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SENATE BILL 554

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

INTRODUCED BY

David Ulibarri

AN ACT

RELATING TO TAXATION; AMENDING A SECTION OF THE NMSA 1978 TO
PROVIDE FOR COUNTIES TO PLEDGE THE REVENUES FROM THE ONE-
SIXTEENTH INCREMENT OF COUNTY LOCAL OPTION GROSS RECEIPTS TAX
FOR PAYMENT OF PRINCIPAL AND INTEREST DUE ON GROSS RECEIPTS TAX
REVENUE BONDS.

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

Section 1. Section 4-62-1 NMSA 1978 (being Laws 1992,
Chapter 95, Section 1, as amended) is amended to read:

"4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF
REVENUES--LIMITATION ON TIME OF ISSUANCE.--

A. In addition to any other law authorizing a
county to issue revenue bonds, a county may issue revenue bonds
pursuant to Chapter 4, Article 62 NMSA 1978 for the purposes
specified in this section. The term "pledged revenues", as

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1 used in Chapter 4, Article 62 NMSA 1978, means the revenues,
2 net income or net revenues authorized to be pledged to the
3 payment of particular revenue bonds as specifically provided in
4 Subsections B through M of this section.

5 B. Gross receipts tax revenue bonds may be issued
6 for one or more of the following purposes:

7 (1) constructing, purchasing, furnishing,
8 equipping, rehabilitating, making additions to or making
9 improvements to one or more public buildings or purchasing or
10 improving ground relating thereto, including but not
11 necessarily limited to acquiring and improving parking lots, or
12 any combination of the foregoing;

13 (2) acquiring or improving county or public
14 parking lots, structures or facilities or any combination of
15 the foregoing;

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

18 (4) acquiring, extending, enlarging,
19 bettering, repairing or otherwise improving or maintaining
20 storm sewers and other drainage improvements, sanitary sewers,
21 sewage treatment plants, water utilities or other water,
22 wastewater or related facilities, including but not limited to
23 the acquisition of rights of way and water and water rights, or
24 any combination of the foregoing;

25 (5) reconstructing, resurfacing, maintaining,

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1 repairing or otherwise improving existing alleys, streets,
2 roads or bridges or any combination of the foregoing or laying
3 off, opening, constructing or otherwise acquiring new alleys,
4 streets, roads or bridges or any combination of the foregoing;
5 provided that any of the foregoing improvements may include the
6 acquisition of rights of way;

7 (6) purchasing, acquiring, constructing,
8 making additions to, enlarging, bettering, extending or
9 equipping airport facilities or any combination of the
10 foregoing, including without limitation the acquisition of
11 land, easements or rights of way;

12 (7) purchasing or otherwise acquiring or
13 clearing land or purchasing, otherwise acquiring and
14 beautifying land for open space;

15 (8) acquiring, constructing, purchasing,
16 equipping, furnishing, making additions to, renovating,
17 rehabilitating, beautifying or otherwise improving public
18 parks, public recreational buildings or other public
19 recreational facilities or any combination of the foregoing;

20 (9) acquiring, constructing, extending,
21 enlarging, bettering, repairing or otherwise improving or
22 maintaining solid waste disposal equipment, equipment for
23 operation and maintenance of sanitary landfills, sanitary
24 landfills, solid waste facilities or any combination of the
25 foregoing; or

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1 (10) acquiring, constructing, extending,
2 bettering, repairing or otherwise improving public transit
3 systems or any regional transit systems or facilities.

