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AN ACT

RELATING TO TAXATION; REORGANIZING COUNTY LOCAL OPTION GROSS RECEIPTS TAXES; AMENDING REFERENDUM REQUIREMENTS; EXPANDING COUNTY GROSS RECEIPTS TAX AUTHORITY.

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

Section 1. Section 7-20E-3 NMSA 1978 (being Laws 1993, Chapter 354, Section 3) is amended to read:

"7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE OF ORDINANCE.--

A. The governing body of a county imposing a tax or an increment of tax authorized by the County Local Option Gross Receipts Taxes Act or any other county local option gross receipts tax act that is subject to optional referendum selection shall select, when enacting the ordinance imposing the tax, one of the following referendum options:

(1) the ordinance imposing the tax or increment of tax shall go into effect on July 1 or January 1 in accordance with the provisions of the County Local Option Gross Receipts Taxes Act, but an election may be called in the county on the question of approving or disapproving that ordinance as follows:

(a) an election shall be called when: 1) in a county having a referendum provision in its charter, a petition requesting such an election is filed pursuant to the requirements of that provision in the charter and signed by the number of registered voters in the county equal to the number of registered voters required in its charter to seek a referendum; and 2) in all other counties, a petition requesting such an election is filed with the county clerk within sixty days of enactment of the ordinance by the governing body and the petition has been signed by a number of registered voters in the county equal to at least five percent of the

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1 number of the voters in the county who were registered to vote in the most recent
2 general election;

3 (b) the signatures on the petition requesting an
4 election shall be verified by the county clerk. If the petition is verified by the county
5 clerk as containing the required number of signatures of registered voters, the
6 governing body shall adopt a resolution calling an election on the question of
7 approving or disapproving the ordinance. The election shall be held within sixty
8 days after the date the petition is verified by the county clerk, or it may be held in
9 conjunction with a general election if that election occurs within sixty days after the
10 date of the verification. The election shall be called, held, conducted and
11 canvassed in substantially the same manner as provided by law for general
12 elections; and

13 (c) if a majority of the registered voters voting on the
14 question approves the ordinance, the ordinance shall go into effect on July 1 or
15 January 1 in accordance with the provisions of the County Local Option Gross
16 Receipts Taxes Act. If at such an election a majority of the registered voters voting
17 on the question disapproves the ordinance, the ordinance imposing the tax shall be
18 deemed repealed and the question of imposing the tax or increment of tax shall not
19 be considered again by the governing body for a period of one year from the date of
20 the election; or

21 (2) the ordinance imposing the tax or increment of tax shall
22 not go into effect until after an election is held and a simple majority of the
23 registered voters of the county voting on the question votes in favor of imposing the
24 tax or increment of tax. The governing body shall adopt a resolution calling for an
25 election within seventy-five days of the date the ordinance is adopted on the
question of imposing the tax or increment of tax. Such question may be submitted
to the voters and voted upon as a separate question at any general election or at

1 any special election called for that purpose by the governing body. The election
2 upon the question shall be called, held, conducted and canvassed in substantially
3 the same manner as may be provided by law for general elections. If the question
4 of imposing the tax or increment of tax fails, the governing body shall not again
5 propose the tax or increment of tax for a period of one year after the election.

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7 B. An ordinance imposing, amending or repealing a tax or an
8 increment of tax authorized by the County Local Option Gross Receipts Taxes Act
9 shall be effective on July 1 or January 1, whichever date occurs first after the
10 expiration of at least three months from the date the adopted ordinance is mailed or
11 delivered to the department. The ordinance shall include that effective date."

12 Section 2. Section 7-20E-9 NMSA 1978 (being Laws 1983, Chapter 213,
13 Section 30, as amended) is amended to read:

14 "7-20E-9. COUNTY GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE
15 RATE--INDIGENT FUND REQUIREMENTS.--

16 A. A majority of the members of the governing body of a county may
17 enact an ordinance imposing an excise tax not to exceed a rate of seven-sixteenths
18 percent of the gross receipts of any person engaging in business in the county for
19 the privilege of engaging in business in the county. An ordinance imposing an
20 excise tax pursuant to this section shall impose the tax in three independent
21 increments of
22 one-eighth percent and one independent increment of
23 one-sixteenth percent, which shall be separately denominated as "the first one-
24 eighth increment", "the second one-eighth increment", "the third one-eighth
25 increment" and "the
one-sixteenth increment", respectively, not to exceed an aggregate amount of
seven-sixteenths percent.

