

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 224, 668, 675 & 888

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO TAXATION; AUTHORIZING THE IMPOSITION OF A
MUNICIPAL CAPITAL OUTLAY GROSS RECEIPTS TAX AND A COUNTY
CAPITAL OUTLAY GROSS RECEIPTS TAX FOR LOCAL INFRASTRUCTURE
PURPOSES BY ELIGIBLE MUNICIPALITIES AND COUNTIES FOR A CERTAIN
PERIOD; REQUIRING VOTER APPROVAL; AMENDING AND ENACTING
SECTIONS OF THE NMSA 1978.

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

Section 1. A new section of the Municipal Local Option
Gross Receipts Taxes Act is enacted to read:

" NEW MATERIAL MUNICIPAL CAPITAL OUTLAY GROSS RECEIPTS
TAX-- PURPOSES-- REFERENDUM --

A. Prior to July 1, 2005, the majority of the
members of the governing body of an eligible municipality may
enact an ordinance imposing an excise tax at a rate not to

1 exceed one-fourth of one percent of the gross receipts of any
2 person engaging in business in the municipality for the
3 privilege of engaging in business. The tax may be imposed in
4 increments of one-sixteenth of one percent not to exceed an
5 aggregate rate of one-fourth of one percent.

6 B. The tax imposed pursuant to Subsection A of
7 this section may be referred to as the "municipal capital
8 outlay gross receipts tax".

9 C. The governing body, at the time of enacting an
10 ordinance imposing a rate of tax authorized in Subsection A of
11 this section, may dedicate the revenue for any municipal
12 infrastructure purpose, including:

13 (1) the design, construction, acquisition,
14 improvement, renovation, rehabilitation, equipping or
15 furnishing of public buildings or facilities, including
16 parking facilities, the acquisition of land for the public
17 buildings or facilities and the acquisition or improvement of
18 the grounds surrounding public buildings or facilities;

19 (2) acquisition, construction or improvement
20 of water, wastewater or solid waste systems or facilities and
21 related facilities, including water or sewer lines and storm
22 sewers and other drainage improvements;

23 (3) acquisition, rehabilitation or
24 improvement of firefighting equipment;

25 (4) construction, reconstruction or

1 improvement of municipal streets, alleys, roads or bridges,
2 including acquisition of rights of way;

3 (5) design, construction, acquisition,
4 improvement or equipping of airport facilities, including
5 acquisition of land, easements or rights of way for airport
6 facilities;

7 (6) acquisition of land for open space,
8 public parks or public recreational facilities and the design,
9 acquisition, construction, improvement or equipping of parks
10 and recreational facilities; and

11 (7) payment of gross receipts tax revenue
12 bonds issued pursuant to Chapter 3, Article 31 NMSA 1978 for
13 infrastructure purposes.

14 D. An ordinance imposing the municipal capital
15 outlay gross receipts tax shall not go into effect until after
16 an election is held on the question of imposing the tax for
17 the purpose for which the revenue is dedicated and a majority
18 of the voters in the municipality voting in the election votes
19 in favor of imposing the tax. The governing body shall adopt
20 a resolution calling for an election within seventy-five days
21 of the date the ordinance is adopted on the question of
22 imposing the tax. The question shall be submitted to the
23 voters of the municipality as a separate question at a general
24 election or at a special election called for that purpose by
25 the governing body. A special election shall be called,

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1 conducted and canvassed in substantially the same manner as
2 provided by law for general elections. If a majority of the
3 voters voting on the question approves the question of
4 imposing the municipal capital outlay gross receipts tax, then
5 the ordinance shall become effective in accordance with the
6 provisions of the Municipal Local Option Gross Receipts Taxes
7 Act. If the question of imposing the municipal capital outlay
8 gross receipts tax fails, the governing body shall not again
9 propose the imposition of the tax for a period of one year
10 from the date of the election.

