENT CENTER  
 17 SURCHARGE--REMITTANCE TO MUNICIPALITY.--

18 A. Upon the sale of a product or service subject to  
 19 the event center surcharge, a vendor shall collect the event  
 20 center surcharge from the purchaser of that product or service  
 21 on behalf of the municipality and shall act as a trustee for  
 22 the surcharge receipts. A purchaser of a product or service  
 23 subject to the event center surcharge shall be charged  
 24 separately for the event center surcharge from the cost of the  
 25 product or service, or the vendor shall institute accounting

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1 controls or procedures sufficient to identify the amount of the  
2 surcharge owed to a municipality for each sale, transaction or  
3 exchange subject to the surcharge. Receipts from the event  
4 center surcharge shall be remitted by a vendor to the treasurer  
5 of the municipality in which the municipal event center at  
6 which the vendor sold the product or service is located no  
7 later than the tenth day of the month following the collection  
8 of the surcharge.

9 B. A treasurer of a municipality shall deposit  
10 municipal event center revenues and event center surcharge  
11 receipts in a separate account and act as trustee of the  
12 revenue on behalf of bondholders pursuant to the Municipal  
13 Event Center Funding Act so long as any bonds remain  
14 outstanding.

15 Section 8. [NEW MATERIAL] AUDITS. -- A municipality shall  
16 provide by ordinance a method to audit or otherwise ensure that  
17 vendors subject to the event center surcharge collect and remit  
18 to the treasurer of the municipality the full amount of the  
19 surcharge receipts due to the municipality.

20 Section 9. [NEW MATERIAL] ENFORCEMENT-- PENALTIES. --

21 A. An action to enforce the imposition and  
22 collection of an event center surcharge by a vendor may be  
23 brought by a municipality.

24 B. A district court may issue an appropriate  
25 judgment, order or remedy to enforce the provisions of a vendor

1 contract.

2 C. A judgment issued by a district court requiring  
3 event center surcharge receipts to be paid to a municipal  
4 treasurer by a vendor shall also award interest at an annual  
5 rate of twelve percent on past due amounts, attorney fees and  
6 costs to a municipality.

7 Section 10. [NEW MATERIAL] ISSUANCE OF BONDS. --

8 A. A municipality may issue revenue bonds, in  
9 accordance with the procedures set forth in Sections 3-31-3  
10 through 3-31-7 NMSA 1978, to acquire land for and to design,  
11 purchase, construct, remodel, renovate, rehabilitate, improve,  
12 equip or furnish a municipal event center.

13 B. Revenue bonds issued by a municipality may be  
14 secured by event center revenues, event center surcharge  
15 receipts or gross receipts tax revenues distributed to that  
16 municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978.

17 C. An action shall not be brought questioning the  
18 legality of the pledge of event center revenues, event center  
19 surcharge receipts or gross receipts tax revenues, bonds issued  
20 pursuant to the Municipal Event Center Funding Act, issuance of  
21 those bonds, an event center surcharge included in a vendor  
22 contract or any other matter concerning the bonds after thirty  
23 days from the date of publication of the ordinance authorizing  
24 issuance of the bonds and the pledging of event center  
25 receipts, event center surcharge receipts or gross receipts tax

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1 revenues of a municipality to make debt service payments.

2 D. The legislature or a municipality shall not  
3 repeal, amend or otherwise modify any law or ordinance that  
4 adversely affects or impairs the event center surcharge or any  
5 bonds secured by a pledge of the event center revenues, event  
6 center surcharge receipts or gross receipts tax revenues,  
7 unless the bonds have been paid in full or provisions have been  
8 made for full payment.

9 Section 11. ~~[NEW MATERIAL]~~ CUMULATIVE AND COMPLETE  
10 AUTHORITY. --The Municipal Event Center Funding Act shall be  
11 deemed to provide an additional and alternative method for  
12 obtaining funding for a municipal event center, establishing  
13 and collecting event center revenues and the event center  
14 surcharge and completing the acts authorized pursuant to that  
15 act, and shall be regarded as supplemental and additional to  
16 powers conferred by other laws of the state and shall  
17 constitute full authority for the exercise of powers granted  
18 pursuant to the Municipal Event Center Funding Act.

19 Section 12. LIBERAL INTERPRETATION. --The Municipal Event  
20 Center Funding Act shall be liberally construed to carry out  
21 its purpose.

22 Section 13. SEVERABILITY. --If any part or application of  
23 the Municipal Event Center Funding Act is held invalid, the  
24 remainder or its application to other situations or persons  
25 shall not be affected.

