

AN ACT

RELATING TO TAXATION; AUTHORIZING AN INCREASE IN THE RATE OF THE MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX; AUTHORIZING A LOCAL OPTION COUNTY INFRASTRUCTURE GROSS RECEIPTS TAX; REQUIRING VOTER APPROVAL OF CERTAIN TAXES; CHANGING THE PURPOSES FOR WHICH CERTAIN LOCAL OPTION GROSS RECEIPTS TAXES MAY BE IMPOSED; AUTHORIZING THE ISSUANCE OF CERTAIN MUNICIPAL AND COUNTY GROSS RECEIPTS TAX REVENUE BONDS; AMENDING THE LOCAL ECONOMIC DEVELOPMENT ACT; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 3-31-1 NMSA 1978 (being Laws 1973, Chapter 395, Section 3, as amended) is amended to read:

"3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--In addition to any other law and constitutional home rule powers authorizing a municipality to issue revenue bonds, a municipality may issue revenue bonds pursuant to Chapter 3, Article 31 NMSA 1978 for the purposes specified in this section. The term "pledged revenues", as used in Chapter 3, Article 31 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 A through I of this section.

A. Utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving a municipal utility or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of the municipal utility or of any one or more of other such municipal utilities for payment of the interest on and principal of the revenue bonds. These bonds are sometimes referred to in Chapter 3, Article 31 NMSA 1978 as "utility revenue bonds" or "utility bonds".

B. Joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving joint water facilities, sewer facilities, gas facilities or electric facilities or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of these municipal utilities for the payment of the interest on and principal of the bonds. These bonds are sometimes referred to in Chapter 3, Article 31 NMSA 1978 as "joint utility revenue bonds" or "joint utility bonds".

C. For the purposes of this subsection, "gross receipts tax revenue bonds" means gross receipts tax revenue bonds or sales tax revenue bonds. Gross receipts tax revenue bonds may be issued for any 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 any ground relating thereto, including but not necessarily limited to acquiring and improving parking lots, or any combination of the foregoing;

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

(3) purchasing, acquiring or rehabilitating fire-fighting 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 or water utilities, including but not necessarily 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 but are not limited to the

acquisition of rights of way;

(6) purchasing, acquiring, constructing, making additions to, enlarging, bettering, extending or equipping any airport facilities or any combination of the foregoing, including without limitation the acquisition of land, easements or rights of way therefor;

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

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

The municipality may pledge irrevocably any or all of the gross receipts tax revenue received by the municipality

pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978 to the payment of the interest on and principal of the gross receipts tax revenue bonds for any of the purposes authorized in this section or for specific purposes or for any area of municipal government services, including but not limited to those specified in Subsection C of Section 7-19D-9 NMSA 1978, or for public purposes authorized by municipalities having constitutional home rule charters. A law that imposes or authorizes the imposition of a municipal gross receipts tax or that affects the municipal gross receipts tax, or a law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal gross receipts tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

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 until an amount equal to the maximum amount permitted pursuant to the provisions of the United States treasury regulations is accumulated in the debt service reserve account. After the debt service reserve account requirements have been met, the excess revenue shall

be accumulated in an extraordinary mandatory redemption fund and annually used to redeem the bonds prior to their stated maturity date. The governing body of the municipality may appoint a commercial bank trust department to act as trustee of the gross receipts tax revenue and to administer the payment of principal of and interest on the bonds and to redeem the bonds from the excess revenues deposited in the extraordinary mandatory redemption fund.

D. As used in this section, the term "public building" includes but is not limited to fire stations, police buildings, municipal jails, regional jails or juvenile detention facilities, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices, city halls and garages for housing, repairing and maintaining city vehicles and equipment. As used in Chapter 3, Article 31 NMSA 1978, the term "gross receipts tax revenue bonds" means the bonds authorized in Subsection C of this section, and the term "gross receipts tax revenue" means the amount of money distributed to the municipality as authorized by Section 7-1-6.4 NMSA 1978 or the amount of money transferred to the municipality as authorized by Section 7-1-6.12 NMSA 1978 for any municipal gross receipts tax imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act. As used in Chapter 3, Article 31 NMSA 1978, the term "bond" means any obligation of a municipality issued

under Chapter 3, Article 31 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a municipality to make payments.