11 E. For purposes of this section, "eligible
12 municipality" means a municipality that has imposed all
13 increments of the municipal gross receipts tax pursuant to
14 Section 7-19D-9 NMSA 1978 and all increments of the municipal
15 infrastructure gross receipts tax pursuant to Section 7-19D-11
16 NMSA 1978 and has not imposed after January 1, 2001 any
17 increment of the supplemental municipal gross receipts tax
18 pursuant to the Supplemental Municipal Gross Receipts Tax
19 Act. "

20 Section 2. A new section of the County Local Option
21 Gross Receipts Taxes Act is enacted to read:

22 "[NEW MATERIAL] COUNTY CAPITAL OUTLAY GROSS RECEIPTS
23 TAX-- PURPOSES-- REFERENDUM --

24 A. Prior to July 1, 2005, the majority of the
25 members of the governing body of an eligible county may enact

1 an ordinance imposing an excise tax at a rate not to exceed
2 one-fourth of one percent of the gross receipts of any person
3 engaging in business in the county for the privilege of
4 engaging in business. The tax may be imposed in increments of
5 one-sixteenth of one percent not to exceed an aggregate rate
6 of one-fourth of one percent.

7 B. The tax imposed pursuant to Subsection A of
8 this section may be referred to as the "county capital outlay
9 gross receipts tax".

10 C. The governing body, at the time of enacting an
11 ordinance imposing a rate of tax authorized in Subsection A of
12 this section, may dedicate the revenue for:

13 (1) the design, construction, acquisition,
14 improvement, renovation, rehabilitation, equipping or
15 furnishing of public buildings or facilities, including
16 parking facilities, the acquisition of land for the public
17 buildings or facilities and the acquisition or improvement of
18 the grounds surrounding public buildings or facilities;

19 (2) acquisition, construction or improvement
20 of water, wastewater or solid waste systems or facilities and
21 related facilities, including water or sewer lines and storm
22 sewers and other drainage improvements;

23 (3) design, construction, acquisition,
24 improvement or equipping of a county jail, juvenile detention
25 facility or other county correctional facility or multipurpose

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1 regional adult jail or juvenile detention facility;

2 (4) construction, reconstruction or
3 improvement of roads, streets or bridges, including
4 acquisition of rights of way;

5 (5) design, construction, acquisition,
6 improvement or equipping of airport facilities, including
7 acquisition of land, easements or rights of way for airport
8 facilities;

9 (6) acquisition of land for open space,
10 public parks or public recreational facilities and the design,
11 acquisition, construction, improvement or equipping of parks
12 and recreational facilities; and

13 (7) payment of gross receipts tax revenue
14 bonds issued pursuant to Chapter 4, Article 62 NMSA 1978 for
15 infrastructure purposes.

16 D. An ordinance imposing the county capital outlay
17 gross receipts tax shall not go into effect until after an
18 election is held on the question of imposing the tax for the
19 purpose for which the revenue is dedicated and a majority of
20 the voters in the county voting in the election votes in favor
21 of imposing the tax. The governing body shall adopt a
22 resolution calling for an election within seventy-five days of
23 the date the ordinance is adopted on the question of imposing
24 the tax. The question shall be submitted to the voters of the
25 county as a separate question at a general election or at a

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1 special election called for that purpose by the governing
2 body. A special election shall be called, conducted and
3 canvassed in substantially the same manner as provided by law
4 for general elections. If a majority of the voters voting on
5 the question approves the question of imposing the county
6 capital outlay gross receipts tax, then the ordinance shall
7 become effective in accordance with the provisions of the
8 County Local Option Gross Receipts Taxes Act. If the question
9 of imposing the county capital outlay gross receipts tax
10 fails, the governing body shall not again propose the
11 imposition of the tax for a period of one year from the date
12 of the election.

13 E. For purposes of this section, "eligible county"
14 means a county that has imposed all increments of the county
15 gross receipts tax pursuant to Section 7-20E-9 NMSA 1978 and
16 all increments of the county infrastructure gross receipts tax
17 pursuant to Section 7-20E-19 NMSA 1978. "

18 Section 3. Section 4-62-1 NMSA 1978 (being Laws 1992,
19 Chapter 95, Section 1, as amended) is amended to read:

20 "4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF
21 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

22 A. In addition to any other law authorizing a
23 county to issue revenue bonds, a county may issue revenue
24 bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the
25 purposes specified in this section. The term "pledged

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

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

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

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

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

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

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

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

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

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

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

1 foregoing; or

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

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

1 annual obligations for the bonds are fully met may be
2 transferred to any other fund of the county.