4 A county may pledge irrevocably any or all of the revenue
5 from the first one-eighth of one percent increment [~~and~~], the
6 third one-eighth of one percent increment and the one-sixteenth
7 of one percent increment of the county gross receipts tax and
8 any increment of the county infrastructure gross receipts tax
9 and county capital outlay gross receipts tax for payment of
10 principal and interest due in connection with, and other
11 expenses related to, gross receipts tax revenue bonds for any
12 of the purposes authorized in this section or specific purposes
13 or for any area of county government services. If the revenue
14 from the first one-eighth of one percent increment [~~or~~], the
15 third one-eighth of one percent increment or the one-sixteenth
16 of one percent increment of the county gross receipts tax or
17 any increment of the county infrastructure gross receipts tax
18 or county capital outlay gross receipts tax is pledged for
19 payment of principal and interest as authorized by this
20 subsection, the pledge shall require the revenues received from
21 that increment of the county gross receipts tax or [~~any~~] that
22 increment of the county infrastructure gross receipts tax or
23 county capital outlay gross receipts tax to be deposited into a
24 special bond fund for payment of the principal, interest and
25 expenses. At the end of each fiscal year, money remaining in
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1 the special bond fund after the annual obligations for the
2 bonds are fully met may be transferred to any other fund of the
3 county.

4 Revenues in excess of the annual principal and interest
5 due on gross receipts tax revenue bonds secured by a pledge of
6 gross receipts tax revenue may be accumulated in a debt service
7 reserve account. The governing body of the county may appoint
8 a commercial bank trust department to act as trustee of the
9 proceeds of the tax and to administer the payment of principal
10 of and interest on the bonds.

11 C. Fire protection revenue bonds may be issued
12 for acquiring, extending, enlarging, bettering, repairing,
13 improving, constructing, purchasing, furnishing, equipping or
14 rehabilitating any independent fire district project or
15 facilities, including, where applicable, purchasing, otherwise
16 acquiring or improving the ground for the project, or any
17 combination of such purposes. A county may pledge irrevocably
18 any or all of the county fire protection excise tax revenue for
19 payment of principal and interest due in connection with, and
20 other expenses related to, fire protection revenue bonds.
21 These bonds may be referred to in Chapter 4, Article 62 NMSA
22 1978 as "fire protection revenue bonds".

23 D. Environmental revenue bonds may be issued for
24 the acquisition and construction of solid waste facilities,
25 water facilities, wastewater facilities, sewer systems and

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1 related facilities. A county may pledge irrevocably any or all
2 of the county environmental services gross receipts tax revenue
3 for payment of principal and interest due in connection with,
4 and other expenses related to, environmental revenue bonds.
5 These bonds may be referred to in Chapter 4, Article 62 NMSA
6 1978 as "environmental revenue bonds".

7 E. Gasoline tax revenue bonds may be issued for the
8 acquisition of rights of way for and the construction,
9 reconstruction, resurfacing, maintenance, repair or other
10 improvement of county roads and bridges. A county may pledge
11 irrevocably any or all of the county gasoline tax revenue for
12 payment of principal and interest due in connection with, and
13 other expenses related to, county gasoline tax revenue bonds.
14 These bonds may be referred to in Chapter 4, Article 62 NMSA
15 1978 as "gasoline tax revenue bonds".

16 F. Utility revenue bonds or joint utility revenue
17 bonds may be issued for acquiring, extending, enlarging,
18 bettering, repairing or otherwise improving water facilities,
19 sewer facilities, gas facilities or electric facilities or for
20 any combination of the foregoing purposes. A county may pledge
21 irrevocably any or all of the net revenues from the operation
22 of the utility or joint utility for which the particular
23 utility or joint utility bonds are issued to the payment of
24 principal and interest due in connection with, and other
25 expenses related to, utility or joint utility revenue bonds.

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1 These bonds may be referred to in Chapter 4, Article 62 NMSA
2 1978 as "utility revenue bonds" or "joint utility revenue
3 bonds".

