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HOUSE BILL 791

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO FINANCE; AMENDING THE TAX INCREMENT FOR DEVELOPMENT ACT TO PROVIDE THAT THE MAXIMUM DEDICATION PERIOD FOR A STATE GROSS RECEIPTS TAX INCREMENT IS TWENTY-FIVE YEARS.

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

Section 1. Section 5-15-15 NMSA 1978 (being Laws 2006, Chapter 75, Section 15) is amended to read:

"5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX INCREMENT.--

A. Notwithstanding any law to the contrary, but in accordance with the provisions of the Tax Increment for Development Act, a tax increment development plan, as originally approved or as later modified, may contain a provision that a portion of certain gross receipts tax increments collected within the tax increment development area

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1 after the effective date of approval of the tax increment
2 development plan may be dedicated for the purpose of securing
3 gross receipts tax increment bonds pursuant to the Tax
4 Increment for Development Act; provided that the dedication of
5 a portion of a state gross receipts tax increment pursuant to
6 this section shall be for a period not to exceed twenty-five
7 years from the effective date of the state board of finance
8 resolution approving dedication of the increment.

9 B. As to a district formed by a municipality, a
10 portion of any of the following gross receipts tax increments
11 may be paid by the state directly into a special fund of the
12 district to pay the principal of, the interest on and any
13 premium due in connection with the bonds of, loans or advances
14 to, or any indebtedness incurred by, whether funded, refunded,
15 assumed or otherwise, the authority for financing or
16 refinancing, in whole or in part, a tax increment development
17 project within the tax increment development area:

18 (1) municipal gross receipts tax authorized
19 pursuant to the Municipal Local Option Gross Receipts Taxes
20 Act;

21 (2) municipal environmental services gross
22 receipts tax authorized pursuant to the Municipal Local Option
23 Gross Receipts Taxes Act;

24 (3) municipal infrastructure gross receipts
25 tax authorized pursuant to the Municipal Local Option Gross

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1 Receipts Taxes Act;

2 (4) municipal capital outlay gross receipts
3 tax authorized pursuant to the Municipal Local Option Gross
4 Receipts Taxes Act;

5 (5) municipal regional transit gross receipts
6 tax authorized pursuant to the Municipal Local Option Gross
7 Receipts Taxes Act;

8 (6) an amount distributed to municipalities
9 pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978; and

10 (7) the state gross receipts tax.

11 C. As to a district formed by a county, all or a
12 portion of any of the following gross receipts tax increments
13 may be paid by the state directly into a special fund of the
14 district to pay the principal of, the interest on and any
15 premium due in connection with the bonds of, loans or advances
16 to or any indebtedness incurred by, whether funded, refunded,
17 assumed or otherwise, the district for financing or
18 refinancing, in whole or in part, a tax increment development
19 project within the tax increment development area:

20 (1) county gross receipts tax authorized
21 pursuant to the County Local Option Gross Receipts Taxes Act;

22 (2) county environmental services gross
23 receipts tax authorized pursuant to the County Local Option
24 Gross Receipts Taxes Act;

25 (3) county infrastructure gross receipts tax

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1 authorized pursuant to the County Local Option Gross Receipts
2 Taxes Act;

3 (4) county capital outlay gross receipts tax
4 authorized pursuant to the County Local Option Gross Receipts
5 Taxes Act;

6 (5) county regional transit gross receipts tax
7 authorized pursuant to the County Local Option Gross Receipts
8 Taxes Act; and

9 (6) the state gross receipts tax.

10 D. The gross receipts tax increment generated by
11 the imposition of municipal or county local option gross
12 receipts taxes specified by statute for particular purposes may
13 nonetheless be dedicated for the purposes of the Tax Increment
14 for Development Act if intent to do so is set forth in the tax
15 increment development plan approved by the governing body, if
16 the purpose for which the increment is intended to be used is
17 consistent with the purposes set forth in the statute
18 authorizing the municipal or county local option gross receipts
19 tax.

20 E. An imposition of a gross receipts tax increment
21 attributable to the imposition of a gross receipts tax by a
22 taxing entity may be dedicated for the purpose of securing
23 gross receipts tax increment bonds with the agreement of the
24 taxing entity, evidenced by a resolution adopted by a majority
25 vote of that taxing entity. A taxing entity shall not agree to

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1 dedicate for the purposes of securing gross receipts tax
2 increment bonds more than seventy-five percent of its gross
3 receipts tax increment attributable to the imposition of gross
4 receipts taxes by the taxing entity. A resolution of the
5 taxing entity to dedicate a gross receipts tax increment or to
6 increase the dedication of a gross receipts tax increment shall
7 become effective only on January 1 or July 1 of the calendar
8 year.

9 F. An imposition of a gross receipts tax increment
10 attributable to the imposition of the state gross receipts tax
11 within a district may be dedicated for the purpose of securing
12 gross receipts tax increment bonds with the agreement of the
13 state board of finance, evidenced by a resolution adopted by a
14 majority vote of the state board of finance. The state board
15 of finance shall not agree to dedicate more than seventy-five
16 percent of the gross receipts tax increment attributable to the
17 imposition of the state gross receipts tax within the district,
18 and the state board of finance shall not agree to dedicate any
19 portion of that increment for longer than twenty-five years
20 from the effective date of the resolution. The resolution of
21 the state board of finance shall become effective only on
22 January 1 or July 1 of the calendar year and shall find that:

23 (1) the state board of finance has reviewed
24 the request for the use of the state gross receipts tax;

25 (2) based upon review by the state board of

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1 finance of the applicable tax increment development plan, the
2 dedication by the state board of finance of a portion of the
3 gross receipts tax increment attributable to the imposition of
4 the state gross receipts tax within the district for use in
5 meeting the required goals of the tax increment plan is
6 reasonable and in the best interest of the state; and

7 (3) the use of the state gross receipts tax is
8 likely to stimulate the creation of jobs, economic
9 opportunities and general revenue for the state through the
10 addition of new businesses to the state and the expansion of
11 existing businesses within the state.

12 G. The governing body of the jurisdiction in which
13 a tax increment development district has been established shall
14 timely notify the assessor of the county in which the district
15 has been established, the taxation and revenue department and
16 the local government division of the department of finance and
17 administration when:

18 (1) a tax increment development plan has been
19 approved that contains a provision for the allocation of a
20 gross receipts tax increment;

21 (2) any outstanding bonds of the district have
22 been paid off; and

23 (3) the purposes of the district have
24 otherwise been achieved."