

AN ACT
RELATING TO TAXATION; AUTHORIZING IMPOSITION OF THE LOCAL
HOSPITAL GROSS RECEIPTS TAX AT AN INCREASED RATE;
AUTHORIZING USE OF THE COUNTY HOSPITAL EMERGENCY GROSS
RECEIPTS TAX FOR AN ADDITIONAL PURPOSE; AMENDING SECTIONS OF
THE NMSA 1978.

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

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

(1) constructing, purchasing, furnishing,
equipping, rehabilitating, making additions to or making

improvements to one or more public buildings or purchasing or improving ground relating thereto, including but not necessarily limited to acquiring and improving parking lots, or any combination of the foregoing;

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

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

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

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

(6) purchasing, acquiring, constructing, making additions to, enlarging, bettering, extending or

equipping airport facilities or any combination of the foregoing, including without limitation the acquisition of land, easements or rights of way;

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

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

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

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

A county may pledge irrevocably any or all of the revenue from the first one-eighth of one percent increment and the third one-eighth of one percent increment of the county gross receipts tax and the county infrastructure gross receipts tax for payment of principal and interest due in connection with, and other expenses related to, gross

receipts tax revenue bonds for any of the purposes authorized in this section or specific purposes or for any area of county government services. If the revenue from the first one-eighth of one percent increment or the third one-eighth of one percent increment of the county gross receipts tax or the county infrastructure gross receipts tax is pledged for payment of principal and interest as authorized by this subsection, the pledge shall require the revenues received from that increment of the county gross receipts tax or the county infrastructure gross receipts tax to be deposited into a special bond fund for payment of the principal, interest and expenses. At the end of each fiscal year, money remaining in the special bond fund after the annual obligations for the bonds are fully met may be transferred to any other fund of the county.

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

C. Fire protection revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any independent fire district project or

facilities, including where applicable purchasing, otherwise acquiring or improving the ground for the project, or any combination of such purposes. A county may pledge irrevocably any or all of the county fire protection excise tax revenue for payment of principal and interest due in connection with, and other expenses related to, fire protection revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "fire protection revenue bonds".

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

E. Gasoline tax revenue bonds may be issued for the acquisition of rights of way for and the construction, reconstruction, resurfacing, maintenance, repair or other improvement of county roads and bridges. A county may pledge irrevocably any or all of the county gasoline tax revenue for payment of principal and interest due in connection with, and other expenses related to, county

gasoline tax revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "gasoline tax revenue bonds".

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

G. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any revenue-producing project, including as applicable purchasing, otherwise acquiring or improving the ground therefor and including but not limited to acquiring and improving parking lots, or may be issued for any combination of the foregoing purposes. The county may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the

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

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

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

H. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any fire district project, including where applicable purchasing, otherwise acquiring or

improving the ground therefor, or for any combination of the foregoing purposes. The county may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of a fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the county that facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district bonds.

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

interest on and principal of the law enforcement protection revenue bonds.

J. Hospital emergency gross receipts tax revenue bonds may be issued for acquisition, equipping, remodeling or improvement of a county hospital or county health facility or for remodeling or improvements necessary for the conversion of a county hospital facility to another local government use. A county may pledge irrevocably to the payment of the interest on and principal of the hospital emergency gross receipts tax revenue bonds any or all of the revenues received by the county from a county hospital emergency gross receipts tax imposed pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to payment of bonds or a loan for acquisition, equipping, remodeling or improvement of a county hospital or county health facility or for remodeling or improvements necessary for the conversion of a county hospital facility to another local government use.

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

L. Except for the purpose of refunding previous

revenue bond issues, no county may sell revenue bonds payable from pledged revenue after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section

4-62-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue.

M No bonds may be issued by a county, other than an H class county, a class B county as defined in Section

4-36-8 NMSA 1978 or a class A county as described in Section 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better, repair or construct a utility unless the utility is regulated by the public regulation commission pursuant to the Public Utility Act and the issuance of the bonds is approved by the commission. For purposes of Chapter 4, Article 62 NMSA 1978, a "utility" includes but is not limited to a water, wastewater, sewer, gas or electric utility or joint utility serving the public. H class counties shall obtain public regulation commission approvals required by

Section 3-23-3 NMSA 1978.