4 G. Project revenue bonds may be issued for
5 acquiring, extending, enlarging, bettering, repairing,
6 improving, constructing, purchasing, furnishing, equipping or
7 rehabilitating any revenue-producing project, including, as
8 applicable, purchasing, otherwise acquiring or improving the
9 ground therefor and including but not limited to acquiring and
10 improving parking lots, or may be issued for any combination of
11 the foregoing purposes. The county may pledge irrevocably any
12 or all of the net revenues from the operation of the revenue-
13 producing project for which the particular project revenue
14 bonds are issued to the payment of the interest on and
15 principal of the project revenue bonds. The net revenues of
16 any revenue-producing project shall not be pledged to the
17 project revenue bonds issued for any other revenue-producing
18 project that is clearly unrelated in nature; but nothing in
19 this subsection prevents the pledge to any of the project
20 revenue bonds of the revenues received from existing, future or
21 disconnected facilities and equipment that are related to and
22 that may constitute a part of the particular revenue-producing
23 project. A general determination by the governing body that
24 facilities or equipment is reasonably related to and
25 constitutes a part of a specified revenue-producing project

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1 shall be conclusive if set forth in the proceedings authorizing
2 the project revenue bonds. As used in Chapter 4, Article 62
3 NMSA 1978:

4 (1) "project revenue bonds" means the bonds
5 authorized in this subsection; and

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

9 H. Fire district revenue bonds may be issued for
10 acquiring, extending, enlarging, bettering, repairing,
11 improving, constructing, purchasing, furnishing, equipping and
12 rehabilitating any fire district project, including, where
13 applicable, purchasing, otherwise acquiring or improving the
14 ground therefor, or for any combination of the foregoing
15 purposes. The county may pledge irrevocably any or all of the
16 revenues received by the fire district from the fire protection
17 fund as provided in the Fire Protection Fund Law and any or all
18 of the revenues provided for the operation of the fire district
19 project for which the particular bonds are issued to the
20 payment of the interest on and principal of the bonds. The
21 revenues of a fire district project shall not be pledged to the
22 bonds issued for a fire district project that clearly is
23 unrelated in its purpose; but nothing in this section prevents
24 the pledge to such bonds of revenues received from existing,
25 future or disconnected facilities and equipment that are

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1 related to and that may constitute a part of the particular
2 fire district project. A general determination by the
3 governing body of the county that facilities or equipment is
4 reasonably related to and constitutes a part of a specified
5 fire district project shall be conclusive if set forth in the
6 proceedings authorizing the fire district revenue bonds.

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

15 J. Hospital emergency gross receipts tax revenue
16 bonds may be issued for acquiring, equipping, remodeling or
17 improving a county hospital or county health facility. A
18 county may pledge irrevocably to the payment of the interest on
19 and principal of the hospital emergency gross receipts tax
20 revenue bonds any or all of the revenues received by the county
21 from a county hospital emergency gross receipts tax imposed
22 pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to
23 payment of bonds or a loan for acquiring, equipping, remodeling
24 or improving a county hospital or county health facility.

25 K. Economic development gross receipts tax revenue
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1 bonds may be issued for the purpose of furthering economic
2 development projects as defined in the Local Economic
3 Development Act. A county may pledge irrevocably any or all of
4 the county infrastructure gross receipts tax to the payment of
5 the interest on and principal of the economic development gross
6 receipts tax revenue bonds for the purpose authorized in this
7 subsection.

8 L. County education gross receipts tax revenue
9 bonds may be issued for public school or off-campus instruction
10 program capital projects as authorized in Section 7-20E-20 NMSA
11 1978. A county may pledge irrevocably any or all of the county
12 education gross receipts tax revenue to the payment of interest
13 on and principal of the county education gross receipts tax
14 revenue bonds for the purpose authorized in this section.

15 M. PILT revenue bonds may be issued by a county to
16 repay all or part of the principal and interest of an
17 outstanding loan owed by the county to the New Mexico finance
18 authority. A county may pledge irrevocably all or part of PILT
19 revenue to the payment of principal of and interest on new
20 loans or preexisting loans provided by the New Mexico finance
21 authority to finance a public project as "public project" is
22 defined in Subsection E of Section 6-21-3 NMSA 1978.

23 N. Except for the purpose of refunding previous
24 revenue bond issues, no county may sell revenue bonds payable
25 from pledged revenue after the expiration of two years from the

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1 date of the ordinance authorizing the issuance of the bonds or,
2 for bonds to be issued and sold to the New Mexico finance
3 authority as authorized in Subsection C of Section 4-62-4 NMSA
4 1978, after the expiration of two years from the date of the
5 resolution authorizing the issuance of the bonds. However, any
6 period of time during which a particular revenue bond issue is
7 in litigation shall not be counted in determining the
8 expiration date of that issue.

