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SENATE BILL 205

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO TAXATION; RENAMING THE COUNTY AND COUNTYWIDE AREA
EMERGENCY COMMUNICATIONS AND EMERGENCY MEDICAL AND BEHAVIORAL
HEALTH SERVICES TAXES TO THE COUNTY AREA AND COUNTYWIDE
EMERGENCY COMMUNICATIONS AND HEALTH SERVICES TAXES; PROVIDING
THAT THE REVENUE FROM THOSE TAXES MAY BE USED FOR THE
CONSTRUCTION, IMPROVEMENT, REMODEL OR PURCHASE OF BUILDINGS TO
USE AS AN EMERGENCY COMMUNICATIONS CENTER.

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

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

13 (2) acquiring or improving county or public
14 parking lots, structures or facilities;

15 (3) purchasing, acquiring or rehabilitating
16 firefighting equipment;

17 (4) acquiring, extending, enlarging,
18 bettering, repairing or otherwise improving or maintaining
19 storm sewers and other drainage improvements, sanitary sewers,
20 sewage treatment plants, water utilities or other water,
21 wastewater or related facilities, which may include the
22 acquisition of rights of way and water and water rights;

23 (5) reconstructing, resurfacing, maintaining,
24 repairing or otherwise improving existing alleys, streets,
25 roads or bridges or laying off, opening, constructing or

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1 otherwise acquiring new alleys, streets, roads or bridges,
2 which may include the acquisition of rights of way;

3 (6) purchasing, acquiring, constructing,
4 making additions to, enlarging, bettering, extending or
5 equipping airport facilities, which may include the acquisition
6 of land, easements or rights of way;

7 (7) purchasing, otherwise acquiring or
8 clearing land or purchasing, otherwise acquiring or beautifying
9 land for open space;

10 (8) acquiring, constructing, purchasing,
11 equipping, furnishing, making additions to, renovating,
12 rehabilitating, beautifying or otherwise improving public
13 parks, public recreational buildings or other public
14 recreational facilities;

15 (9) acquiring, constructing, extending,
16 enlarging, bettering, repairing, otherwise improving or
17 maintaining solid waste disposal equipment, equipment for
18 operation and maintenance of sanitary landfills, sanitary
19 landfills or solid waste facilities; and

20 (10) acquiring, constructing, extending,
21 bettering, repairing or otherwise improving public transit
22 systems or regional transit systems or facilities.

23 A county may pledge irrevocably any or all of the revenue
24 from the first one-eighth increment, the third one-eighth
25 increment and the one-sixteenth increment of the county gross

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

21 Revenues in excess of the annual principal and interest
22 due on gross receipts tax revenue bonds secured by a pledge of
23 gross receipts tax revenue may be accumulated in a debt service
24 reserve account. The governing body of the county may appoint
25 a commercial bank trust department to act as trustee of the

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1 proceeds of the tax and to administer the payment of principal
2 of and interest on the bonds.

3 C. Fire protection revenue bonds may be issued
4 for acquiring, extending, enlarging, bettering, repairing,
5 improving, constructing, purchasing, furnishing, equipping or
6 rehabilitating an independent fire district project or
7 facility, including, as applicable, purchasing, otherwise
8 acquiring or improving the ground for the project. A county
9 may pledge irrevocably any or all of the county fire protection
10 excise tax revenue for payment of principal and interest due in
11 connection with, and other expenses related to, fire protection
12 revenue bonds. These bonds may be referred to in Chapter 4,
13 Article 62 NMSA 1978 as "fire protection revenue bonds".

14 D. Environmental revenue bonds may be issued for
15 the acquisition and construction of solid waste facilities,
16 water facilities, wastewater facilities, sewer systems and
17 related facilities. A county may pledge irrevocably any or all
18 of the county environmental services gross receipts tax revenue
19 for payment of principal and interest due in connection with,
20 and other expenses related to, environmental revenue bonds.
21 These bonds may be referred to in Chapter 4, Article 62 NMSA
22 1978 as "environmental revenue bonds".

23 E. Gasoline tax revenue bonds may be issued for the
24 acquisition of rights of way for and the construction,
25 reconstruction, resurfacing, maintenance, repair or other

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

7 F. Utility revenue bonds or joint utility revenue
8 bonds may be issued for acquiring, extending, enlarging,
9 bettering, repairing or otherwise improving water facilities,
10 sewer facilities, gas facilities or electric facilities. A
11 county may pledge irrevocably any or all of the net revenues
12 from the operation of the utility or joint utility for which
13 the particular utility or joint utility bonds are issued to the
14 payment of principal and interest due in connection with, and
15 other expenses related to, utility or joint utility revenue
16 bonds. These bonds may be referred to in Chapter 4, Article 62
17 NMSA 1978 as "utility revenue bonds" or "joint utility revenue
18 bonds".

