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HOUSE BILL 549

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Roberto J. Gonzales

AN ACT

**RELATING TO TAXATION; CREATING WATER AND SANITATION DISTRICT
AUTHORITY TO IMPOSE A GROSS RECEIPTS TAX; PROVIDING FOR
COLLECTION, ADMINISTRATION, ENFORCEMENT AND DISTRIBUTION OF THE
TAX; MAKING AN APPROPRIATION.**

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

**Section 1. A new section of the Water and Sanitation
District Act is enacted to read:**

**"[NEW MATERIAL] DEFINITION--GROSS RECEIPTS.--As used in
the Water and Sanitation District Act:**

**A. "gross receipts" means the total amount of money
or the value of other consideration received from selling
property in a district, from leasing property employed in a
district, from selling services performed outside a district,
the product of which is initially used in a district, or from**

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1 performing services in a district. In an exchange in which the
2 money or other consideration received does not represent the
3 value of the property or service exchanged, "gross receipts"
4 means the reasonable value of the property or service
5 exchanged;

6 B. "gross receipts" includes:

7 (1) any receipts from sales of tangible
8 personal property handled on consignment;

9 (2) the total commissions or fees derived from
10 the business of buying, selling or promoting the purchase, sale
11 or lease, as an agent or broker on a commission or fee basis,
12 of any property, service, stock, bond or security;

13 (3) amounts paid by members of any cooperative
14 association or similar organization for sales or leases of
15 personal property or performance of services by such
16 organization;

17 (4) amounts received from transmitting
18 messages or conversations by persons providing telephone or
19 telegraph services;

20 (5) amounts received by a New Mexico florist
21 from the sale of flowers, plants or other products that are
22 customarily sold by florists where the sale is made pursuant to
23 orders placed with the New Mexico florist that are filled and
24 delivered outside New Mexico by an out-of-state florist; and

25 (6) the receipts of a home service provider

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1 from providing mobile telecommunications services to customers
2 whose place of primary use is in a district if:

3 (a) the mobile telecommunications
4 services originate and terminate in the same state, regardless
5 of where the services originate, terminate or pass through; and

6 (b) the charges for mobile
7 telecommunications services are billed by or for a customer's
8 home service provider and are deemed provided by the home
9 service provider. For the purposes of this section, "home
10 service provider", "mobile telecommunications services",
11 "customer" and "place of primary use" have the meanings given
12 in the federal Mobile Telecommunications Sourcing Act; and

13 C. "gross receipts" excludes:

14 (1) cash discounts allowed and taken;

15 (2) New Mexico gross receipts tax,
16 governmental gross receipts tax and leased vehicle gross
17 receipts tax payable on transactions for the reporting period;

18 (3) taxes imposed pursuant to the provisions
19 of any local option gross receipts tax that is payable on
20 transactions for the reporting period;

21 (4) any gross receipts or sales taxes imposed
22 by an Indian nation, tribe or pueblo; provided that the tax is
23 approved, if approval is required by federal law or regulation,
24 by the secretary of the interior of the United States; and
25 provided further that the gross receipts or sales tax imposed

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1 by the Indian nation, tribe or pueblo provides a reciprocal
2 exclusion for gross receipts, sales or gross receipts-based
3 excise taxes imposed by the state or its political
4 subdivisions;

5 (5) a water and sanitation district gross
6 receipts tax;

7 (6) any type of time-price differential;

8 (7) amounts received solely on behalf of
9 another in a disclosed agency capacity; and

10 (8) amounts received by a New Mexico florist
11 from the sale of flowers, plants or other products that are
12 customarily sold by florists where the sale is made pursuant to
13 orders placed with an out-of-state florist for filling and
14 delivery in New Mexico by a New Mexico florist. "

15 Section 2. A new section of the Water and Sanitation
16 District Act is enacted to read:

17 "[NEW MATERIAL] GROSS RECEIPTS--CERTAIN CONTRACTS. --When
18 the sale of property or service is made under any type of
19 charge, conditional or time-sales contract or the leasing of
20 property is made under a leasing contract, the seller or lessor
21 may elect to treat all receipts, excluding any type of time-
22 price differential, under such contracts as gross receipts as
23 and when the payments are actually received. If the seller or
24 lessor transfers his interest in any such contract to a third
25 person, the seller or lessor shall pay the gross receipts tax

