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AN ACT

RELATING TO FINANCE; CREATING AN EXEMPTION FROM THE
GOVERNMENTAL GROSS RECEIPTS TAX FOR UNIVERSITY RECEIPTS FROM
THE IMPOSITION OF AN ATHLETIC FACILITY SURCHARGE; ENACTING
THE UNIVERSITY ATHLETIC FACILITY FUNDING ACT; PERMITTING
CERTAIN UNIVERSITIES TO ISSUE REVENUE BONDS; AUTHORIZING
CERTAIN UNIVERSITIES TO IMPOSE A SURCHARGE ON REVENUES
ARISING FROM ACTIVITIES AT UNIVERSITY ATHLETIC FACILITIES;
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 Gross Receipts and
Compensating Tax Act is enacted to read:

"EXEMPTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS
RECEIPTS TAX--ATHLETIC FACILITY SURCHARGE.--Exempted from the
gross receipts tax and from the governmental gross receipts
tax are the receipts of a university from an athletic
facility surcharge imposed pursuant to the University
Athletic Facility Funding Act."

Section 2. SHORT TITLE.--Sections 2 through 11 of this
act may be cited as the "University Athletic Facility Funding
Act".

Section 3. DEFINITIONS.--As used in the University
Athletic Facility Funding Act:

A. "athletic facility revenues" means rentals,

1 receipts, fees or other charges imposed by and paid to a
2 university for the rights to use, operate or manage a
3 university athletic facility by any person;

4 B. "athletic facility surcharge" means a surcharge
5 to be included in each vendor contract on tickets, parking,
6 souvenirs, concessions, programs, advertising, merchandise,
7 corporate suites or boxes, broadcast revenues and all other
8 products or services sold at or related to a university
9 athletic facility or related to activities occurring at a
10 university athletic facility;

11 C. "board" means the board of regents of a
12 university;

13 D. "bonds" means athletic facility revenue bonds
14 issued by a university to pay for some or all of the costs of
15 designing, purchasing, constructing, remodeling,
16 rehabilitating, renovating, improving, equipping and
17 furnishing a university athletic facility;

18 E. "president" means the president of a university
19 or a person designated by the president of a university;

20 F. "university" means a four-year post-secondary
21 educational institution confirmed by Article 12, Section 11
22 of the constitution of New Mexico and the main campus of
23 which is located in a class A county;

24 G. "university athletic facility" means an indoor
25 or outdoor athletic facility, including buildings and related

1 improvements, primarily designed and intended for university
2 sporting events, but also available for non-university
3 sporting events and university and community cultural,
4 educational and entertainment events;

5 H. "vendor" means every person, corporation,
6 partnership or other entity, including a division or
7 department of a university, providing products or services
8 sold at or related to a university athletic facility; and

9 I. "vendor contract" means a written arrangement
10 between a university and a vendor pursuant to which the
11 vendor provides products or services sold at or related to
12 the university athletic facility.

13 Section 4. ISSUANCE OF BONDS.--

14 A. With the approval of the higher education
15 department and the state board of finance, pursuant to a
16 resolution of the board of regents, a university that has
17 imposed an athletic facility surcharge may issue athletic
18 facility revenue bonds to pay for some or all of the costs of
19 designing, purchasing, constructing, remodeling, renovating,
20 rehabilitating, improving, equipping or furnishing a
21 university athletic facility that has a seating capacity of
22 twelve thousand or more.

23 B. The bonds shall bear interest at a rate or
24 rates as authorized in the Public Securities Act, and the
25 first interest payment may be for any period authorized in

1 the Public Securities Act.

2 C. The bonds shall be secured by athletic facility
3 revenues and athletic facility surcharge receipts.

4 D. The university shall establish an "athletic
5 facility bonding fund" for deposit of all athletic facility
6 revenues and athletic facility surcharge proceeds. Money in
7 the fund may be used to pay:

8 (1) payments of principal, interest or prior
9 redemption premiums due in connection with, and any other
10 charges pertaining to, the bonds, including payments into any
11 sinking fund or reserve fund required by the bond resolution;

12 (2) costs of operating a university athletic
13 facility during the life of the bonds, provided that no such
14 costs shall be paid if there are current payments due
15 pursuant to Paragraph (1) of this subsection;

16 (3) costs of constructing, renovating,
17 equipping, maintaining or improving a university athletic
18 facility, provided that no such costs shall be paid if there
19 are current payments due pursuant to Paragraph (1) of this
20 subsection; or

21 (4) costs of collecting or administering the
22 athletic facility surcharge, provided that no such costs
23 shall be paid if there are current payments due pursuant to
24 Paragraph (1) of this subsection.

25 E. Bonds issued pursuant to the University

1 Athletic Facility Funding Act shall be payable solely from
2 the athletic facility bonding fund and do not create an
3 obligation or indebtedness of the state within the meaning of
4 any constitutional provision. A breach of any contractual
5 obligation incurred pursuant to that act shall not impose a
6 pecuniary liability or a charge upon the general credit or
7 taxing power of the state, and the bonds are not general
8 obligations for which the state's full faith and credit is
9 pledged.

