

1 HOUSE BILL 176

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TAXATION; EXPANDING THE PERMISSIBLE USES OF REVENUE
12 FROM THE MUNICIPAL ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX TO
13 INCLUDE OTHER TYPES OF INFRASTRUCTURE; RENAMING THAT TAX THE
14 MUNICIPAL INFRASTRUCTURE AND ENVIRONMENTAL SERVICES GROSS
15 RECEIPTS TAX.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 7-19D-10 NMSA 1978 (being Laws 1990,
19 Chapter 99, Section 51, as amended) is amended to read:

20 "7-19D-10. MUNICIPAL INFRASTRUCTURE AND ENVIRONMENTAL
21 SERVICES GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--ORDINANCE
22 REQUIREMENTS.--

23 A. [~~Except as otherwise provided in this section~~]

24 The majority of the members of the governing body of a
25 municipality may enact an ordinance imposing an excise tax on

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1 any person engaging in business in the municipality for the
2 privilege of engaging in business. Except as otherwise
3 provided in this section, the rate of the tax shall be one-
4 sixteenth of one percent of the gross receipts of the person
5 engaging in business.

6 B. The tax imposed in accordance with Subsection A
7 of this section may be referred to as the "municipal
8 infrastructure and environmental services gross receipts tax".
9 The imposition of a municipal infrastructure and environmental
10 services gross receipts tax is not subject to referendum.

11 C. The governing body of a municipality shall, at
12 the time of enacting an ordinance imposing the rate of the tax
13 authorized in Subsection A of this section, dedicate the
14 revenue for the acquisition, construction, operation and
15 maintenance of infrastructure, including solid waste
16 facilities, water facilities, wastewater facilities, sewer
17 systems and ~~[related]~~ other facilities deemed necessary by the
18 governing body.

19 D. The governing body of a municipality in a class
20 B county with a net taxable value used for rate-setting
21 purposes for the 2008 property tax year of greater than seven
22 hundred fifty million dollars (\$750,000,000) and with a
23 population, ~~[in the entire county]~~ according to the most recent
24 federal decennial census, of less than twenty-five thousand may
25 enact an ordinance imposing ~~[an excise]~~ a municipal

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1 infrastructure and environmental services gross receipts tax on
2 [~~any person~~] persons engaging in business in the municipality
3 for the privilege of engaging in business; provided that:

4 (1) the rate of the tax imposed [~~shall~~] does
5 not exceed one-half of one percent of the gross receipts of the
6 person engaging in business;

7 (2) the tax is imposed in one-fourth of one
8 percent increments; and

9 (3) the population, according to the most
10 recent federal decennial census, of the municipality imposing
11 the [~~municipal environmental services gross receipts~~] tax
12 [~~according to the most recent federal decennial census~~] is:

13 (a) more than seven thousand five
14 hundred but less than seven thousand eight hundred; or

15 (b) more than one thousand five hundred
16 but less than two thousand."

17 **SECTION 2.** Section 5-15-15 NMSA 1978 (being Laws 2006,
18 Chapter 75, Section 15, as amended) is amended to read:

19 "5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX
20 INCREMENT.--

21 A. Notwithstanding any law to the contrary, but in
22 accordance with the provisions of the Tax Increment for
23 Development Act, a tax increment development plan, as
24 originally approved or as later modified, may contain a
25 provision that a portion of certain gross receipts tax

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1 increments collected within the tax increment development area
2 after the effective date of approval of the tax increment
3 development plan may be dedicated for the purpose of securing
4 gross receipts tax increment bonds pursuant to the Tax
5 Increment for Development Act.

6 B. As to a district formed by a municipality, a
7 portion of any of the following gross receipts tax increments
8 may be paid by the state directly into a special fund of the
9 district to pay the principal of, the interest on and any
10 premium due in connection with the bonds of, loans or advances
11 to, or any indebtedness incurred by, whether funded, refunded,
12 assumed or otherwise, the authority for financing or
13 refinancing, in whole or in part, a tax increment development
14 project within the tax increment development area:

15 (1) municipal gross receipts tax authorized
16 pursuant to the Municipal Local Option Gross Receipts Taxes
17 Act;

18 (2) municipal infrastructure and environmental
19 services gross receipts tax authorized pursuant to the
20 Municipal Local Option Gross Receipts Taxes Act;

21 (3) municipal infrastructure gross receipts
22 tax authorized pursuant to the Municipal Local Option Gross
23 Receipts Taxes Act;

24 (4) municipal capital outlay gross receipts
25 tax authorized pursuant to the Municipal Local Option Gross

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1 Receipts Taxes Act;

2 [~~(5)~~ municipal regional transit gross receipts
3 tax authorized pursuant to the Municipal Local Option Gross
4 Receipts Taxes Act;

5 ~~(6)~~] (5) an amount distributed to
6 municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA
7 1978; and

8 [~~(7)~~] (6) the state gross receipts tax.

