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HOUSE BILL 238

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Manuel G. Herrera

AN ACT

RELATING TO COUNTY REVENUE BONDS; PROVIDING COUNTIES THE ABILITY TO USE THE PROCEEDS FROM GROSS RECEIPTS REVENUES ONCE THE AMOUNT PLEDGED ON BONDS IS SATISFIED; REPEALING LAWS 2001, CHAPTER 172, SECTION 3.

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 by Laws 2001, Chapter 172, Section 3 and by Laws 2001, Chapter 328, Section 2) 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

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

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

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

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

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

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

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1 or any combination of the foregoing;

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

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

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

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

22 (9) acquiring, constructing, extending,
23 enlarging, bettering, repairing or otherwise improving or
24 maintaining solid waste disposal equipment, equipment for
25 operation and maintenance of sanitary landfills, sanitary

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1 landfills, solid waste facilities or any combination of the
2 foregoing; or

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

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

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1 principal, interest and expenses. [~~At the end of each fiscal~~
2 ~~year~~] Money remaining in the special bond fund after the
3 annual obligations for the bonds are fully met may be
4 transferred to any other fund of the county.

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

12 C. Fire protection revenue bonds may be issued for
13 acquiring, extending, enlarging, bettering, repairing,
14 improving, constructing, purchasing, furnishing, equipping or
15 rehabilitating any independent fire district project or
16 facilities, including where applicable purchasing, otherwise
17 acquiring or improving the ground for the project, or any
18 combination of such purposes. A county may pledge irrevocably
19 any or all of the county fire protection excise tax revenue
20 for payment of principal and interest due in connection with,
21 and other expenses related to, fire protection revenue bonds.
22 These bonds may be referred to in Chapter 4, Article 62 NMSA
23 1978 as "fire protection revenue bonds".

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

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

8 E. Gasoline tax revenue bonds may be issued for
9 the acquisition of rights of way for and the construction,
10 reconstruction, resurfacing, maintenance, repair or other
11 improvement of county roads and bridges. A county may pledge
12 irrevocably any or all of the county gasoline tax revenue for
13 payment of principal and interest due in connection with, and
14 other expenses related to, county gasoline tax revenue bonds.
15 These bonds may be referred to in Chapter 4, Article 62 NMSA
16 1978 as "gasoline tax revenue bonds".

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

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

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

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1 constitutes a part of a specified revenue-producing project
2 shall be conclusive if set forth in the proceedings
3 authorizing the project revenue bonds. As used in Chapter 4,
4 Article 62 NMSA 1978:

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

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

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

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

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

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

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1 facility.

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

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

18 M. Except for the purpose of refunding previous
19 revenue bond issues, no county may sell revenue bonds payable
20 from pledged revenue after the expiration of two years from
21 the date of the ordinance authorizing the issuance of the
22 bonds or, for bonds to be issued and sold to the New Mexico
23 finance authority as authorized in Subsection C of Section
24 4-62-4 NMSA 1978, after the expiration of two years from the
25 date of the resolution authorizing the issuance of the bonds.

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1 However, any period of time during which a particular revenue
2 bond issue is in litigation shall not be counted in
3 determining the expiration date of that issue.

4 N. No bonds may be issued by a county, other than
5 an H class county, a class B county as defined in Section
6 4-36-8 NMSA 1978 or a class A county as described in Section
7 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,
8 repair or construct a utility unless the utility is regulated
9 by the public regulation commission pursuant to the Public
10 Utility Act and the issuance of the bonds is approved by the
11 commission. For purposes of Chapter 4, Article 62 NMSA 1978,
12 a "utility" includes but is not limited to a water,
13 wastewater, sewer, gas or electric utility or joint utility
14 serving the public. H class counties shall obtain public
15 regulation commission approvals required by Section
16 3-23-3 NMSA 1978.

17 0. Any law that imposes or authorizes the
18 imposition of a county gross receipts tax, a county
19 environmental services gross receipts tax, a county fire
20 protection excise tax, a county infrastructure gross receipts
21 tax, the county education gross receipts tax, a county capital
22 outlay gross receipts tax, the gasoline tax or the county
23 hospital emergency gross receipts tax, or that affects any of
24 those taxes, shall not be repealed or amended in such a manner
25 as to impair outstanding revenue bonds that are issued

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1 pursuant to Chapter 4, Article 62 NMSA 1978 and that may be
2 secured by a pledge of those taxes unless the outstanding
3 revenue bonds have been discharged in full or provision has
4 been fully made therefor.

5 P. As used in this section:

6 (1) "county infrastructure gross receipts tax
7 revenue" means the revenue from the county infrastructure
8 gross receipts tax transferred to the county pursuant to
9 Section 7-1-6.13 NMSA 1978;

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

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

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

22 (5) "county fire protection excise tax
23 revenue" means the revenue from the county fire protection
24 excise tax transferred to the county pursuant to Section
25 7-1-6.13 NMSA 1978;

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1 (6) "county gross receipts tax revenue" means
2 the revenue attributable to the first one-eighth of one
3 percent and the third one-eighth of one percent increments of
4 the county gross receipts tax transferred to the county
5 pursuant to Section 7-1-6.13 NMSA 1978 and any distribution
6 related to the first one-eighth of one percent made pursuant
7 to Section 7-1-6.16 NMSA 1978;

8 (7) "gasoline tax revenue" means the revenue
9 from that portion of the gasoline tax distributed to the
10 county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;
11 and

12 (8) "public building" includes but is not
13 limited to fire stations, police buildings, county or regional
14 jails, county or regional juvenile detention facilities,
15 libraries, museums, auditoriums, convention halls, hospitals,
16 buildings for administrative offices, courthouses and garages
17 for housing, repairing and maintaining county vehicles and
18 equipment.

19 Q. As used in Chapter 4, Article 62 NMSA 1978,
20 the term "bond" means any obligation of a county issued under
21 Chapter 4, Article 62 NMSA 1978, whether designated as a bond,
22 note, loan, warrant, debenture, lease-purchase agreement or
23 other instrument evidencing an obligation of a county to make
24 payments. "

25 Section 2. Repeal.--Laws 2001, Chapter 172, Section 3 is
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