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1 upon the full sale or leasing contract amount, excluding any
2 type of time-price differential. "

3 Section 3. A new section of the Water and Sanitation
4 District Act is enacted to read:

5 "[NEW MATERIAL] WATER AND SANITATION DISTRICT GROSS
6 RECEIPTS TAX--AUTHORITY TO IMPOSE--USE OF PROCEEDS. --

7 A. A board may impose an excise tax not to exceed a
8 rate of twenty-five hundredths percent of the gross receipts of
9 any person engaging in business within the board's district for
10 the privilege of engaging in business in that district. The
11 excise tax imposed may be referred to as the "water and
12 sanitation district gross receipts tax".

13 B. A board shall use the proceeds from the water
14 and sanitation gross receipts tax to:

15 (1) purchase, acquire, establish and construct
16 waterworks to supply water for domestic, commercial and
17 industrial purposes by any available means to persons within
18 and without the boundaries of the board's district;

19 (2) purchase, acquire, establish and construct
20 sanitary sewers or a system or systems of sewage disposal,
21 garbage or refuse disposal;

22 (3) purchase, acquire, establish and construct
23 streets and street improvements, including, without limitation,
24 grades, regrades, gravel, oiling, surfacing, macadamizing,
25 paving, crosswalks, sidewalks, driveway approaches, curbs,

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1 gutters, culverts, drains, sewers, manholes, inlets, outlets,
2 retaining walls, bridges, overpasses, tunnels, underpasses,
3 approaches, artificial lights and lighting equipment, parkways,
4 grade separators, traffic separators and traffic control
5 equipment and all appurtenances and incidentals or any
6 combination thereof, including real and other property;

7 (4) establish or construct park and
8 recreational improvements; and

9 (5) pay revenue bonds issued pursuant to the
10 Water and Sanitation District Act. "

11 Section 4. A new section of the Water and Sanitation
12 District Act is enacted to read:

13 "[NEW MATERIAL] WATER AND SANITATION DISTRICT GROSS
14 RECEIPTS TAX--LEVY AND COLLECTION.--To levy and collect the
15 water and sanitation gross receipts tax, a board shall, in each
16 year, determine the amount of money necessary to be raised by
17 the tax in that board's district. The board shall consider
18 other sources of revenue of the district and fix a water and
19 sanitation district gross receipts tax rate in accordance with
20 the Water and Sanitation District Act that with other revenues
21 will raise the amount required by the district annually to
22 supply funds to purchase, acquire, establish and construct the
23 works and equipment of the district. The board shall, on or
24 before October 1 of each year, certify to the taxation and
25 revenue department the water and sanitation district gross

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1 receipts tax rate fixed for the board's district. "

2 Section 5. A new section of the Water and Sanitation
3 District Act is enacted to read:

4 "[NEW MATERIAL] WATER AND SANITATION DISTRICT GROSS
5 RECEIPTS TAX--COLLECTION BY TAXATION AND REVENUE DEPARTMENT--
6 DISTRIBUTION OF PROCEEDS. --

7 A. The taxation and revenue department shall
8 collect the water and sanitation district gross receipts tax at
9 the rate certified by the district pursuant to the Water and
10 Sanitation District Act in the same manner and at the same time
11 it collects the state gross receipts tax.

12 B. The taxation and revenue department shall
13 distribute to each district for which it is collecting the
14 water and sanitation district gross receipts tax the amount of
15 the tax collected for the district less any disbursements for
16 tax credits, refunds and the payment of interest applicable to
17 the water and sanitation gross receipts tax imposed by the
18 district. Transfer of the tax to a district shall be made
19 within the month following the month in which the tax is
20 collected. "

21 Section 6. A new section of the Water and Sanitation
22 District Act is enacted to read:

23 "[NEW MATERIAL] WATER AND SANITATION DISTRICT GROSS
24 RECEIPTS TAX--ADMINISTRATION. --

25 A. The taxation and revenue department shall

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1 interpret Sections 1 through 4 of this 2004 act.

2 B. The taxation and revenue department shall
3 administer and enforce the collection of the water and
4 sanitation district gross receipts tax, and the Tax
5 Administration Act applies to the administration and
6 enforcement of the tax. "

7 Section 7. EFFECTIVE DATE. --The effective date of the
8 provisions of this act is July 1, 2005.

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