

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 637

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO METROPOLITAN REDEVELOPMENT; AMENDING THE TAX INCREMENT FINANCING PROCEDURES IN THE TAX INCREMENT LAW; AUTHORIZING THE ISSUANCE OF TAX INCREMENT BONDS TO FINANCE METROPOLITAN REDEVELOPMENT PROJECTS; AMENDING THE LOCAL ECONOMIC DEVELOPMENT ACT TO CHANGE THE DEFINITION OF QUALIFYING ENTITY TO INCLUDE DEVELOPERS OF CERTAIN DOWNTOWN METROPOLITAN REDEVELOPMENT PROJECTS; DECLARING AN EMERGENCY.

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

Section 1. Section 3-60A-21 NMSA 1978 (being Laws 1979, Chapter 391, Section 21, as amended) is amended to read:

"3-60A-21. TAX INCREMENT PROCEDURES. --The procedures to be used in the tax increment method are:

A. the local governing body of the municipality shall, at the time after approval of a metropolitan

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 redevelopment project, notify the county assessor and the  
2 taxation and revenue department of the taxable parcels of  
3 property within the project;

4 B. upon receipt of notification pursuant to  
5 Subsection A of this section, the county assessor and the  
6 taxation and revenue department shall identify the parcels of  
7 property within the metropolitan redevelopment project within  
8 their respective jurisdictions and certify to the county  
9 treasurer the net taxable value of the property at the time of  
10 notification as the base value for the distribution of  
11 property tax revenues authorized by the Property Tax Code. If  
12 because of acquisition by the municipality the property  
13 becomes tax exempt, the county assessor and the taxation and  
14 revenue department shall note that fact on their respective  
15 records and so notify the county treasurer, but the county  
16 assessor, the taxation and revenue department and the county  
17 treasurer shall preserve a record of the net taxable value at  
18 the time of inclusion of the property within the metropolitan  
19 redevelopment project as the base value for the purpose of  
20 distribution of property tax revenues when the parcel again  
21 becomes taxable. The county assessor is not required by this  
22 section to preserve the new taxable value at the time of  
23 inclusion of the property within the metropolitan  
24 redevelopment project as the base value for the purposes of  
25 valuation of the property;

. 126452. 1

underscored material = new  
[bracketed material] = delete

1           C. if because of acquisition by the municipality  
2 the property becomes tax exempt, when the parcel again becomes  
3 taxable, the local governing body of the municipality shall  
4 notify the county assessor and the taxation and revenue  
5 department of the parcels of property [~~which~~] that because of  
6 their rehabilitation or other improvement are to be revalued  
7 for property tax purposes. A new taxable value of this  
8 property shall then be determined by the county assessor or by  
9 the taxation and revenue department if the property is within  
10 the valuation jurisdiction of that department. If no  
11 acquisition by the municipality occurs, improvement or  
12 rehabilitation of property subject to valuation by the  
13 assessor shall be reported to the assessor as required by the  
14 Property Tax Code, and the new taxable value shall be  
15 determined as of January 1 of the tax year following the year  
16 in which the improvement or rehabilitation is completed;

17           D. current tax rates shall then be applied to the  
18 new taxable value. The amount by which the revenue received  
19 exceeds that which would have been received by application of  
20 the same rates to the base value before inclusion in the  
21 metropolitan redevelopment project shall be credited to the  
22 municipality and deposited in the metropolitan redevelopment  
23 fund. This transfer shall take place only after the county  
24 treasurer has been notified to apply the tax increment method  
25 to a specific property included in a metropolitan

. 126452. 1

underscored material = new  
[bracketed material] = delete

1 redevelopment area. Unless the entire metropolitan  
2 redevelopment area is specifically included by the  
3 municipality for purposes of tax increment financing, the  
4 payment by the county treasurer to the municipality shall be  
5 limited to those properties specifically included. The  
6 remaining revenue shall be distributed to participating units  
7 of government as authorized by the Property Tax Code; and

8 E. the procedures and methods specified in this  
9 section shall be followed annually for a maximum period of  
10 [~~ten~~] twenty years following the date of notification of  
11 inclusion of property as coming under the transfer provisions  
12 of this section."