N. Any law that imposes or authorizes the imposition of a county gross receipts tax, a county environmental services gross receipts tax, a county fire protection excise tax, a county infrastructure gross receipts tax, the gasoline tax or the county hospital emergency gross receipts tax, or that affects any of those taxes, shall not be repealed or amended in such a manner as to impair outstanding revenue bonds that are issued pursuant to Chapter 4, Article 62 NMSA 1978 and that may be secured by a pledge of those taxes unless the outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

0. As used in this section:

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

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

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

(4) "county gross receipts tax revenue"

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

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

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

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

Section 2. Section 7-20C-3 NMSA 1978 (being Laws 1991, Chapter 176, Section 3, as amended) is amended to read:

"7-20C-3. LOCAL HOSPITAL GROSS RECEIPTS TAX--AUTHORITY

TO IMPOSE-- ORDINANCE REQUIREMENTS. --

A. A majority of the members elected to the governing body of a county may enact an ordinance imposing an excise tax on any person engaging in business in the county for the privilege of engaging in business. This tax is to be referred to as the "local hospital gross receipts tax". The rate of the tax shall be:

(1) one-half of one percent of the gross receipts of the person engaging in business if the tax is initially imposed before January 1, 1993;

(2) one-eighth of one percent of the gross receipts of the person engaging in business if the tax is initially imposed after January 1, 1993;

(3) a rate not to exceed one-half of one percent of the gross receipts of the person engaging in business if the tax is imposed after July 1, 1996 in a county described in Paragraph (6) of Subsection A of Section 7-20C-2 NMSA 1978; provided the tax may be imposed in any number of increments of one-eighth percent not to exceed an aggregate rate of one-half of one percent of gross receipts; and

(4) a rate not to exceed one percent of the gross receipts of the person engaging in business if the tax is imposed on or after July 1, 2001 in a county described in Paragraph (4) of Subsection A of Section 7-20C-2 NMSA 1978; provided, the tax may be imposed in any number of increments

of one-eighth percent, not to exceed an aggregate rate of one percent.

B. The local hospital gross receipts tax imposed initially before January 1, 1993 shall be imposed only once for the period necessary for payment of the principal and interest on revenue bonds issued to accomplish the purpose for which the revenue is dedicated, but the period shall not exceed ten years from the effective date of the ordinance imposing the tax. The local hospital gross receipts tax imposed after July 1, 1996 in a county described in Paragraph (4) of Subsection A of Section 7-20C-2 NMSA 1978 shall be imposed only once for the period necessary for payment of the principal and interest on revenue bonds issued to accomplish the purpose for which the revenue is dedicated, but the period shall not exceed twenty years from the effective date of the ordinance imposing the tax.

C. No local hospital gross receipts tax authorized in Subsection A of this section shall be imposed initially after January 1, 1993 unless:

(1) in a county described in Paragraph (2) of Subsection A of Section 7-20C-2 NMSA 1978, the voters of the county have approved the issuance of general obligation bonds of the county sufficient to pay at least one-half of the costs of the county hospital facility or county twenty-four-hour urgent care or emergency facility for which the local hospital gross receipts tax revenues are

dedicated, including the costs of all acquisition, renovation and equipping of the facility; or

(2) in a county described in Paragraph (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978, the county will not have in effect at the same time a county hospital emergency gross receipts tax and the voters of the county have approved the imposition of a property tax at a rate of one dollar (\$1.00) on each one thousand dollars (\$1,000) of taxable value of property in the county for the purpose of operation and maintenance of a hospital owned by the county and operated and maintained either by the county or by another party pursuant to a lease with the county.

D. The governing body of a county enacting an ordinance imposing a local hospital gross receipts tax shall dedicate the revenue from the tax as provided in this subsection. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated and the revenue shall be used by the county for that purpose. The revenues shall be dedicated as follows:

(1) prior to January 1, 1993, the governing body, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, shall dedicate the revenue for acquisition of land for and the design, construction, equipping and furnishing of a county hospital facility to be operated by the county or operated and maintained by another party pursuant to a lease with the

county;

(2) if the governing body of a county described in Paragraph (2), (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax after July 1, 1993, the governing body shall dedicate the revenue for acquisition, renovation and equipping of a building for a county hospital facility or a county twenty-four-hour urgent care or emergency facility or for operation and maintenance of that facility, whether operated and maintained by the county or by another party pursuant to a lease or management contract with the county, for the period of time the tax is imposed not to exceed ten years;

(3) if the governing body of a county described in Paragraph (4) of Subsection A of Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax after July 1, 1995, the governing body shall dedicate the revenue for acquisition of land or buildings for and the renovation, design, construction, equipping or furnishing of a county hospital facility or health clinic to be operated by the county or operated and maintained by another party pursuant to a lease or management contract with the county; and

(4) if the governing body of a county described in Paragraph (6) of Subsection A of Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax after July 1, 1997, the governing body shall dedicate the revenue

for either or a combination of the following:

(a) acquisition of land or buildings for and the design, construction, renovation, equipping or furnishing of a hospital facility or health clinic owned by the county or a hospital or health clinic with whom the county has entered into a health care facilities contract; or

(b) operations and maintenance of a hospital or health clinic owned by the county or a hospital or health clinic with whom the county has entered into a health care facilities contract.

