

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 376

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Roberto "Bobby" J. Gonzales

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; REMOVING RESTRICTIONS ON THE ELIGIBILITY OF MUNICIPALITIES OR COUNTIES TO IMPOSE A CAPITAL OUTLAY GROSS RECEIPTS TAX.

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

Section 1. Section 7-19D-12 NMSA 1978 (being Laws 2001, Chapter 172, Section 1, as amended) is amended to read:

"7-19D-12. MUNICIPAL CAPITAL OUTLAY GROSS RECEIPTS TAX--PURPOSES--REFERENDUM.--

A. The majority of the members of the governing body of ~~[an eligible]~~ a municipality may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth of one percent of the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business. The tax may be imposed in increments of one-

underscored material = new  
[bracketed material] = delete

1 sixteenth of one percent not to exceed an aggregate rate of  
2 one-fourth of one percent.

3 B. The tax imposed pursuant to Subsection A of this  
4 section may be referred to as the "municipal capital outlay  
5 gross receipts tax".

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

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

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

20 (3) acquisition, rehabilitation or improvement  
21 of firefighting equipment;

22 (4) construction, reconstruction or  
23 improvement of municipal streets, alleys, roads or bridges,  
24 including acquisition of rights of way;

25 (5) design, construction, acquisition,

.174578.1

underscoring material = new  
[bracketed material] = delete

1 improvement or equipping of airport facilities, including  
2 acquisition of land, easements or rights of way for airport  
3 facilities;

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

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

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

.174578.1

underscored material = new  
[bracketed material] = delete

1 capital outlay gross receipts tax, then the ordinance shall  
2 become effective in accordance with the provisions of the  
3 Municipal Local Option Gross Receipts Taxes Act. If the  
4 question of imposing the municipal capital outlay gross  
5 receipts tax fails, the governing body shall not again propose  
6 the imposition of the tax for a period of one year from the  
7 date of the election.

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

17 Section 2. Section 7-20E-21 NMSA 1978 (being Laws 2001,  
18 Chapter 172, Section 2, as amended) is amended to read:

19 "7-20E-21. COUNTY CAPITAL OUTLAY GROSS RECEIPTS TAX--  
20 PURPOSES--REFERENDUM.--

21 A. The majority of the members of the governing  
22 body of ~~[an eligible]~~ a county may enact an ordinance imposing  
23 an excise tax at a rate not to exceed one-fourth of one percent  
24 of the gross receipts of any person engaging in business in the  
25 county for the privilege of engaging in business. The tax may

.174578.1

underscored material = new  
[bracketed material] = delete

1 be imposed in increments of one-sixteenth of one percent not to  
2 exceed an aggregate rate of one-fourth of one percent.

3 B. The tax imposed pursuant to Subsection A of this  
4 section may be referred to as the "county capital outlay gross  
5 receipts tax".

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

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

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

20 (3) design, construction, acquisition,  
21 improvement or equipping of a county jail, juvenile detention  
22 facility or other county correctional facility or multipurpose  
23 regional adult jail or juvenile detention facility;

24 (4) construction, reconstruction or  
25 improvement of roads, streets or bridges, including acquisition

.174578.1

underscoring material = new  
[bracketed material] = delete

1 of rights of way;

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

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

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

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

.174578.1

underscored material = new  
[bracketed material] = delete

1 elections. If a majority of the voters voting on the question  
2 approves the question of imposing the county capital outlay  
3 gross receipts tax, then the ordinance shall become effective  
4 in accordance with the provisions of the County Local Option  
5 Gross Receipts Taxes Act. If the question of imposing the  
6 county capital outlay gross receipts tax fails, the governing  
7 body shall not again propose the imposition of the tax for a  
8 period of one year from the date of the election.

9 [E. ~~For purposes of this section, "eligible county"~~  
10 ~~means a county that has imposed all increments of the county~~  
11 ~~gross receipts tax pursuant to Section 7-20E-9 NMSA 1978 and~~  
12 ~~all increments of the county infrastructure gross receipts tax~~  
13 ~~pursuant to Section 7-20E-19 NMSA 1978.]"~~

14 Section 3. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is July 1, 2009.

16 - 7 -

17  
18  
19  
20  
21  
22  
23  
24  
25