E. Gasoline tax revenue bonds may be issued for laying off, opening, constructing, reconstructing, resurfacing, maintaining, acquiring rights of way, repairing and otherwise improving municipal buildings, alleys, streets, public roads and bridges or any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the gasoline tax revenue received by the municipality to the payment of the interest on and principal of the gasoline tax revenue bonds. As used in Chapter 3, Article 31 NMSA 1978, "gasoline tax revenue bonds" means the bonds authorized in this subsection, and "gasoline tax revenue" means all or portions of the amounts of tax revenues distributed to municipalities pursuant to Sections 7-1-6.9 and 7-1-6.27 NMSA 1978, as from time to time amended and supplemented.

F. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any revenue-producing project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, including but not necessarily limited to acquiring and improving parking lots, or for any

combination of the foregoing purposes. The municipality 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 a revenue-producing project that clearly is unrelated in nature; but nothing in this subsection shall prevent the pledge to such project revenue bonds of any 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 any facilities or equipment is reasonably related to and shall constitute a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing such project revenue bonds. As used in Chapter 3, Article 31 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.

G. 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 municipality may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in Sections 59A-53-1 through 59A-53-17 NMSA 1978 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 any 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 shall prevent the pledge to such bonds of any 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 municipality that any facilities or equipment are reasonably related to and shall constitute a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing such fire district bonds.

H. 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 municipality may pledge irrevocably any or all of the revenues received by the municipality from the law enforcement protection fund distributions pursuant to Sections 29-13-1 through 29-13-9 NMSA 1978 to the payment of the interest on and principal of the law enforcement protection revenue bonds.

I. 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. The municipality may pledge irrevocably any or all of the revenue received from the municipal 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. A law that imposes or authorizes the imposition of a municipal infrastructure gross receipts tax or that affects the municipal infrastructure gross receipts tax, or a law supplemental to or otherwise pertaining to the tax, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of the municipal infrastructure gross receipts tax unless the outstanding revenue bonds have been

discharged in full or provision has been fully made for their discharge. As used in Chapter 3, Article 31 NMSA 1978, "economic development gross receipts tax revenue bonds" means the bonds authorized in this subsection, and "municipal infrastructure gross receipts tax revenue" means any or all of the revenue from the municipal infrastructure gross receipts tax transferred to the municipality pursuant to Section 7-1-6.12 NMSA 1978.

J. Except for the purpose of refunding previous revenue bond issues, no municipality may sell revenue bonds payable from pledged revenues 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 3-31-4 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."

Section 2. 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 until an amount equal to the maximum amount permitted pursuant to the provisions of the United States treasury regulations is accumulated in the debt service reserve account. After the debt service reserve account requirements have been met, the excess revenue shall be accumulated in an extraordinary mandatory redemption fund and annually used to redeem the bonds prior to their stated maturity date. 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 and redeem the bonds from the excess revenues deposited in the extraordinary mandatory redemption fund.

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 are reasonably related to and constitute 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 Sections 59A-53-1 through 59A-53-17 NMSA 1978 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 shall prevent 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 are reasonably related to and constitute 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 Sections 29-13-1 through 29-13-9 NMSA 1978 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 facility. 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 facility.