19 G. Project revenue bonds may be issued for
20 acquiring, extending, enlarging, bettering, repairing,
21 improving, constructing, purchasing, furnishing, equipping or
22 rehabilitating any revenue-producing project, including, as
23 applicable, purchasing, otherwise acquiring or improving the
24 ground for the project and acquiring and improving parking
25 lots. The county may pledge irrevocably any or all of the net

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1 revenues from the operation of the revenue-producing project
2 for which the particular project revenue bonds are issued to
3 the payment of the interest on and principal of the project
4 revenue bonds. The net revenues of any revenue-producing
5 project shall not be pledged to the project revenue bonds
6 issued for any other revenue-producing project that is clearly
7 unrelated in nature; but nothing in this subsection prevents
8 the pledge to any of the project revenue bonds of the revenues
9 received from existing, future or disconnected facilities and
10 equipment that are related to and that may constitute a part of
11 the particular revenue-producing project. A general
12 determination by the governing body that facilities or
13 equipment is reasonably related to and constitutes a part of a
14 specified revenue-producing project shall be conclusive if set
15 forth in the proceedings authorizing the project revenue bonds.
16 As used in Chapter 4, Article 62 NMSA 1978:

17 (1) "project revenue bonds" means the bonds
18 authorized in this subsection; and

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

22 H. Fire district revenue bonds may be issued for
23 acquiring, extending, enlarging, bettering, repairing,
24 improving, constructing, purchasing, furnishing, equipping and
25 rehabilitating a fire district project, including, as

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1 applicable, purchasing, otherwise acquiring or improving the
2 ground for the project. The county may pledge irrevocably any
3 or all of the revenues received by the fire district from the
4 fire protection fund as provided in the Fire Protection Fund
5 Law and any or all of the revenues provided for the operation
6 of the fire district project for which the particular bonds are
7 issued to the payment of the interest on and principal of the
8 bonds. The revenues of a fire district project shall not be
9 pledged to the bonds issued for a fire district project that
10 clearly is unrelated in its purpose; but nothing in this
11 section prevents the pledge to such bonds of revenues received
12 from existing, future or disconnected facilities and equipment
13 that are related to and that may constitute a part of the
14 particular fire district project. A general determination by
15 the governing body of the county that facilities or equipment
16 is reasonably related to and constitutes a part of a specified
17 fire district project shall be conclusive if set forth in the
18 proceedings authorizing the fire district revenue bonds.

19 I. Law enforcement protection revenue bonds may be
20 issued for the repair and purchase of law enforcement apparatus
21 and equipment that meet nationally recognized standards. The
22 county may pledge irrevocably any or all of the revenues
23 received by the county from the law enforcement protection fund
24 distributions pursuant to the Law Enforcement Protection Fund
25 Act to the payment of the interest on and principal of the law

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1 enforcement protection revenue bonds.

2 J. Hospital emergency gross receipts tax revenue
3 bonds may be issued for acquiring, equipping, remodeling or
4 improving a county hospital or county health facility. A
5 county may pledge irrevocably to the payment of the interest on
6 and principal of the hospital emergency gross receipts tax
7 revenue bonds any or all of the revenues received by the county
8 from a county hospital emergency gross receipts tax imposed
9 pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to
10 payment of bonds or a loan for acquiring, equipping, remodeling
11 or improving a county hospital or county health facility.

12 K. Economic development gross receipts tax revenue
13 bonds may be issued for the purpose of furthering economic
14 development projects as defined in the Local Economic
15 Development Act. A county may pledge irrevocably any or all of
16 the county infrastructure gross receipts tax to the payment of
17 the interest on and principal of the economic development gross
18 receipts tax revenue bonds for the purpose authorized in this
19 subsection.

20 L. County education gross receipts tax revenue
21 bonds may be issued for public school or off-campus instruction
22 program capital projects as authorized in Section 7-20E-20 NMSA
23 1978. A county may pledge irrevocably any or all of the county
24 education gross receipts tax revenue to the payment of interest
25 on and principal of the county education gross receipts tax

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1 revenue bonds for the purpose authorized in this section.

2 M. County area emergency communications and
3 [~~emergency medical and behavioral~~] health services tax revenue
4 bonds and countywide emergency communications and [~~emergency~~
5 ~~medical and behavioral~~] health services tax revenue bonds may
6 be issued for the purpose of constructing, improving,
7 remodeling or purchasing one or more buildings to use as an
8 emergency communications center that has been determined by the
9 local government division of the department of finance and
10 administration to be a consolidated public safety answering
11 point or purchasing emergency communications equipment for an
12 emergency communications center that has been determined by the
13 local government division of the department of finance and
14 administration to be a consolidated public safety answering
15 point if the useful life of the equipment exceeds the term in
16 which the bonds mature. A county may pledge irrevocably any or
17 all of the county area emergency communications and [~~emergency~~
18 ~~medical and behavioral~~] health services tax revenue and the
19 countywide emergency communications and [~~emergency medical and~~
20 ~~behavioral~~] health services tax revenue to the payment of
21 interest on and principal of county area emergency
22 communications and [~~emergency medical and behavioral~~] health
23 services tax revenue bonds and countywide emergency
24 communications and [~~emergency medical and behavioral~~] health
25 services tax revenue bonds for the purpose authorized in this

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1 section.