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

3 C. A class A county with a county hospital operated and maintained
4 pursuant to a lease with a state educational institution named in Article 12, Section
5 11 of the constitution of New Mexico enacting the second one-eighth increment of
6 county gross receipts tax shall provide, each year that the tax is in effect, not less
7 than one million dollars (\$1,000,000) in funds, and that amount shall be dedicated
8 to the support of indigent patients who are residents of that county. Funds for
9 indigent care shall be made available each month of each year the tax is in effect in
10 an amount not less than eighty-three thousand three hundred thirty-three dollars
11 thirty-three cents (\$83,333.33). The interest from the investment of county funds for
12 indigent care may be used for other assistance to indigent persons, not to exceed
13 twenty thousand dollars (\$20,000) for all other assistance in any year.

14 D. A county, except a class A county with a county hospital operated
15 and maintained pursuant to a lease with a state educational institution named in
16 Article 12, Section 11 of the constitution of New Mexico, imposing the second
17 one-eighth increment of county gross receipts tax shall be required to dedicate the
18 entire amount of revenue produced by the imposition of the second one-eighth
19 increment for the support of indigent patients who are residents of that county. The
20 revenue produced by the imposition of the third one-eighth increment and the one-
21 sixteenth increment may be used for general purposes. Any county that has
22 imposed the second one-eighth increment or the third one-eighth increment, or
23 both, on January 1, 1996 for support of indigent patients in the county or after
24 January 1, 1996 imposes the second one-eighth increment or imposes the third
25 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

1 pursuant to the Indigent Hospital and County Health Care Act."

2 Section 3. Section 7-20E-10 NMSA 1978 (being Laws 1983, Chapter 213,
3 Section 32, as amended) is amended to read:

4 "7-20E-10. COUNTY GROSS RECEIPTS TAX--REFERENDUM
5 REQUIREMENTS.--

6 A. An ordinance enacting the first or third one-eighth increment or
7 the one-sixteenth increment of county gross receipts tax pursuant to Section
8 7-20E-9 NMSA 1978 shall be subject to optional referendum selection by the
9 governing body, pursuant to Subsection A of Section 7-20E-3 NMSA 1978.

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11 B. Imposition by any county of the second one-eighth increment of
12 county gross receipts tax shall not be subject to a referendum of any kind unless
13 prescribed by the county charter or the governing body of the county.

14 Section 4. Section 7-20E-15 NMSA 1978 (being Laws 1979, Chapter 398,
15 Section 3, as amended) is amended to read:

16 "7-20E-15. COUNTY FIRE PROTECTION EXCISE TAX--AUTHORITY TO
17 IMPOSE--ORDINANCE REQUIREMENTS.--

18 A. The majority of the members of the governing body may enact an
19 ordinance imposing an excise tax on any person engaging in business in the county
20 area for the privilege of engaging in business. The rate of the tax shall be
21 one-fourth percent or one-eighth percent of the gross receipts of the person
22 engaging in business.

23 B. This tax is to be referred to as the "county fire protection excise
24 tax".

25 C. The governing body of a county shall, at the time of enacting an
ordinance imposing the rate of the tax authorized in Subsection A of this section,
dedicate the revenue for the purpose of financing the operational expenses,

1 ambulance services or capital outlay costs of independent fire districts or
2 ambulance services provided by the county. In any election held, the ballot shall
3 clearly state the purpose to which the revenue will be dedicated and shall be used
4 by the county for that purpose.

5 D. Any ordinance enacted under the provisions of Subsection A of
6 this section shall include an effective date of either July 1 or January 1 in
7 accordance with the provisions of the County Local Option Gross Receipts Taxes
8 Act.

9 E. The ordinance shall not go into effect until after an election is held
10 and a simple majority of the qualified electors of the county area voting in the
11 election votes in favor of imposing the county fire protection excise tax. The
12 governing body shall adopt a resolution calling for an election within seventy-five
13 days of the date the ordinance is adopted on the question of imposing the tax.
14 Such question may be submitted to the qualified electors and voted upon as a
15 separate question at any special election called for that purpose by the governing
16 body. The election upon the question shall be called, held, conducted and
17 canvassed in substantially the same manner as provided by law for general
18 elections. If the question of imposing a county fire protection excise tax fails, the
19 governing body shall not again propose a county fire protection excise tax for a
20 period of one year after the election."