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 New Mexico public utility 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 New Mexico public utility 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 3. Section 5-10-3 NMSA 1978 (being Laws 1993, Chapter 297, Section 3) is amended to read:

"5-10-3. DEFINITIONS. --As used in the Local Economic Development Act:

A. "department" means the economic development department;

B. "economic development project" or "project" means the provision of direct or indirect assistance to a

qualifying business by a local or regional government and includes the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure; public works improvements essential to the location or expansion of a qualifying business; payments for professional services contracts necessary for local or regional governments to implement a plan or project; the provision of direct loans or grants for land, buildings or infrastructure; loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from the municipal infrastructure gross receipts tax or the county infrastructure gross receipts tax; grants for public works infrastructure improvements essential to the location or expansion of a qualifying business; purchase of land for a publicly held industrial park; and the construction of a building for use by a qualifying business;

C. "governing body" means the city council or city commission of a city, the board of trustees of a town or village or the board of county commissioners of a county;

D. "local government" means a municipality or county;

E. "municipality" means any incorporated city, town or village;

F. "person" means an individual, corporation,



association, partnership or other legal entity;

G. "qualifying entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, but, other than as provided in Paragraph (5) of this subsection, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;

(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation; or

(5) a telecommunications sales enterprise

that makes the majority of its sales to persons outside New Mexico; and

H. "regional government" means any combination of municipalities and counties that enter into a joint powers agreement to provide for economic development projects pursuant to a plan adopted by all parties to the joint powers agreement. "

Section 4. Section 5-10-4 NMSA 1978 (being Laws 1993, Chapter 297, Section 4) is amended to read:

"5-10-4. ECONOMIC DEVELOPMENT PROJECTS-- RESTRICTIONS ON PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

A. No local or regional government shall provide public support for economic development projects as permitted pursuant to Article 9, Section 14 of the constitution of New Mexico except as provided in the Local Economic Development Act or as otherwise permitted by law.

B. The total amount of public money expended and the value of credit pledged in the fiscal year in which that money is expended by a local government for economic development projects pursuant to Article 9, Section 14 of the constitution of New Mexico and the Local Economic Development Act shall not exceed five percent of the annual general fund expenditures of the local government in that fiscal year.

The limits of this subsection shall not apply to:

- (1) the value of any land or building

contributed to any project pursuant to a project participation agreement;

(2) revenue generated through the imposition of the municipal infrastructure gross receipts tax pursuant to the Municipal Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(3) revenue generated through the imposition of a county infrastructure gross receipts tax pursuant to the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(4) the proceeds of a revenue bond issue to which municipal infrastructure gross receipts tax revenue is

pledged;

(5) the proceeds of a revenue bond issue to which county infrastructure gross receipts tax revenue is pledged; or

(6) funds donated by private entities to be used for defraying the cost of a project.

C. A regional or local government that generates revenue for economic development projects to which the limits of Subsection B of this section do not apply shall create an economic development fund into which such revenues shall be deposited. The economic development fund and income from the economic development fund shall be deposited as provided by law. Money in the economic development fund may be expended only as provided in the Local Economic Development Act."

Section 5. Section 5-10-6 NMSA 1978 (being Laws 1993, Chapter 297, Section 6) is amended to read:

"5-10-6. ECONOMIC DEVELOPMENT PLAN--CONTENTS-- PUBLICATION.--

A. Every local or regional government seeking to pursue economic development projects shall adopt an economic development plan or a comprehensive plan that includes an economic development component. The plan may be specific to a single economic development goal or strategy or may include several goals or strategies. Any plan or plan amendment shall be adopted by ordinance of the governing body of the

local government or each local government of a regional government proposing the plan or plan amendment.

B. The economic development plan or the ordinance adopting the plan may:

(1) describe the local or regional government's economic development and community goals and assign priority to and strategies for achieving those goals;

(2) describe the types of qualifying entities and economic activities that will qualify for economic development projects;

(3) describe the criteria to be used to determine eligibility of an economic development project and a qualifying entity to participate in an economic development project;

(4) describe the manner in which a qualifying entity may submit an economic development project application, including the type of information required from the qualifying entity sufficient to ensure its solvency and ability to perform its contractual obligations, its commitment to remain in the community and its commitment to the stated economic development goals of the local or regional government;

(5) describe the process the local or regional government will use to verify the information submitted on an economic development project application;