E. The ordinance shall not go into effect until after an election is held and a simple majority of the qualified electors of the county voting in the election votes in favor of imposing the local hospital gross receipts tax and, in the case of a county described in Paragraph (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978, also votes in favor of a property tax at a rate of one dollar (\$1.00) for each one thousand dollars (\$1,000) of taxable value of property in the county. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the qualified electors and voted on as a separate question in a general election or in any special election called for that purpose by the governing body. A

special election on the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections. If the question of imposing a local hospital gross receipts tax fails or if the question of imposing both a local hospital gross receipts tax and a property tax fails, the governing body shall not again propose a local hospital gross receipts tax for a period of one year after the election. A certified copy of any ordinance imposing a local hospital gross receipts tax shall be mailed to the department within five days after the ordinance is adopted in an election called for that purpose.

F. An ordinance enacted pursuant to the provisions of Subsection A of this section shall include an effective date of either July 1 or January 1, whichever date occurs first after the expiration of at least three months from the date the ordinance is approved by the electorate.

G. An ordinance repealed under the provisions of the Local Hospital Gross Receipts Tax Act shall be repealed effective on either July 1 or January 1.

H. As used in this section, "taxable value of property" means the sum of:

(1) the net taxable value, as that term is defined in the Property Tax Code, of property subject to taxation under the Property Tax Code;

(2) the assessed value of products, as those terms are defined in the Oil and Gas Ad Valorem

Production Tax Act;

(3) the assessed value of equipment, as those terms are defined in the Oil and Gas Production Equipment Ad Valorem Tax Act; and

(4) the taxable value of copper mineral property, as those terms are defined in the Copper Production Ad Valorem Tax Act, subject to taxation under the Copper Production Ad Valorem Tax Act. "

Section 3. Section 7-20E-12.1 NMSA 1978 (being Laws 1994, Chapter 14, Section 1, as amended) is amended to read:

"7-20E-12.1. COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--USE OF PROCEEDS.--

A. A majority of the members of a governing body may enact an ordinance imposing an excise tax on a person engaging in business in the county for the privilege of engaging in business. The rate of the tax shall be one-fourth of one percent of the gross receipts of the person engaging in business. The tax shall be imposed for a period of not more than two years from the effective date of the ordinance imposing the tax. The tax may be imposed for an additional period not to exceed three years from the date of the ordinance imposing the tax for that period. On or after July 1, 1997:

(1) in a county described in Paragraph (1) of Subsection D of this section, the tax may be imposed for the period necessary for payment of bonds or a loan for

acquisition, equipping, remodeling or improvement of a county hospital facility, or for remodeling and improvements necessary for the conversion of the facility to another local government use, but the period shall not exceed twenty years from the effective date of the ordinance imposing the tax for that period; and

(2) in a county described in Paragraph (2) of Subsection D of this section, the tax may be imposed for the period necessary for payment of bonds or a loan for acquisition, equipping, remodeling or improvement of a county health facility, but the period shall not exceed twenty years from the effective date of the ordinance imposing the tax for that period.

B. The tax imposed by this section may be referred to as the "county hospital emergency gross receipts tax".

C. At the time of enacting the ordinance imposing the tax authorized in this section:

(1) if the effective date of the tax is prior to July 1, 1997, the governing body shall dedicate the revenue for current operations and maintenance of a hospital owned by the county or a hospital with which the county has entered into a health care facilities contract; provided that a majority of the members of a governing body may enact an ordinance to change the purposes for which the revenue from a previously imposed tax is dedicated and to dedicate

that revenue during the remainder of the tax imposition period to payment of bonds or a loan for acquisition, equipping, remodeling or improvement of a county hospital facility; and

(2) if the effective date of the tax is on or after July 1, 1997:

(a) the governing body of a county described in Paragraph (1) of Subsection D of this section shall dedicate the revenue for the period of time the tax is imposed to payment of a bond or loan for acquisition, equipping, remodeling and improvement of a county hospital facility; provided that a majority of the members of a governing body may enact an ordinance to change the purposes for which the revenue from a previously imposed tax is dedicated and include as an additional purpose the payment of bonds or a loan for remodeling and improvements necessary for the conversion of a county hospital facility to another local government use; and

(b) the governing body of county described in Paragraph (2) of Subsection D of this section shall dedicate the revenue for the period of time the tax is imposed to payment of a bond or loan for acquisition, equipping, remodeling and improvement of a county health facility.

D. As used in this section, "county" means:

(1) a class B county with a population of

less than ten thousand according to the 1990 federal decennial census and with a net taxable value for rate-setting purposes for the 1993 property tax year in excess of one hundred million dollars (\$100,000,000); or

(2) a class B county with a population of less than ten thousand according to the 1990 federal decennial census and with a net taxable value for rate-setting purposes for the 1997 property tax year of more than one hundred million dollars (\$100,000,000) but less than one hundred twenty million dollars (\$120,000,000). " _____