9 O. No bonds may be issued by a county, other than
10 an H class county, a class B county as defined in Section
11 4-36-8 NMSA 1978 or a class A county as described in Section
12 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,
13 repair or construct a utility unless the utility is regulated
14 by the public regulation commission pursuant to the Public
15 Utility Act and the issuance of the bonds is approved by the
16 commission. For purposes of Chapter 4, Article 62 NMSA 1978, a
17 "utility" includes but is not limited to a water, wastewater,
18 sewer, gas or electric utility or joint utility serving the
19 public. H class counties shall obtain public regulation
20 commission approvals required by Section 3-23-3 NMSA 1978.

21 P. Any law that imposes or authorizes the
22 imposition of a county gross receipts tax, a county
23 environmental services gross receipts tax, a county fire
24 protection excise tax, a county infrastructure gross receipts
25 tax, the county education gross receipts tax, a county capital

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1 outlay gross receipts tax, the gasoline tax or the county
2 hospital emergency gross receipts tax, or that affects any of
3 those taxes, shall not be repealed or amended in such a manner
4 as to impair outstanding revenue bonds that are issued pursuant
5 to Chapter 4, Article 62 NMSA 1978 and that may be secured by a
6 pledge of those taxes unless the outstanding revenue bonds have
7 been discharged in full or provision has been fully made
8 therefor.

9 Q. As used in this section:

10 (1) "county infrastructure gross receipts tax
11 revenue" means the revenue from the county infrastructure gross
12 receipts tax transferred to the county pursuant to Section
13 7-1-6.13 NMSA 1978;

14 (2) "county capital outlay gross receipts tax
15 revenue" means the revenue from the county capital outlay gross
16 receipts tax transferred to the county pursuant to Section
17 7-1-6.13 NMSA 1978;

18 (3) "county education gross receipts tax
19 revenue" means the revenue from the county education gross
20 receipts tax transferred to the county pursuant to Section
21 7-1-6.13 NMSA 1978;

22 (4) "county environmental services gross
23 receipts tax revenue" means the revenue from the county
24 environmental services gross receipts tax transferred to the
25 county pursuant to Section 7-1-6.13 NMSA 1978;

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1 (5) "county fire protection excise tax
2 revenue" means the revenue from the county fire protection
3 excise tax transferred to the county pursuant to Section
4 7-1-6.13 NMSA 1978;

5 (6) "county gross receipts tax revenue" means
6 the revenue attributable to the first one-eighth of one percent
7 [~~and~~], the third one-eighth of one percent or the one-sixteenth
8 of one percent increments of the county gross receipts tax
9 transferred to the county pursuant to Section 7-1-6.13 NMSA
10 1978 and any distribution related to the first one-eighth of
11 one percent made pursuant to Section 7-1-6.16 NMSA 1978;

12 (7) "gasoline tax revenue" means the revenue
13 from that portion of the gasoline tax distributed to the county
14 pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;

15 (8) "PILT revenue" means revenue received by
16 the county from the federal government as payments in lieu of
17 taxes; and

18 (9) "public building" includes but is not
19 limited to fire stations, police buildings, county or regional
20 jails, county or regional juvenile detention facilities,
21 libraries, museums, auditoriums, convention halls, hospitals,
22 buildings for administrative offices, courthouses and garages
23 for housing, repairing and maintaining county vehicles and
24 equipment.

25 R. As used in Chapter 4, Article 62 NMSA 1978,

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1 the term "bond" means any obligation of a county issued under
2 Chapter 4, Article 62 NMSA 1978, whether designated as a bond,
3 note, loan, warrant, debenture, lease-purchase agreement or
4 other instrument evidencing an obligation of a county to make
5 payments."

6 Section 2. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2009.