

FORTY-FIFTH LEGISLATURE
SECOND SESSION, 2002

February 13, 2002

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has been referred

SENATE CONSERVATION COMMITTEE SUBSTITUTE
FOR SENATE BILL 46, as amended

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. Strike Item 1 of Senate Floor Amendment 1.
2. On page 1, line 15, after "FACILITY" insert "AND 501(c)(3) CORPORATION".
3. On page 1, line 16, after the semicolon insert "PROVIDING A DEDUCTION FROM GROSS RECEIPTS FOR CERTAIN SALES OF ENERGY GENERATION EQUIPMENT;".
4. On page 3, line 7, strike "and".
5. On page 3, lines 8 through 10, strike the underscored language and insert in lieu thereof:

"(5) any electric generation facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act and Electric Utility Industry Restructuring Act of 1999; and

(6) any 501(c)(3) corporation;".
6. On page 4, line 2, strike "and".
7. On page 4, line 3, after "hospital" insert "or 501(c)(3) corporation".
8. On page 4, line 8, after the comma insert "or of any 501(c)(3) corporation,".
9. On page 4, line 11, strike the period and the ending quotation mark and insert in lieu thereof "; and" and between lines 11 and 12, insert the following new subsection:

FORTY-FIFTH LEGISLATURE
SECOND SESSION, 2002

HTRC/SCORCS/SB 46,aa

Page 2

"H. "501(c)(3) corporation" means a corporation that demonstrates to the taxation and revenue department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered."".

10. On page 4, between lines 11 and 12, insert the following new sections:

"Section 2. Section 3-32-5 NMSA 1978 (being Laws 1967, Chapter 84, Section 3, as amended) is amended to read:

"3-32-5. ADDITIONAL LEGISLATIVE INTENT.--It is further the legislative intent that the Industrial Revenue Bond Act authorize municipalities to refinance hospital or 501(c)(3) corporation projects and projects of any independent, nonprofit, nonsectarian four-year college or university accredited by the north central association of colleges and schools, to acquire, own, lease or sell projects for the purpose of promoting the local economy and improving local health and the general welfare by inducing private institutions of higher education, [~~and~~] nonprofit corporations engaged in health care services, including nursing homes, 501(c)(3) corporations and, for any small municipality only, office facilities for physicians, to provide more adequate facilities of higher education and to provide more adequate health care services in this state and by inducing mass transit or other transportation activities, industrial parks, office headquarters and research and development activities to locate or expand in this state. It is not intended to authorize any municipality to own or lease projects for retail business or by itself to operate any private institution of higher education; [~~or any~~] nonprofit corporation engaged in health care services, including nursing homes; 501(c)(3) corporation; [~~or~~] industrial parks; office headquarters; or research and development facilities."

Section 3. Section 3-32-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-3, as amended) is amended to read:

"3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.--In addition to any other powers which it may now have, each municipality shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects which shall be located within this state and may be located within or without the municipality or

FORTY-FIFTH LEGISLATURE
SECOND SESSION, 2002

HTRC/SCORCS/SB 46,aa

Page 3

partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality; provided, the municipality shall not acquire any electricity generation facility project unless the acquisition is approved by the local school board of the school district in which a project is located and the governing body, the local school board and the person proposing the project negotiate and determine the amount of an annual in-lieu tax payment to be made to the school district by the person proposing the project, for the period that the municipality owns and leases the project, and provided such approval shall not be unreasonably withheld;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of the Industrial Revenue Bond Act;

C. to issue revenue bonds for the purpose of defraying the cost of acquiring by construction and purchase or either any project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. No municipality shall have the power to operate any project as a business or in any manner except as lessor;

D. to refinance one or more hospital or 501(c)(3) corporation projects and to acquire any such hospital or 501(c)(3) corporation project whether by construction, purchase, gift or lease, which hospital or 501(c)(3) corporation project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire a hospital or 501(c)(3) corporation project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. No municipality shall have the power to operate any hospital or 501(c)(3) corporation project as a business or in any manner except as lessor; and

E. to refinance one or more projects of any private institution of higher education and to acquire any such project, whether by construction, purchase, gift or lease; provided that the project shall be located within this state and may be located within or without the municipality or partially within or

FORTY-FIFTH LEGISLATURE
SECOND SESSION, 2002

HTRC/SCORCS/SB 46,aa

Page 4

partially without the municipality, but the project shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire any project of any private institution of higher education and to secure the payment of such bonds. No municipality shall have the power to operate any project of any private institution of higher education as a business or in any manner except as lessor."".

11. Renumber the succeeding sections accordingly.

12. On page 4, between lines 20 and 21, insert the following new subsection:

"C. "501(c)(3) corporation" means a corporation that demonstrates to the taxation and revenue department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered;".

13. Reletter the succeeding subsections accordingly.

14. On page 7, line 15, strike "and".

15. On page 7, between lines 19 and 20, insert the following new paragraph:

"(7) any 501(c)(3) corporation; and".

16. On page 7, between lines 24 and 25, insert the following new section:

"Section 5. Section 4-59-3 NMSA 1978 (being Laws 1975, Chapter 286, Section 3) is amended to read:

"4-59-3. LEGISLATIVE INTENT.--It is the intent of the legislature by the passage of the County Industrial Revenue Bond Act to authorize counties to acquire, own, lease or sell projects for the purpose of promoting industry and trade by inducing manufacturing, industrial and commercial enterprises to locate or expand in this state, promoting the use of the agricultural products and natural resources of this state and promoting a sound and proper balance in this state between agriculture, commerce and industry. Further, it is the intent of the legislature that counties may be able to promote the local health and general

FORTY-FIFTH LEGISLATURE
SECOND SESSION, 2002

HTRC/SCORCS/SB 46,aa

Page 5

welfare by inducing nonprofit corporations engaged in health care services and 501(c)(3) corporations to locate, relocate, modernize or expand in this state and by inducing mass transit or other transportation activities, industrial parks, office headquarters and research and development activities to locate or expand in this state. It is intended that each project be self-liquidating. It is not intended that any county itself be authorized to operate any manufacturing, industrial or commercial enterprise or any nonprofit corporation engaged in health care services or any 501(c)(3) corporation or industrial parks, office headquarters or research and development facilities."".

17. Renumber the succeeding sections accordingly.

18. On page 13, between lines 6 and 7, insert the following new section:

"Section 8. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX--WIND ENERGY GENERATION EQUIPMENT--SALES TO GOVERNMENT AGENCIES.--Receipts from selling wind generation nacelles, rotors or related equipment to the United States or New Mexico or any governmental unit or subdivision, agency, department or instrumentality thereof, if such equipment is installed on a supporting structure, may be deducted from gross receipts."".

19. Renumber the succeeding section accordingly.

Respectfully submitted,

Donald L. Whitaker, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

FORTY-FIFTH LEGISLATURE
SECOND SESSION, 2002

HTRC/SCORCS/SB 46,aa

Page 6

The roll call vote was 9 For 7 Against

Yes: 9

Excused: None

Absent: Boykin, Burpo, Crook, Gubbels, Russell, Silva, Tripp

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