(6) if an economic development project is determined to be unsuccessful or if a qualifying entity seeks to leave the area, describe the methods the local or regional government will use to terminate its economic assistance and recoup its investment;

(7) identify revenue sources, including those of the local or regional government, that will be used to support economic development projects;

(8) identify other resources the local or regional government is prepared to offer qualifying entities, including specific land or buildings it is willing to lease, sell or grant a qualifying entity; community infrastructure it is willing to build, extend or expand, including roads, water, sewers or other utilities; and professional services contracts by local or regional governments necessary to provide these resources;

(9) detail the minimum benefit the local or regional government requires from a qualifying entity, including the number and types of jobs to be created; the proposed payroll; repayment of loans, if any; purchase by the qualifying entity of local or regional government-provided land, buildings or infrastructure; the public to private investment ratio; and direct local tax base expansion;

(10) describe the safeguards of public resources that will be ensured, including specific ways the

local or regional government can recover any costs, land, buildings or other thing of value if a qualifying entity ceases operation, relocates or otherwise defaults or reneges on its contractual or implied obligations to the local or regional government; and

(11) if a regional government, describe the joint powers agreement, including whether it can be terminated and, if so, how the contractual or other obligations, risks and any property will be assigned or divided among the local governments who are party to the agreement.

C. The economic development plan shall be printed and made available to the residents within the local or regional government area."

Section 6. Section 7-19D-11 NMSA 1978 (being Laws 1991, Chapter 9, Section 3, as amended) is amended to read:

"7-19D-11. MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX--AUTHORITY BY MUNICIPALITY TO IMPOSE--ORDINANCE REQUIREMENTS--ELECTION.--

A. A majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax on any person engaging in business in the municipality for the privilege of engaging in business. The rate of the tax shall not exceed one-fourth of one percent of the gross receipts of the person engaging in business and may

be imposed in one-sixteenth of one percent increments by separate ordinances. Any ordinance enacting any increment of the first one-eighth of one percent of the tax is not subject to a referendum of any kind, notwithstanding any requirement of any charter municipality, except that an increment that is imposed after July 1, 1998 for economic development purposes set forth in Paragraph (5) of Subsection C of this section shall be subject to a referendum as provided in Subsection D of this section.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal infrastructure gross receipts tax".

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

(1) payment of special obligation bonds issued pursuant to a revenue bond act;

(2) repair, replacement, construction or acquisition of infrastructure improvements, including but not limited to sanitary sewer lines, storm sewers and other drainage improvements, water, water rights, water lines and utilities, streets, alleys, rights of way, easements, international ports of entry and land within the municipality or within the extraterritorial zone of the municipality;



(3) municipal general purposes;

(4) acquiring, constructing, extending, bettering, repairing or otherwise improving or operating or maintaining public transit systems or regional transit systems or authorities; and

(5) furthering or implementing economic development plans and projects as defined in the Local Economic Development Act, and use of not more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected for promotion and administration of or professional services contracts related to implementation of an economic development plan adopted by the governing body pursuant to the Local Economic Development Act and in accordance with law.

D. An ordinance imposing any increment of the municipal infrastructure gross receipts tax in excess of the first one-eighth of one percent or any increment imposed after July 1, 1998 for economic development purposes set forth in Paragraph (5) of Subsection C of this section shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. 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 shall be

submitted to the voters of the municipality as a separate question at a regular municipal election or at a special election called for that purpose by the governing body. A special municipal election shall be called, conducted and canvassed as provided in the Municipal Election Code. If a majority of the voters voting on the question approves the ordinance imposing the municipal infrastructure gross receipts tax, then the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the municipal infrastructure gross receipts tax fails, the governing body shall not again propose the imposition of any increment of the tax in excess of the first one-eighth of one percent for a period of one year from the date of the election."

Section 7. A new section of the County Local Option Gross Receipts Taxes Act is enacted to read:

"COUNTY INFRASTRUCTURE GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE RATE--USE OF FUNDS--ELECTION.--

A. The majority of the members of the governing body of a county may enact an ordinance imposing an excise tax at a rate not to exceed one-eighth of one percent of the gross receipts of any person engaging in business in the county area for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth of one

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

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county infrastructure gross receipts tax".