21 Section 5. Section 7-20E-22 NMSA 1978 (being Laws 2002, Chapter 14,
22 Section 1, as amended) is amended to read:

23 "7-20E-22. COUNTY EMERGENCY COMMUNICATIONS AND
24 EMERGENCY MEDICAL SERVICES TAX--AUTHORITY TO IMPOSE
25 COUNTYWIDE OR ONLY IN THE COUNTY AREA--ORDINANCE
REQUIREMENTS--USE OF REVENUE--ELECTION.--

A. The majority of the members of the governing body of an eligible

1 county that does not have in effect a tax imposed pursuant to Subsection B of this
2 section may enact an ordinance imposing an excise tax at a rate not to exceed
3 one-fourth percent of the gross receipts of a person engaging in business in the
4 county for the privilege of engaging in business. The tax imposed by this
5 subsection may be referred to as the "countywide emergency communications and
6 emergency medical services tax".

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7 B. The majority of the members of the governing body of an eligible
8 county that does not have in effect a tax imposed pursuant to Subsection A of this
9 section may enact an ordinance imposing an excise tax at a rate not to exceed
10 one-fourth percent of the gross receipts of a person engaging in business in the
11 county area for the privilege of engaging in business. The tax imposed by this
12 subsection may be referred to as the "county area emergency communications and
13 emergency medical services tax".

14 C. The tax authorized in Subsections A and B of this section may be
15 imposed in one or more increments of
16 one-sixteenth percent not to exceed an aggregate rate of one-fourth percent.

17 D. The governing body, at the time of enacting an ordinance
18 imposing a rate of tax authorized in Subsection A or B of this section, shall dedicate
19 the revenue to one or both of the following purposes:

20 (1) operation of an emergency communications center that
21 has been determined by the local government division of the department of finance
22 and administration to be a consolidated public safety answering point; or

23 (2) operation of emergency medical services provided by the
24 county.

25 E. An ordinance imposing any increment of the countywide
emergency communications and emergency medical services tax or the county
area emergency communications and emergency medical services tax shall not go

1 into effect until after an election is held and a majority of the voters voting in the
2 election vote in favor of imposing the tax. In the case of an ordinance imposing an
3 increment of the countywide emergency communications and emergency medical
4 services tax, the election shall be conducted countywide. In the case of an
5 ordinance imposing the county area emergency communications and emergency
6 medical services tax, the election shall be conducted only in the county area. The
7 governing body shall adopt a resolution calling for an election within seventy-five
8 days of the date the ordinance is adopted on the question of imposing the tax. The
9 question may be submitted to the voters as a separate question at a general
10 election or at a special election called for that purpose by the governing body. A
11 special election shall be called, conducted and canvassed in substantially the same
12 manner as provided by law for general elections. In any election held, the ballot
13 shall clearly state the purpose to which the revenue will be dedicated pursuant to
14 Subsection D of this section. If a majority of the voters voting on the question
15 approve the imposition of the countywide emergency communications and
16 emergency medical services tax or the county area emergency communications
17 and emergency medical services tax, the ordinance shall become effective in
18 accordance with the provisions of the County Local Option Gross Receipts Taxes
19 Act. If the question of imposing the tax fails, the governing body shall not again
20 propose the imposition of any increment of either tax for a period of one year from
21 the date of the election.

22 F. For the purposes of this section, "eligible county" means a county
23 that operates or, pursuant to a joint powers agreement, is served by an emergency
24 communications center that has been determined by the local government division
25 of the department of finance and administration to be a consolidated public safety
answering point."

Section 6. Section 7-20F-2 NMSA 1978 (being Laws 1993, Chapter 303,

1 Section 2, as amended) is amended to read:

2 "7-20F-2. DEFINITIONS.--As used in the County Correctional Facility Gross
3 Receipts Tax Act:

4 A. "county" means a county of New Mexico;

5 B. "county board" means the board of county commissioners of a
6 county;

7 C. "department" means the taxation and revenue department, the
8 secretary of taxation and revenue or any employee of the department exercising
9 authority lawfully delegated to that employee by the secretary;

10 D. "judicial-correctional facility" means a facility for housing and use
11 by judicial and corrections agencies, including housing for persons confined in
12 county correctional facilities; however, none of the facilities are required to be
13 located on the same or contiguous parcels of land;