2 N. PILT revenue bonds may be issued by a county to
3 repay all or part of the principal and interest of an
4 outstanding loan owed by the county to the New Mexico finance
5 authority. A county may pledge irrevocably all or part of PILT
6 revenue to the payment of principal of and interest on new
7 loans or preexisting loans provided by the New Mexico finance
8 authority to finance a public project as "public project" is
9 defined in Subsection E of Section 6-21-3 NMSA 1978.

10 O. Except for the purpose of refunding previous
11 revenue bond issues, no county may sell revenue bonds payable
12 from pledged revenue after the expiration of two years from the
13 date of the ordinance authorizing the issuance of the bonds or,
14 for bonds to be issued and sold to the New Mexico finance
15 authority as authorized in Subsection C of Section 4-62-4 NMSA
16 1978, after the expiration of two years from the date of the
17 resolution authorizing the issuance of the bonds. However, any
18 period of time during which a particular revenue bond issue is
19 in litigation shall not be counted in determining the
20 expiration date of that issue.

21 P. No bonds may be issued by a county, other than
22 an H class county, a class B county as defined in Section
23 4-36-8 NMSA 1978 or a class A county as described in Section
24 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,
25 repair or construct a utility unless the utility is regulated

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1 by the public regulation commission pursuant to the Public
2 Utility Act and the issuance of the bonds is approved by the
3 commission. For purposes of Chapter 4, Article 62 NMSA 1978, a
4 "utility" includes a water, wastewater, sewer, gas or electric
5 utility or joint utility serving the public. H class counties
6 shall obtain public regulation commission approvals required by
7 Section 3-23-3 NMSA 1978.

8 Q. Any law that imposes or authorizes the
9 imposition of a county gross receipts tax, a county
10 environmental services gross receipts tax, a county fire
11 protection excise tax, a county infrastructure gross receipts
12 tax, the county education gross receipts tax, a county capital
13 outlay gross receipts tax, the gasoline tax, the county
14 hospital emergency gross receipts tax, the countywide emergency
15 communications and [~~emergency medical and behavioral~~] health
16 services tax or the county area emergency communications and
17 [~~emergency medical and behavioral~~] health services tax, or that
18 affects any of those taxes, shall not be repealed or amended in
19 such a manner as to impair outstanding revenue bonds that are
20 issued pursuant to Chapter 4, Article 62 NMSA 1978 and that may
21 be secured by a pledge of those taxes unless the outstanding
22 revenue bonds have been discharged in full or for which
23 provision has been fully made.

24 R. As used in this section:

25 (1) "county area emergency communications and

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1 ~~[emergency medical and behavioral]~~ health services tax revenue"
2 means the revenue from the county area emergency communications
3 and ~~[emergency medical and behavioral]~~ health services tax
4 transferred pursuant to Section 7-1-6.13 NMSA 1978;

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

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

13 (4) "county environmental services gross
14 receipts tax revenue" means the revenue from the county
15 environmental services gross receipts tax transferred to the
16 county pursuant to Section 7-1-6.13 NMSA 1978;

17 (5) "county fire protection excise tax
18 revenue" means the revenue from the county fire protection
19 excise tax transferred to the county pursuant to Section
20 7-1-6.13 NMSA 1978;

21 (6) "county gross receipts tax revenue" means
22 the revenue attributable to the first one-eighth increment, the
23 third one-eighth increment and the one-sixteenth increment of
24 the county gross receipts tax transferred to the county
25 pursuant to Section 7-1-6.13 NMSA 1978 and any distribution

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1 related to the first one-eighth increment made pursuant to
2 Section 7-1-6.16 NMSA 1978;

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

7 (8) "countywide emergency communications and
8 ~~[emergency medical and behavioral]~~ health services tax revenue"
9 means the revenue from the countywide emergency communications
10 and ~~[emergency medical and behavioral]~~ health services tax
11 transferred to the county pursuant to Section 7-1-6.13 NMSA
12 1978;

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

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

19 (11) "public building" includes fire stations,
20 police buildings, county or regional jails, county or regional
21 juvenile detention facilities, libraries, museums, auditoriums,
22 convention halls, hospitals, buildings for administrative
23 offices, courthouses and garages for housing, repairing and
24 maintaining county vehicles and equipment.

