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SENATE BILL 733

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY  
Steve Komadina

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:

"[NEW MATERIAL] 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

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1 percent not to exceed an aggregate rate of one-fourth of one  
2 percent. The tax shall be imposed for a period of not more  
3 than twenty years from the effective date of the ordinance  
4 imposing the tax.

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

8 C. The governing body, at the time of enacting an  
9 ordinance imposing a rate of tax authorized in Subsection A of  
10 this section, shall dedicate the revenue only for:

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

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

18 D. An ordinance imposing any increment of the  
19 municipal higher education facilities gross receipts tax shall  
20 not go into effect until after an election is held and a  
21 majority of the voters of the municipality voting in the  
22 election votes in favor of imposing the tax. The governing  
23 body shall adopt a resolution calling for an election on the  
24 question of imposing the tax at the next regular municipal  
25 election. The question shall be submitted to the voters of the

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1 municipality as a separate question. If a majority of the  
2 voters voting on the question approves the ordinance imposing  
3 the municipal higher education facilities gross receipts tax,  
4 the ordinance shall become effective in accordance with the  
5 provisions of the Municipal Local Option Gross Receipts Taxes  
6 Act. If the question of imposing the municipal higher  
7 education facilities gross receipts tax fails, the governing  
8 body shall not again propose the imposition of any increment of  
9 the tax for a period of one year from the date of the election.

10 E. For the purposes of this section, "eligible  
11 municipality" means a municipality that is located in a class B  
12 county and that has a population greater than fifty thousand  
13 according to the most recent federal decennial census."

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

16 "3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF  
17 REVENUES--LIMITATION ON TIME OF ISSUANCE.--In addition to any  
18 other law and constitutional home rule powers authorizing a  
19 municipality to issue revenue bonds, a municipality may issue  
20 revenue bonds pursuant to Chapter 3, Article 31 NMSA 1978 for  
21 the purposes specified in this section. The term "pledged  
22 revenues", as used in Chapter 3, Article 31 NMSA 1978, means  
23 the revenues, net income or net revenues authorized to be  
24 pledged to the payment of particular revenue bonds as  
25 specifically provided in Subsections A through [†] J of this

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1 section.

2 A. Utility revenue bonds may be issued for  
3 acquiring, extending, enlarging, bettering, repairing or  
4 otherwise improving a municipal utility or for any combination  
5 of the foregoing purposes. The municipality may pledge  
6 irrevocably any or all of the net revenues from the operation  
7 of the municipal utility or of any one or more of other such  
8 municipal utilities for payment of the interest on and  
9 principal of the revenue bonds. These bonds are sometimes  
10 referred to in Chapter 3, Article 31 NMSA 1978 as "utility  
11 revenue bonds" or "utility bonds".

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

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

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1 purposes:

2 (1) constructing, purchasing, furnishing,  
3 equipping, rehabilitating, making additions to or making  
4 improvements to one or more public buildings or purchasing or  
5 improving any ground relating thereto, including but not  
6 necessarily limited to acquiring and improving parking lots, or  
7 any combination of the foregoing;

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

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

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

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

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1 (6) purchasing, acquiring, constructing,  
2 making additions to, enlarging, bettering, extending or  
3 equipping airport facilities or any combination of the  
4 foregoing, including without limitation the acquisition of  
5 land, easements or rights of way therefor;

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

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

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

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

23 The municipality may pledge irrevocably any or all of the  
24 gross receipts tax revenue received by the municipality  
25 pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978 to the  
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1 payment of the interest on and principal of the gross receipts  
2 tax revenue bonds for any of the purposes authorized in this  
3 section or for specific purposes or for any area of municipal  
4 government services, including but not limited to those  
5 specified in Subsection C of Section 7-19D-9 NMSA 1978, or for  
6 public purposes authorized by municipalities having  
7 constitutional home rule charters. A law that imposes or  
8 authorizes the imposition of a municipal gross receipts tax or  
9 that affects the municipal gross receipts tax, or a law  
10 supplemental thereto or otherwise appertaining thereto, shall  
11 not be repealed or amended or otherwise directly or indirectly  
12 modified in such a manner as to impair adversely any  
13 outstanding revenue bonds that may be secured by a pledge of  
14 such municipal gross receipts tax unless the outstanding  
15 revenue bonds have been discharged in full or provision has  
16 been fully made therefor.

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

24 D. As used in this section, the term "public  
25 building" includes but is not limited to fire stations, police

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1 buildings, municipal jails, regional jails or juvenile  
2 detention facilities, libraries, museums, auditoriums,  
3 convention halls, hospitals, buildings for administrative  
4 offices, city halls and garages for housing, repairing and  
5 maintaining city vehicles and equipment. As used in Chapter 3,  
6 Article 31 NMSA 1978, the term "gross receipts tax revenue  
7 bonds" means the bonds authorized in Subsection C of this  
8 section, and the term "gross receipts tax revenue" means the  
9 amount of money distributed to the municipality as authorized  
10 by Section 7-1-6.4 NMSA 1978 or the amount of money transferred  
11 to the municipality as authorized by Section 7-1-6.12 NMSA 1978  
12 for any municipal gross receipts tax imposed pursuant to the  
13 Municipal Local Option Gross Receipts Taxes Act. As used in  
14 Chapter 3, Article 31 NMSA 1978, the term "bond" means any  
15 obligation of a municipality issued under Chapter 3, Article 31  
16 NMSA 1978, whether designated as a bond, note, loan, warrant,  
17 debenture, lease-purchase agreement or other instrument  
18 evidencing an obligation of a municipality to make payments.

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

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

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

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

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

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

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

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

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

19 I. Economic development gross receipts tax revenue  
20 bonds may be issued for the purpose of furthering economic  
21 development projects as defined in the Local Economic  
22 Development Act. The municipality may pledge irrevocably any  
23 or all of the revenue received from the municipal  
24 infrastructure gross receipts tax to the payment of the  
25 interest on and principal of the economic development gross

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

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

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

20 [J.] K. Except for the purpose of refunding  
21 previous revenue bond issues, no municipality may sell revenue  
22 bonds payable from pledged revenues after the expiration of two  
23 years from the date of the ordinance authorizing the issuance  
24 of the bonds or, for bonds to be issued and sold to the New  
25 Mexico finance authority as authorized in Subsection C of

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1 Section 3-31-4 NMSA 1978, after the expiration of two years  
2 from the date of the resolution authorizing the issuance of the  
3 bonds. However, any period of time during which a particular  
4 revenue bond issue is in litigation shall not be counted in  
5 determining the expiration date of that issue."

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