13 Section 2. Section 3-60A-23 NMSA 1978 (being Laws 1979,  
14 Chapter 391, Section 23, as amended) is amended to read:

15 "3-60A-23. TAX INCREMENT METHOD APPROVAL. --The tax  
16 increment method shall be applicable only to the units of  
17 government participating in property tax revenue derived from  
18 property within a metropolitan redevelopment project and  
19 approving the use of the tax increment method for that  
20 property and only to the extent of the approval. An approval  
21 may be restricted to certain types or sources of tax revenue.  
22 The local governing body of each municipality shall request  
23 such approval for up to a twenty-year period for property  
24 included in the tax increment funding. The governor or his  
25 authorized representative shall approve, partially approve or

underscored material = new  
[bracketed material] = delete

1 disapprove the use of the method for state government; the  
2 governing body of each other participating unit shall approve,  
3 partially approve or disapprove by ordinance or resolution the  
4 use of the method for their respective units. At the request  
5 of a participating unit of government, made within ten days of  
6 receipt of the request by the municipality, the municipality  
7 shall make a presentation to the governor or his authorized  
8 representative and to the governing bodies of all  
9 participating units of government, which presentation shall  
10 include a description of the metropolitan redevelopment  
11 project and the parcels in the project to which the tax  
12 increment method will apply, and an estimate of the general  
13 effect of the project and the application of the tax increment  
14 method on property values and tax revenues. All participating  
15 units shall notify the local governing body of the  
16 municipality seeking approval within thirty days of receipt of  
17 the municipality's request. At the expiration of that time,  
18 the alternative method of financing set forth in this section  
19 shall be effective for a period of up to twenty tax years."

20 Section 3. A new section of the Metropolitan  
21 Redevelopment Code is enacted to read:

22 "[NEW MATERIAL] TAX INCREMENT BONDS. --

23 A. For the purpose of financing metropolitan  
24 redevelopment projects, in whole or in part, a municipality  
25 may issue tax increment bonds or tax increment bond

underscored material = new  
[bracketed material] = delete

1 anticipation notes that are payable from and secured by real  
2 property taxes, in whole or in part, allocated to the  
3 metropolitan redevelopment fund pursuant to the provisions of  
4 Sections 3-60A-21 and 3-60A-23 NMSA 1978. The principal of,  
5 premium, if any, and interest on the bonds or notes shall be  
6 payable from and secured by a pledge of such revenues, and the  
7 municipality shall irrevocably pledge all or part of such  
8 revenues to the payment of the bonds or notes. The revenues  
9 deposited in the metropolitan redevelopment fund or the  
10 designated part thereof may thereafter be used only for the  
11 payment of the principal of, premium, if any, and interest on  
12 the bonds or notes, and a holder of the bonds or notes shall  
13 have a first lien against the revenues deposited in the  
14 metropolitan redevelopment fund or the designated part thereof  
15 for the payment of principal of, premium, if any, and interest  
16 on such bonds or notes. To increase the security and  
17 marketability of the tax increment bonds or notes, the  
18 municipality may:

19 (1) create a lien for the benefit of the  
20 bondholders on any public improvements or public works used  
21 solely by the metropolitan redevelopment project or portion of  
22 a project financed by the bonds or notes, or on the revenues  
23 of such improvements or works;

24 (2) provide that the proceeds from the sale  
25 of real and personal property acquired with the proceeds from

underscored material = new  
[bracketed material] = delete

1 the sale of bonds or notes issued pursuant to the Tax  
2 Increment Law shall be deposited in the metropolitan  
3 redevelopment fund and used for the purposes of repayment of  
4 principal of, premium, if any, and interest on such bonds or  
5 notes; and

6 (3) make covenants and do any and all acts  
7 not inconsistent with law as may be necessary, convenient or  
8 desirable in order to additionally secure the bonds or notes  
9 or make the bonds or notes more marketable in the exercise of  
10 the discretion of the local governing body.

11 B. Bonds and notes issued pursuant to this section  
12 shall not constitute an indebtedness within the meaning of any  
13 constitutional or statutory debt limitation or restriction,  
14 and shall not be subject to the provisions of any other law or  
15 charter relating to the authorization, issuance or sale of tax  
16 increment bonds or tax increment bond anticipation notes.

17 Bonds and notes issued pursuant to the Tax Increment Law are  
18 declared to be issued for an essential public and governmental  
19 purpose and, together with interest thereon, shall be exempted  
20 from all taxes by the state.

21 C. The bonds or notes shall be authorized by an  
22 ordinance of the municipality; shall be in such denominations,  
23 bear such date and mature, in the case of bonds, at such time  
24 not exceeding twenty years from their date, and in the case of  
25 notes, not exceeding five years from the date of the original

underscored material = new  
[bracketed material] = delete

1 note; bear interest at a rate or have appreciated principal  
2 value not exceeding the maximum net effective interest rate  
3 permitted by the Public Securities Act; and be in such form,  
4 carry such registration privileges, be executed in such  
5 manner, be payable in such place within or without the state,  
6 be payable at intervals or at maturity and be subject to such  
7 terms of redemption as the authorizing ordinance or  
8 supplemental resolution or resolutions of the municipality may  
9 provide.

