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SENATE BILL 205

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Clinton D. Harden

AN ACT

RELATING TO TAXATION; ADDING CERTAIN COUNTIES TO THOSE  
CURRENTLY ELIGIBLE TO IMPOSE A LOCAL HOSPITAL GROSS RECEIPTS  
TAX.

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

Section 1. Section 7-20C-2 NMSA 1978 (being Laws 1991,  
Chapter 176, Section 2, as amended) is amended to read:

"7-20C-2. DEFINITIONS.--As used in the Local Hospital  
Gross Receipts Tax Act:

A. "county" means:

(1) a class B county having a population of  
less than twenty-five thousand according to the most recent  
federal decennial census and having a net taxable value for  
rate-setting purposes for the 1990 property tax year or any  
subsequent year of more than two hundred fifty million dollars

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1 (\$250,000,000);

2 (2) a class B county having a population of  
3 less than forty-seven thousand but more than forty-four  
4 thousand according to the 1990 federal decennial census and  
5 having a net taxable value for rate-setting purposes for the  
6 1992 property tax year of more than three hundred million  
7 dollars (\$300,000,000) but less than six hundred million  
8 dollars (\$600,000,000);

9 (3) a class B county having a population of  
10 less than ten thousand according to the most recent federal  
11 decennial census and having a net taxable value for rate-  
12 setting purposes for the 1990 property tax year or any  
13 subsequent year of more than one hundred million dollars  
14 (\$100,000,000);

15 (4) a class B county having a population of  
16 less than twenty-five thousand according to the 1990 federal  
17 decennial census and having a net taxable value for rate-  
18 setting purposes for the 1993 property tax year of more than  
19 ninety-one million dollars (\$91,000,000) but less than one  
20 hundred twenty-five million dollars (\$125,000,000);

21 (5) a class B county having a population of  
22 more than seventeen thousand but less than twenty thousand  
23 according to the 1990 federal decennial census and having a net  
24 taxable value for rate-setting purposes for the 1993 property  
25 tax year of more than one hundred fifty-three million dollars

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1 (\$153,000,000) but less than one hundred fifty-six million  
2 dollars (\$156,000,000);

3 (6) a class B county having a population of  
4 more than fifteen thousand according to the 1990 federal  
5 decennial census and having a net taxable value for rate-  
6 setting purposes for the 1996 property tax year of more than  
7 one hundred fifty million dollars (\$150,000,000) but less than  
8 one hundred seventy-five million dollars (\$175,000,000);

9 (7) an H class county; ~~[or]~~

10 (8) a class A county having a population of  
11 less than one hundred fifteen thousand according to the 2000  
12 federal decennial census or any subsequent federal decennial  
13 census and having a net taxable value for rate-setting purposes  
14 for the 2001 property tax year or any subsequent year of more  
15 than three billion dollars (\$3,000,000,000); or

16 (9) a class B county having a population of  
17 more than three thousand five hundred but less than ten  
18 thousand five hundred according to the 2000 federal decennial  
19 census or any subsequent federal decennial census and having a  
20 net taxable value for rate-setting purposes for the 2005  
21 property tax year or any subsequent year of more than one  
22 hundred million dollars (\$100,000,000) and less than one  
23 hundred sixteen million five hundred thousand dollars  
24 (\$116,500,000);

25 B. "department" means the taxation and revenue

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1 department, the secretary of taxation and revenue or any  
2 employee of the department exercising authority lawfully  
3 delegated to that employee by the secretary;

4 C. "governing body" means the board of county  
5 commissioners of a county;

6 D. "health care facilities contract" means an  
7 agreement between a hospital or health clinic not owned by the  
8 county and a county imposing the tax authorized by the Local  
9 Hospital Gross Receipts Tax Act that obligates the county to  
10 pay to the hospital revenue generated by the tax authorized in  
11 that act as consideration for the agreement by the hospital or  
12 health clinic to use the funds only for nonsectarian purposes  
13 and to make health care services available for the benefit of  
14 the county;

15 E. "hospital facility revenues" means all or a  
16 portion of the revenues derived from a lease of a hospital  
17 facility acquired, constructed or equipped pursuant to and  
18 operated in accordance with the Local Hospital Gross Receipts  
19 Tax Act;

20 F. "local hospital gross receipts tax" means the  
21 tax authorized to be imposed under the Local Hospital Gross  
22 Receipts Tax Act;

23 G. "person" means an individual or any other legal  
24 entity; and

25 H. "state gross receipts tax" means the gross

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1 receipts tax imposed under the Gross Receipts and Compensating  
2 Tax Act."

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

5 "7-20C-3. LOCAL HOSPITAL GROSS RECEIPTS TAX--AUTHORITY TO  
6 IMPOSE--ORDINANCE REQUIREMENTS.--

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

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

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

19 (3) a rate not to exceed one-half of one  
20 percent of the gross receipts of the person engaging in  
21 business if the tax is imposed after July 1, 1996 in a county  
22 described in Paragraph (4), (6), (7), ~~or~~ (8) or (9) of  
23 Subsection A of Section 7-20C-2 NMSA 1978; provided the tax may  
24 be imposed in any number of increments of one-eighth percent  
25 not to exceed an aggregate rate of one half of one percent of

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1 gross receipts.