10 F. The state does hereby pledge that the athletic
11 facility bonding fund shall be used only for the purposes
12 specified in this section and pledged first to pay the debt
13 service on the bonds. The state further pledges that any law
14 authorizing the imposition of the athletic facility surcharge
15 and the dedication of revenues to the fund shall not be
16 amended or repealed or otherwise modified so as to impair the
17 bonds to which the fund is dedicated as provided in this
18 section. The university shall not repeal, amend or otherwise
19 modify the bond resolution or the resolution imposing the
20 athletic facility surcharge in such a manner that adversely
21 affects or impairs the athletic facility surcharge or any
22 bonds secured by a pledge of the athletic facility revenues
23 and athletic facility surcharge receipts unless the bonds
24 have been paid in full or provisions have been made for full
25 payment.

1 Section 5. ATHLETIC FACILITY REVENUE BONDS--FULL
2 AUTHORITY TO ISSUE--BONDS ARE LEGAL INVESTMENTS.--

3 A. The University Athletic Facility Bonding Act
4 shall, without reference to any other act of the legislature,
5 be full authority for the issuance and sale of athletic
6 facility revenue bonds, which bonds shall have all the
7 qualities of investment securities under the Uniform
8 Commercial Code and shall not be invalid for any irregularity
9 or defect or be contestable in the hands of bona fide
10 purchasers or holders of the bonds for value.

11 B. Athletic facility revenue bonds are legal
12 investments for any person or board charged with the
13 investment of any public funds and are acceptable as security
14 for any deposit of public money.

15 Section 6. BONDS TAX EXEMPT.--All athletic facility
16 revenue bonds shall be exempt from taxation by the state or
17 any of its political subdivisions.

18 Section 7. AUTHORIZATION OF SURCHARGE AND OTHER FEES--
19 USE OF PROCEEDS--TRANSFER.--

20 A. The board may establish by resolution an
21 athletic facility surcharge of not less than five percent but
22 not to exceed twenty-five percent of the revenues received by
23 a vendor pursuant to each vendor contract entered into by the
24 university.

25 B. The athletic facility surcharge shall be

1 imposed only for the period necessary for payment of
2 principal and interest on the bonds issued to accomplish the
3 purpose for which the revenue is dedicated, but the period
4 shall not exceed thirty years from the date of the resolution
5 imposing the surcharge.

6 C. A university that has established an athletic
7 facility surcharge shall include the surcharge in the terms
8 of each vendor contract into which it enters.

9 D. A university may establish charges and fees
10 deemed necessary by the board or the president for the use,
11 operation or management of a university athletic facility by
12 a person other than the university.

13 Section 8. COLLECTION OF ATHLETIC FACILITY SURCHARGE--
14 REMITTANCE TO UNIVERSITY.--

15 A. Upon the sale of a product or service subject
16 to the athletic facility surcharge, a vendor shall collect
17 the athletic facility surcharge from the purchaser of that
18 product or service on behalf of the university and shall act
19 as a trustee for the surcharge receipts. A purchaser of a
20 product or service subject to the athletic facility surcharge
21 shall be charged separately for the athletic facility
22 surcharge from the cost of the product or service, or the
23 vendor shall institute accounting controls or procedures
24 sufficient to identify the amount of the surcharge owed to a
25 university for each sale, transaction or exchange subject to

1 the surcharge. Receipts from the athletic facility surcharge
2 shall be remitted by a vendor to the president no later than
3 the tenth day of the month following the collection of the
4 surcharge.

5 B. The president shall deposit university athletic
6 facility revenues and athletic facility surcharge receipts
7 into the athletic facility bonding fund and act as trustee of
8 the revenue on behalf of bondholders pursuant to the
9 University Athletic Facility Funding Act so long as any bonds
10 remain outstanding.

11 Section 9. AUDITS.--The board shall provide by
12 resolution a method to audit or otherwise ensure that vendors
13 subject to the athletic facility surcharge collect and remit
14 to the president the full amount of the surcharge receipts
15 due to the university.

16 Section 10. ENFORCEMENT--PENALTIES.--

17 A. An action to enforce the imposition and
18 collection of an athletic facility surcharge by a vendor may
19 be brought by a university.

20 B. A district court may issue an appropriate
21 judgment, order or remedy to enforce the provisions of a
22 vendor contract.

23 C. A judgment issued by a district court requiring
24 athletic facility surcharge receipts to be paid to a
25 university by a vendor shall also award interest at an annual

1 rate of twelve percent on past due amounts, attorney fees and
2 costs to a university.

3 Section 11. LIBERAL INTERPRETATION.--The University
4 Athletic Facility Funding Act shall be liberally construed to
5 carry out its purpose.

6 Section 12. EMERGENCY.--It is necessary for the public
7 peace, health and safety that this act take effect
8 immediately. _____

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