10 D. The bonds or notes may be sold in one or more  
11 series at, below or above par, at public or private sale, in  
12 such manner and for such price as the municipality, in its  
13 discretion, shall determine; provided that the price at which  
14 the bonds or notes are sold shall not result in a net  
15 effective interest rate the exceeds the maximum permitted by  
16 the Public Securities Act. As an incidental expense of a  
17 metropolitan redevelopment project or portion thereof financed  
18 with the bonds or notes, the municipality in its discretion  
19 may employ financial and legal consultants with regard to the  
20 financing of the project.

21 E. In case any of the public officials of the  
22 municipality whose signatures appear on any bonds or notes  
23 issued pursuant to the Tax Increment Law shall cease to be  
24 public officials before the delivery of the bonds or notes,  
25 the signatures shall, nevertheless, be valid and sufficient



underscored material = new  
[bracketed material] = delete

1 for all purposes, the same as if the officials had remained in  
2 office until delivery. Any provision of any law to the  
3 contrary notwithstanding, any bonds or notes issued pursuant  
4 to the Tax Increment Law shall be fully negotiable.

5 F. In any suit, action or proceeding involving the  
6 validity or enforceability of any bond or note issued pursuant  
7 to the Tax Increment Law or the security therefor, any bond or  
8 note reciting in substance that it has been issued by the  
9 municipality in connection with a metropolitan redevelopment  
10 project shall be conclusively deemed to have been issued for  
11 such purpose and the project shall be conclusively deemed to  
12 have been planned, located and carried out in accordance with  
13 the provisions of the Metropolitan Redevelopment Code.

14 G. The proceedings under which tax increment bonds  
15 or tax increment bond anticipation notes are authorized to be  
16 issued and any mortgage, deed of trust, trust indenture or  
17 other lien or security device on real and personal property  
18 given to secure the same may contain provisions customarily  
19 contained in instruments securing bonds and notes and  
20 constituting a covenant with the bondholders.

21 H. A municipality may issue bonds or notes  
22 pursuant to this section with the proceeds from the bonds or  
23 notes to be used as other money is authorized to be used in  
24 the Metropolitan Redevelopment code.

25 I. The municipality shall have the power to issue

underscored material = new  
[bracketed material] = del ete

1 renewal notes, to issue bonds to pay notes and whenever it  
2 deems refunding expedient, to refund any bonds by the issuance  
3 of new bonds, whether the bonds to be refunded have or have  
4 not matured, and to issue bonds partly to refund bonds then  
5 outstanding and partly for other purposes in connection with  
6 financing metropolitan redevelopment projects, in whole or in  
7 part. Refunding bonds issued pursuant to the Tax Increment  
8 Law to refund outstanding tax increment bonds shall be payable  
9 from real property tax revenues, out of which the bonds to be  
10 refunded thereby are payable or from other lawfully available  
11 revenues.

12 J. The proceeds from the sale of any bonds or  
13 notes shall be applied only for the purpose for which the  
14 bonds or notes were issued and if, for any reason, any portion  
15 of the proceeds are not needed for the purpose for which the  
16 bonds or notes were issued, the unneeded portion of the  
17 proceeds shall be applied to the payment of the principal of  
18 or the interest on the bonds or notes.

19 K. The cost of financing any metropolitan  
20 redevelopment project shall be deemed to include the actual  
21 cost of acquiring a site and the cost of the construction of  
22 any part of a project, including architects' and engineers'  
23 fees, the purchase price of any part of a project that may be  
24 acquired by purchase and all expenses in connection with the  
25 authorization, sale and issuance of the bonds or notes to

underscored material = new  
[bracketed material] = delete

1 finance the acquisition, and any related costs incurred by the  
2 municipality.

3 L. No action shall be brought questioning the  
4 legality of any contract, mortgage, deed of trust, trust  
5 indenture or other lien or security device, proceeding or  
6 bonds or notes executed in connected with any project  
7 authorized by the Metropolitan Redevelopment Code on and after  
8 thirty days from the effective date of the ordinance  
9 authorizing the issuance of such bonds or notes. "

10 Section 4. Section 5-10-3 NMSA 1978 (being Laws 1993,  
11 Chapter 297, Section 3, as amended) is amended to read:

12 "5-10-3. DEFINITIONS. --As used in the Local Economic  
13 Development Act:

14 A. "department" means the economic development  
15 department;

16 B. "economic development project" or "project"  
17 means the provision of direct or indirect assistance to a  
18 qualifying business by a local or regional government and  
19 includes the purchase, lease, grant, construction,  
20 reconstruction, improvement or other acquisition or conveyance  
21 of land, buildings or other infrastructure; public works  
22 improvements essential to the location or expansion of a  
23 qualifying business; payments for professional services  
24 contracts necessary for local or regional governments to  
25 implement a plan or project; the provision of direct loans or

underscored material = new  
[bracketed material] = delete

1 grants for land, buildings or infrastructure; loan guarantees  
2 securing the cost of land, buildings or infrastructure in an  
3 amount not to exceed the revenue that may be derived from the  
4 municipal infrastructure gross receipts tax or the county  
5 infrastructure gross receipts tax; grants for public works  
6 infrastructure improvements essential to the location or  
7 expansion of a qualifying business; purchase of land for a  
8 publicly held industrial park; and the construction of a  
9 building for use by a qualifying business;

10 C. "governing body" means the city council or city  
11 commission of a city, the board of trustees of a town or  
12 village or the board of county commissioners of a county;

13 D. "local government" means a municipality or  
14 county;

15 E. "municipality" means any incorporated city,  
16 town or village;

17 F. "person" means an individual, corporation,  
18 association, partnership or other legal entity;

19 G. "qualifying entity" means a corporation,  
20 limited liability company, partnership, joint venture,  
21 syndicate, association or other person that is one or a  
22 combination of two or more of the following:

23 (1) an industry for the manufacturing,  
24 processing or assembling of agricultural or manufactured  
25 products;

underscored material = new  
[bracketed material] = delete

1 (2) a commercial enterprise for storing,  
2 warehousing, distributing or selling products of agriculture,  
3 mining or industry, but, other than as provided in Paragraph  
4 (5) of this subsection, not including any enterprise for sale  
5 of goods or commodities at retail or for distribution to the  
6 public of electricity, gas, water or telephone or other  
7 services commonly classified as public utilities;

8 (3) a business in which all or part of the  
9 activities of the business involves the supplying of services  
10 to the general public or to governmental agencies or to a  
11 specific industry or customer, but, other than as provided in  
12 Paragraph (5) of this subsection, not including businesses  
13 primarily engaged in the sale of goods or commodities at  
14 retail;

15 (4) an Indian nation, tribe or pueblo or a  
16 federally chartered tribal corporation; [ or ]

17 (5) a telecommunications sales enterprise  
18 that makes the majority of its sales to persons outside  
19 New Mexico; [ and ] or

20 (6) a business that is the developer of a  
21 metropolitan redevelopment project located in the downtown  
22 area of a municipality that has a population of more than two  
23 hundred thousand as determined in the most recent federal  
24 decennial census and is located in a class A county;

25 H. "regional government" means any combination of

1 municipalities and counties that enter into a joint powers  
2 agreement to provide for economic development projects  
3 pursuant to a plan adopted by all parties to the joint powers  
4 agreement. "

5 Section 5. EMERGENCY.--It is necessary for the public  
6 peace, health and safety that this act take effect  
7 immediately.

8 - 14 -  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3  
4  
5

6 February 22, 1999  
7

8 Mr. Speaker:  
9

10 Your TAXATION AND REVENUE COMMITTEE, to whom has  
11 been referred  
12

13 HOUSE BILL 637  
14

15 has had it under consideration and reports same with  
16 recommendation that it DO PASS.

17 Respectfully submitted,  
18

19  
20  
21 \_\_\_\_\_  
22 Jerry W. Sandel, Chairman  
23  
24  
25

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HB 637

Page 16

4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

6 (Chief Clerk)

(Chief Clerk)

8 Date \_\_\_\_\_

10 The roll call vote was 12 For 0 Against

11 Yes: 12

12 Excused: Gonzales, Sandoval, Stell

13 Absent: None

15 J: \99BillSWP\H0637

underscored material = new  
[bracketed material] = delete



FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

1 HB 637

Page 19

2

3

4

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

5

6

7

8

March 12, 1999

9

Mr. President:

10

11

Your WAYS & MEANS COMMITTEE, to whom has been referred

12

13

HOUSE BILL 637

14

has had it under consideration and reports same with  
recommendation that it DO PASS.

16

17

Respectfully submitted,

18

19

20

21

22

Carlos R. Cisneros, Chairman

23

24

25

. 126452. 1

underscored material = new  
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

1 HB 637

2

Adopted \_\_\_\_\_ Not

3

Adopted \_\_\_\_\_

4

(Chief Clerk)

(Chief Clerk)

5

6

7

8

Date \_\_\_\_\_

9

10

The roll call vote was 5 For 1 Against

11

Yes: 5

12

No: Rawson

13

Excused: Carraro, Duran, Kidd

14

Absent: None

15

16

H0637WM1

17

18

19

20

21

22

23

24

25

underscored material = new  
[bracketed material] = delete