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

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

6 SECTION 2. Section 7-20E-22 NMSA 1978 (being Laws 2002,
7 Chapter 14, Section 1, as amended) is amended to read:

8 "7-20E-22. COUNTY EMERGENCY COMMUNICATIONS AND [~~EMERGENCY~~
9 ~~MEDICAL AND BEHAVIORAL~~] HEALTH SERVICES TAX--AUTHORITY TO
10 IMPOSE COUNTYWIDE OR ONLY IN THE COUNTY AREA--ORDINANCE
11 REQUIREMENTS--USE OF REVENUE--ELECTION.--

12 A. The majority of the members of the governing
13 body of an eligible county that does not have in effect a tax
14 imposed pursuant to Subsection B of this section may enact an
15 ordinance imposing an excise tax at a rate not to exceed one-
16 fourth percent of the gross receipts of a person engaging in
17 business in the county for the privilege of engaging in
18 business. The tax imposed by this subsection may be referred
19 to as the "countywide emergency communications and [~~emergency~~
20 ~~medical and behavioral~~] health services tax".

21 B. The majority of the members of the governing
22 body of an eligible county that does not have in effect a tax
23 imposed pursuant to Subsection A of this section may enact an
24 ordinance imposing an excise tax at a rate not to exceed one-
25 fourth percent of the gross receipts of a person engaging in

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1 business in the county area for the privilege of engaging in
2 business. The tax imposed by this subsection may be referred
3 to as the "county area emergency communications and [~~emergency~~
4 ~~medical and behavioral~~] health services tax".

5 C. The taxes authorized in Subsections A and B of
6 this section may be imposed in one or more increments of one-
7 sixteenth percent not to exceed an aggregate rate of one-fourth
8 percent.

9 D. The governing body, at the time of enacting an
10 ordinance imposing a rate of tax authorized in Subsection A or
11 B of this section, shall dedicate the revenue to one or more of
12 the following purposes:

13 (1) operation of an emergency communications
14 center that has been determined by the local government
15 division of the department of finance and administration to be
16 a consolidated public safety answering point. That operation
17 may include the construction, improvement, remodel or purchase
18 of one or more buildings to use as an emergency communications
19 center or the purchase of emergency communications equipment
20 for the center;

21 (2) operation of emergency medical services
22 provided by the county; or

23 (3) provision of behavioral health services,
24 including alcohol abuse and substance abuse treatment.

25 E. An ordinance imposing any increment of the

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1 countywide emergency communications and ~~[emergency medical and~~
2 ~~behavioral]~~ health services tax or the county area emergency
3 communications and ~~[emergency medical and behavioral]~~ health
4 services tax shall not go into effect until after an election
5 is held and a majority of the voters voting in the election
6 votes in favor of imposing the tax. In the case of an
7 ordinance imposing an increment of the countywide emergency
8 communications and ~~[emergency medical and behavioral]~~ health
9 services tax, the election shall be conducted countywide. In
10 the case of an ordinance imposing the county area emergency
11 communications and ~~[emergency medical and behavioral]~~ health
12 services tax, the election shall be conducted only in the
13 county area. The governing body shall adopt a resolution
14 calling for an election within seventy-five days of the date
15 the ordinance is adopted on the question of imposing the tax.
16 The question may be submitted to the voters as a separate
17 question at a general election or at a special election called
18 for that purpose by the governing body. A special election
19 shall be called, conducted and canvassed in substantially the
20 same manner as provided by law for general elections. In any
21 election held, the ballot shall clearly state the purpose to
22 which the revenue will be dedicated pursuant to Subsection D of
23 this section. If a majority of the voters voting on the
24 question approves the imposition of the countywide emergency
25 communications and ~~[emergency medical and behavioral]~~ health

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1 services tax or the county area emergency communications and
2 [~~emergency medical and behavioral~~] health services tax, the
3 ordinance shall become effective in accordance with the
4 provisions of the County Local Option Gross Receipts Taxes Act.
5 If the question of imposing the tax fails, the governing body
6 shall not again propose the imposition of any increment of
7 either tax for a period of one year from the date of the
8 election.

9 F. For the purposes of this section, "eligible
10 county" means:

11 (1) a county that operates or, pursuant to a
12 joint powers agreement, is served by an emergency
13 communications center that has been determined by the local
14 government division of the department of finance and
15 administration to be a consolidated public safety answering
16 point; or

17 (2) in the case of a county imposing the tax
18 for the purposes provided in Paragraph (3) of Subsection D of
19 this section, a county that operates or contracts for the
20 operation of a behavioral health services facility providing
21 alcohol abuse, substance abuse and inpatient and outpatient
22 behavioral health treatment."

23 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
24 provisions of this act is July 1, 2018.