2 B. The local hospital gross receipts tax imposed  
3 initially before January 1, 1993 shall be imposed only once for  
4 the period necessary for payment of the principal and interest  
5 on revenue bonds issued to accomplish the purpose for which the  
6 revenue is dedicated, but the period shall not exceed ten years  
7 from the effective date of the ordinance imposing the tax. The  
8 local hospital gross receipts tax imposed after July 1, 1996 in  
9 a county described in Paragraph (4) or (8) of Subsection A of  
10 Section 7-20C-2 NMSA 1978 shall be imposed only once for the  
11 period necessary for payment of the principal and interest on  
12 revenue bonds issued to accomplish the purpose for which the  
13 revenue is dedicated, but the period shall not exceed forty  
14 years from the effective date of the ordinance imposing the  
15 tax.

16 C. No local hospital gross receipts tax authorized  
17 in Subsection A of this section shall be imposed initially  
18 after January 1, 1993 in a county described in Paragraph (2),  
19 (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978 unless:

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

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1 gross receipts tax revenues are dedicated, including the costs  
2 of all acquisition, renovation and equipping of the facility;  
3 or

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

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

21 (1) prior to January 1, 1993, the governing  
22 body, at the time of enacting an ordinance imposing the rate of  
23 the tax authorized in Subsection A of this section, shall  
24 dedicate the revenue for acquisition of land for and the  
25 design, construction, equipping and furnishing of a county

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1 hospital facility to be operated by the county or operated and  
2 maintained by another party pursuant to a lease with the  
3 county;

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

15 (3) if the governing body of a county  
16 described in Paragraph (4) or (8) of Subsection A of Section  
17 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax  
18 after July 1, 1995, the governing body shall dedicate the  
19 revenue for acquisition of land or buildings for and the  
20 renovation, design, construction, equipping or furnishing of a  
21 county hospital facility or health clinic to be operated by the  
22 county or operated and maintained by another party pursuant to  
23 a health care facilities contract, lease or management contract  
24 with the county;

25 (4) if the governing body of a county

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1 described in Paragraph (6) or (9) of Subsection A of Section  
2 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax  
3 after July 1, 1997, the governing body shall dedicate the  
4 revenue for either or a combination of the following:

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

11 (b) operations and maintenance of a  
12 hospital or health clinic owned by the county or a hospital or  
13 health clinic with whom the county has entered into a health  
14 care facilities contract, lease or management contract; and

15 (5) if the governing body of a county  
16 described in Paragraph (7) of Subsection A of Section 7-20C-2  
17 NMSA 1978 is enacting the ordinance imposing the tax after  
18 January 1, 2002, the governing body shall dedicate the revenue  
19 for acquisition, lease, renovation or equipping of a hospital  
20 facility or for operation and maintenance of that facility,  
21 whether operated and maintained by the county or by another  
22 party pursuant to a health care facilities contract, lease or  
23 management contract with the county.

24 E. The ordinance shall not go into effect until  
25 after an election is held and a simple majority of the

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1 qualified electors of the county voting in the election vote in  
2 favor of imposing the local hospital gross receipts tax and, in  
3 the case of a county described in Paragraph (3) or (5) of  
4 Subsection A of Section 7-20C-2 NMSA 1978, also vote in favor  
5 of a property tax at a rate of one dollar (\$1.00) for each one  
6 thousand dollars (\$1,000) of taxable value of property in the  
7 county. The governing body shall adopt a resolution calling  
8 for an election within seventy-five days of the date the  
9 ordinance is adopted on the question of imposing the tax. The  
10 question may be submitted to the qualified electors and voted  
11 on as a separate question in a general election or in any  
12 special election called for that purpose by the governing body.  
13 A special election on the question shall be called, held,  
14 conducted and canvassed in substantially the same manner as  
15 provided by law for general elections. If the question of  
16 imposing a local hospital gross receipts tax fails or if the  
17 question of imposing both a local hospital gross receipts tax  
18 and a property tax fails, the governing body shall not again  
19 propose a local hospital gross receipts tax for a period of one  
20 year after the election. A certified copy of any ordinance  
21 imposing a local hospital gross receipts tax shall be mailed to  
22 the department within five days after the ordinance is adopted  
23 in an election called for that purpose.

24 F. An ordinance enacted pursuant to the provisions  
25 of Subsection A of this section shall include an effective date

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1 of either July 1 or January 1, whichever date occurs first  
2 after the expiration of at least three months from the date the  
3 ordinance is approved by the electorate.

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

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

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

12 (2) the assessed value of products, as those  
13 terms are defined in the Oil and Gas Ad Valorem Production Tax  
14 Act;

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

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