14 E. "municipality" means any incorporated city, town or village,
15 whether incorporated under general act, special act or special charter;

16 F. "person" means an individual or any other legal entity;

17 G. "pledged revenues" means the revenue, net income or net
18 revenues authorized to be pledged to the payment of revenue bonds issued
19 pursuant to the provisions of the County Correctional Facility Gross Receipts Tax
20 Act;

21 H. "refunding bond" means a refunding revenue bond issued
22 pursuant to the provisions of the County Correctional Facility Gross Receipts Tax
23 Act to refund revenue bonds issued pursuant to the provisions of that act; and

24 I. "revenue bond" means a county correctional facility gross receipts
25 tax revenue bond."

Section 7. Section 7-20F-3 NMSA 1978 (being Laws 1993, Chapter 303,
Section 3, as amended) is amended to read:

1 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS
2 TAX--AUTHORITY TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--
3 REFERENDUM.--

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4 A. The majority of the members elected to the county board may
5 enact an ordinance imposing on a countywide basis an excise tax not to exceed a
6 rate of one-eighth percent of the gross receipts of any person engaging in business
7 in the county, including all municipalities within the county.

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

10 C. Any ordinance imposing a county correctional facility gross
11 receipts tax pursuant to this section shall:

12 (1) impose the tax in any number of increments of
13 one-sixteenth percent not to exceed an aggregate amount of one-eighth percent;

14 (2) specify that the imposition of the tax will begin on either
15 July 1 or January 1, whichever occurs first after the expiration of at least three
16 months from the date that the department is notified personally or by mail by the
17 county of adoption of the ordinance; and

18 (3) dedicate the revenue from the county correctional facility
19 gross receipts tax:

20 (a) for the purpose of operating, maintaining,
21 constructing, purchasing, furnishing, equipping, rehabilitating, expanding or
22 improving a
23 judicial-correctional or a county correctional facility or the grounds of a judicial-
24 correctional or county correctional facility, including acquiring and improving parking
25 lots, landscaping or any combination of the foregoing;

(b) for the purpose of transporting or extraditing
prisoners; or

1 (c) to payment of principal and interest on revenue
2 bonds or refunding bonds issued pursuant to the provisions of the County
3 Correctional Facility Gross Receipts Tax Act.

4 D. An ordinance imposing a county correctional facility gross
5 receipts tax pursuant to this section shall be subject to optional referendum
6 selection by the governing body, as provided in Subsection A of Section 7-20E-3
7 NMSA 1978.

8 E. If the county has pledged the revenue from imposition of the
9 county correctional facilities gross receipts tax to the repayment of bonds or other
10 indebtedness, revenue produced by the imposition of a county correctional facility
11 gross receipts tax that is in excess of the annual principal and interest due on bonds
12 secured by a pledge of the county correctional facility gross receipts tax may be
13 accumulated in a debt service reserve account until an amount equal to the
14 maximum amount permitted pursuant to the provisions of the United States treasury
15 regulations is accumulated in the debt service reserve account. After the debt
16 service reserve account requirements have been met, the excess revenue shall be
17 accumulated in an extraordinary mandatory redemption fund and annually used to
18 redeem the bonds prior to their stated maturity date.

19 F. If the county has pledged the revenue from imposition of the
20 county correctional facilities gross receipts tax to the repayment of bonds or other
21 indebtedness, when all outstanding bonds have been paid, whether from the debt
22 service reserve, the redemption fund or maturity, the ordinance shall be repealed if
23 the county correctional facility gross receipts tax revenue is no longer required for
24 the purposes for which it may be used pursuant to the provisions of the County
25 Correctional Facility Gross Receipts Tax Act.

G. The repeal of an ordinance imposing a county correctional facility
gross receipts tax shall state that the repeal shall be effective on January 1 or July

1 1, whichever occurs first following the date the department is notified personally or
2 by mail by the county of the repeal."

3 Section 8. TEMPORARY PROVISION.--An ordinance imposing the county
4 fire protection excise tax that has an effective date on or after July 1, 2004 shall not
5 be subject to the time limit on tax imposition specified in that version of Section 7-
6 20E-15 NMSA 1978 that was in effect prior to the effective date of this 2004 act,
7 and any delayed repeal provision included in that ordinance shall be ineffective.

8 Section 9. EFFECTIVE DATE.--The effective date of the provisions of
9 Sections 1 through 3 and 5 through 7 of this act
10 is July 1, 2004.

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