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

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

22 D. Environmental revenue bonds may be issued for
23 the acquisition and construction of solid waste facilities,
24 water facilities, wastewater facilities, sewer systems and
25 related facilities. A county may pledge irrevocably any or

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1 all of the county environmental services gross receipts tax,
2 revenue for payment of principal and interest due in
3 connection with, and other expenses related to, environmental
4 revenue bonds. These bonds may be referred to in Chapter 4,
5 Article 62 NMSA 1978 as "environmental revenue bonds".

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

15 F. Utility revenue bonds or joint utility revenue
16 bonds may be issued for acquiring, extending, enlarging,
17 bettering, repairing or otherwise improving water facilities,
18 sewer facilities, gas facilities or electric facilities or for
19 any combination of the foregoing purposes. A county may
20 pledge irrevocably any or all of the net revenues from the
21 operation of the utility or joint utility for which the
22 particular utility or joint utility bonds are issued to the
23 payment of principal and interest due in connection with, and
24 other expenses related to, utility or joint utility revenue
25 bonds. These bonds may be referred to in Chapter 4, Article

1 62 NMSA 1978 as "utility revenue bonds" or "joint utility
2 revenue bonds".

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

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1 proceedings authorizing the project revenue bonds. As used in
2 Chapter 4, Article 62 NMSA 1978:

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

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

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

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

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

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

10 L. 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
13 the date of the ordinance authorizing the issuance of the
14 bonds or, for bonds to be issued and sold to the New Mexico
15 finance authority as authorized in Subsection C of Section
16 4-62-4 NMSA 1978, after the expiration of two years from the
17 date of the resolution authorizing the issuance of the bonds.
18 However, any period of time during which a particular revenue
19 bond issue is in litigation shall not be counted in
20 determining the expiration date of that issue.

21 M 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

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,
4 a "utility" includes but is not limited to a water,
5 wastewater, sewer, gas or electric utility or joint utility
6 serving the public. H class counties shall obtain public
7 regulation commission approvals required by Section
8 3-23-3 NMSA 1978.

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

21 0. As used in this section:

22 (1) "county capital outlay gross receipts tax
23 revenue" means the revenue from the county capital outlay
24 gross receipts tax transferred to the county pursuant to
25 Section 7-1-6.13 NMSA 1978;

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1 [~~(1)~~] (2) "county infrastructure gross
2 receipts tax revenue" means the revenue from the county
3 infrastructure gross receipts tax transferred to the county
4 pursuant to Section 7-1-6.13 NMSA 1978;

5 [~~(2)~~] (3) "county environmental services
6 gross receipts tax revenue" means the revenue from the county
7 environmental services gross receipts tax transferred to the
8 county pursuant to Section 7-1-6.13 NMSA 1978;

9 [~~(3)~~] (4) "county fire protection excise tax
10 revenue" means the revenue from the county fire protection
11 excise tax transferred to the county pursuant to Section
12 7-1-6.13 NMSA 1978;

13 [~~(4)~~] (5) "county gross receipts tax revenue"
14 means the revenue attributable to the first one-eighth of one
15 percent and the third one-eighth of one percent increments of
16 the county gross receipts tax transferred to the county
17 pursuant to Section 7-1-6.13 NMSA 1978 and any distribution
18 related to the first one-eighth of one percent made pursuant
19 to Section 7-1-6.16 NMSA 1978;

20 [~~(5)~~] (6) "gasoline tax revenue" means the
21 revenue from that portion of the gasoline tax distributed to
22 the county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA
23 1978; and

24 [~~(6)~~] (7) "public building" includes but is
25 not limited to fire stations, police buildings, county or

1 regional jails, county or regional juvenile detention
2 facilities, libraries, museums, auditoriums, convention halls,
3 hospitals, buildings for administrative offices, courthouses
4 and garages for housing, repairing and maintaining county
5 vehicles and equipment.

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

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