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

- (1) county general purposes;
- (2) payment of gross receipts tax revenue bonds issued pursuant to Chapter 4, Article 62 NMSA 1978;
- (3) repair, replacement, construction or acquisition of any county infrastructure improvements;
- (4) acquisition, construction, operation or maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities;
- (5) acquiring, constructing, extending, bettering, repairing or otherwise improving or operating or maintaining public transit systems or regional transit systems or authorities;
- (6) planning, design, construction, equipping, maintenance or operation of a county jail or juvenile detention facility; planning, assessment, design or operation of a regional system of juvenile services, including secure detention and nonsecure alternatives, that

serves multiple contiguous counties; planning, design, construction, maintenance or operation of multipurpose regional adult jails or juvenile detention facilities; housing of county prisoners or juvenile offenders in any county jail or detention facility; or substance abuse, mental health or other programs for county prisoners or other inmates in county jails or for juvenile offenders in county or regional detention facilities; and

(7) furthering or implementing economic development plans and projects as defined in the Local Economic Development Act, and use of not more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected for promotion and administration of or professional services contracts related to implementation of an economic development plan adopted by the governing body pursuant to the Local Economic Development Act and in accordance with law.

D. An ordinance imposing the county infrastructure gross receipts tax shall not go into effect until after an election is held and a majority of the voters in the county area voting in the election votes in favor of imposing the tax. 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 shall be submitted to the

voters of the county area as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the ordinance imposing the county infrastructure gross receipts tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option Gross Receipts Taxes Act. If the question of imposing the county infrastructure gross receipts tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election."

Section 8. Section 7-20E-9 NMSA 1978 (being Laws 1983, Chapter 213, Section 30, as amended) is amended to read:

"7-20E-9. COUNTY GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE RATE--INDIGENT FUND REQUIREMENTS.--

A. A majority of the members of the governing body of a county may enact an ordinance imposing an excise tax not to exceed a rate of three-eighths of one percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county. An ordinance imposing an excise tax pursuant to this section shall impose the tax in independent increments of one-eighth percent, which shall be separately denominated as

"first one-eighth", "second one-eighth" and "third one-eighth", respectively, not to exceed an aggregate amount of three-eighths percent.

B. The tax authorized in Subsection A of this section is to be referred to as the "county gross receipts tax".

C. A class A county with a county hospital operated and maintained pursuant to a lease with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico enacting the second one-eighth increment of county gross receipts tax shall provide, each year that the tax is in effect, not less than one million dollars (\$1,000,000) in funds, and that amount shall be dedicated to the support of indigent patients who are residents of that county. Funds for indigent care shall be made available each month of each year the tax is in effect in an amount not less than eighty-three thousand three hundred thirty-three dollars thirty-three cents (\$83,333.33). The interest from the investment of county funds for indigent care may be used for other assistance to indigent persons, not to exceed twenty thousand dollars (\$20,000) for all other assistance in any year.

D. A county, except a class A county with a county hospital operated and maintained pursuant to a lease with a state educational institution named in Article 12,

Section 11 of the constitution of New Mexico, imposing the second one-eighth increment of county gross receipts tax shall be required to dedicate the entire amount of revenue produced by the imposition of the second one-eighth increment for the support of indigent patients who are residents of that county. The revenue produced by the imposition of the third one-eighth increment may be used for general purposes. Any county that has imposed the second one-eighth increment or the third one-eighth increment, or both, on January 1, 1996 for support of indigent patients in the county or after January 1, 1996 imposes the second one-eighth increment or imposes the third one-eighth increment and dedicates one-half of that increment for county indigent patient purposes shall deposit the revenue dedicated for county indigent purposes in the county indigent hospital claims fund and such revenues shall be expended pursuant to the Indigent Hospital and County Health Care Act. "