9 C. As to a district formed by a county, all or a
10 portion of any of the following gross receipts tax increments
11 may be paid by the state directly into a special fund of the
12 district to pay the principal of, the interest on and any
13 premium due in connection with the bonds of, loans or advances
14 to or any indebtedness incurred by, whether funded, refunded,
15 assumed or otherwise, the district for financing or
16 refinancing, in whole or in part, a tax increment development
17 project within the tax increment development area:

18 (1) county gross receipts tax authorized
19 pursuant to the County Local Option Gross Receipts Taxes Act;

20 (2) county environmental services gross
21 receipts tax authorized pursuant to the County Local Option
22 Gross Receipts Taxes Act;

23 (3) county infrastructure gross receipts tax
24 authorized pursuant to the County Local Option Gross Receipts
25 Taxes Act;

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1 (4) county capital outlay gross receipts tax
2 authorized pursuant to the County Local Option Gross Receipts
3 Taxes Act;

4 (5) county regional transit gross receipts tax
5 authorized pursuant to the County Local Option Gross Receipts
6 Taxes Act;

7 (6) the amount distributed to counties
8 pursuant to Section 7-1-6.47 NMSA 1978; and

9 (7) the state gross receipts tax.

10 D. The gross receipts tax increment generated by
11 the imposition of municipal or county local option gross
12 receipts taxes specified by statute for particular purposes may
13 nonetheless be dedicated for the purposes of the Tax Increment
14 for Development Act if intent to do so is set forth in the tax
15 increment development plan approved by the governing body, if
16 the purpose for which the increment is intended to be used is
17 consistent with the purposes set forth in the statute
18 authorizing the municipal or county local option gross receipts
19 tax.

20 E. An imposition of a gross receipts tax increment
21 attributable to the imposition of a gross receipts tax by a
22 taxing entity may be dedicated for the purpose of securing
23 gross receipts tax increment bonds with the agreement of the
24 taxing entity, evidenced by a resolution adopted by a majority
25 vote of that taxing entity. A taxing entity shall not agree to

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1 dedicate for the purposes of securing gross receipts tax
2 increment bonds more than seventy-five percent of its gross
3 receipts tax increment attributable to the imposition of gross
4 receipts taxes by the taxing entity. A resolution of the
5 taxing entity to dedicate a gross receipts tax increment or to
6 increase the dedication of a gross receipts tax increment shall
7 become effective only on January 1 or July 1 of the calendar
8 year.

9 F. An imposition of a gross receipts tax increment
10 attributable to the imposition of the state gross receipts tax
11 within a district less the distributions made pursuant to
12 Section 7-1-6.4 NMSA 1978 may be dedicated for the purpose of
13 securing gross receipts tax increment bonds with the agreement
14 of the state board of finance, evidenced by a resolution
15 adopted by a majority vote of the state board of finance. The
16 state board of finance shall not agree to dedicate more than
17 seventy-five percent of the gross receipts tax increment
18 attributable to the imposition of the state gross receipts tax
19 within the district. The resolution of the state board of
20 finance shall become effective only on January 1 or July 1 of
21 the calendar year and shall find that:

22 (1) the state board of finance has reviewed
23 the request for the use of the state gross receipts tax;

24 (2) based upon review by the state board of
25 finance of the applicable tax increment development plan, the

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1 dedication by the state board of finance of a portion of the
2 gross receipts tax increment attributable to the imposition of
3 the state gross receipts tax within the district for use in
4 meeting the required goals of the tax increment plan is
5 reasonable and in the best interest of the state; and

6 (3) the use of the state gross receipts tax is
7 likely to stimulate the creation of jobs, economic
8 opportunities and general revenue for the state through the
9 addition of new businesses to the state and the expansion of
10 existing businesses within the state.

11 G. The governing body of the jurisdiction in which
12 a tax increment development district has been established shall
13 timely notify the assessor of the county in which the district
14 has been established, the taxation and revenue department and
15 the local government division of the department of finance and
16 administration when:

17 (1) a tax increment development plan has been
18 approved that contains a provision for the allocation of a
19 gross receipts tax increment;

20 (2) any outstanding bonds of the district have
21 been paid off; and

22 (3) the purposes of the district have
23 otherwise been achieved."