

AN ACT

RELATING TO TAXATION; AUTHORIZING A COUNTY AND MUNICIPAL LOCAL
OPTION QUALITY OF LIFE GROSS RECEIPTS TAX.

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

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

"QUALITY OF LIFE GROSS RECEIPTS TAX--AUTHORITY TO
IMPOSE--ORDINANCE REQUIREMENTS--USE OF REVENUE--ELECTION.--

A. Prior to January 1, 2016, 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-
fourth percent of the gross receipts of a person engaging in
business in the county area for the privilege of engaging in
business. The tax may be imposed in one or more increments of
one-sixteenth percent not to exceed an aggregate rate of one-
fourth percent. The tax shall be imposed for a period of not
more than ten years from the effective date of the ordinance
imposing the tax. Having enacted an ordinance imposing the
tax prior to January 1, 2016 pursuant to the provisions of
this section, the governing body may enact subsequent
ordinances for succeeding periods of not more than ten years;
provided that each ordinance meets the requirements of this
section and of the County Local Option Gross Receipts Taxes
Act. The tax imposed pursuant to the provisions of this

section may be referred to as the "quality of life gross receipts tax".

B. The governing body, at the time of enacting an ordinance imposing the quality of life gross receipts tax, shall dedicate the revenue to cultural programs and activities provided by a local government and to cultural programs, events and activities provided by contract or operating agreement with nonprofit or publicly owned cultural organizations and institutions.

C. The governing body of a class A county with a population of more than two hundred fifty thousand according to the most recent federal decennial census, when dedicating revenue pursuant to Subsection B of this section, shall specify that:

(1) the revenue may not be used for capital expenditures, endowments or fundraising;

(2) at least one percent but not more than three percent of the revenue shall be used for public education on the use of the revenue;

(3) at least three percent but not more than five percent of the revenue shall be dedicated to administration of the revenue; and

(4) at least one percent but not more than three percent of the revenue shall be used for implementation of the goals of the cultural plan for the county and the

largest municipality located within the exterior boundaries of the county.

D. An ordinance imposing any increment of the quality of life gross receipts tax shall not go into effect until after an election is held and a majority of the voters in the county voting in the election vote in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within ninety days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the voters 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. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated pursuant to this section. If a majority of the voters voting on the question approves the ordinance imposing the quality of life gross receipts tax, 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 quality of life 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.

E. The quality of life gross receipts tax revenue

shall be used to meet the following goals: promoting and preserving cultural diversity; enhancing the quality of cultural programs and activities; fostering greater access to cultural opportunities; promoting culture in order to further economic development within the county; and supporting programs, events and organizations with direct, identifiable and measurable public benefit to residents of the county. It is the objective of the quality of life gross receipts tax that the revenue from the tax be used to expand and sustain existing programs and to develop new programs, events and activities, rather than to replace other funding sources for existing programs, events and activities.

F. The governing body of a county that imposes the quality of life gross receipts tax shall, within sixty days of the election approving the imposition of the tax, appoint a county cultural advisory board consisting of between nine and fifteen members. Persons appointed to the board shall be residents of the county who are knowledgeable about the activities eligible for quality of life tax funding. At least one member of the board shall be appointed by the governing body of the most populous municipality within the county. The members of the board shall be appointed for fixed terms and shall not be removed during their terms except for malfeasance. The terms of the initial board members shall be staggered so that one-third of the members are appointed for

one-year terms, one-third are appointed for two-year terms and one-third are appointed for three-year terms. Subsequent appointments to the board shall be for three-year terms. If a vacancy on the board occurs, the governing body shall appoint a replacement member for the remainder of the unexpired term. A board member shall not serve for more than two consecutive terms.

G. The county cultural advisory board shall have the responsibility of overseeing the distribution of the quality of life gross receipts tax revenue for the goals listed in Subsection E of this section. The board shall:

(1) biennially submit recommendations to the governing body for expenditures of revenue from the quality of life gross receipts tax that are allocated pursuant to this section through contracts for services with appropriate organizations and institutions;

(2) establish and publicize the necessary qualifications for organizations and institutions to receive quality of life gross receipts tax funding; and

(3) develop guidelines and procedures for applying for funding through a request for proposals process and the criteria by which contracts will be awarded. The evaluation process shall include a public review component.

H. The cultural advisory board shall establish reporting requirements for recipients of the quality of life

gross receipts tax revenue. The board shall provide to the governing body an annual evaluation of the use of revenue from the quality of life gross receipts tax to ensure that it is meeting the goals listed in Subsection E of this section.

I. If the quality of life gross receipts tax is enacted in a class A county with a population of more than two hundred fifty thousand according to the most recent federal decennial census, the net revenue from the tax remaining after distributions pursuant to Subsection C of this section shall be distributed as follows subject to the recommendations of the county cultural advisory board pursuant to Subsection G of this section:

(1) for the purpose of enhancing cultural programs and activities, sixty-five percent to a municipality for cultural programs and activities within the exterior boundaries of the county and five percent to the county for cultural programs and activities within the unincorporated areas of the county; provided that:

(a) the funds are distributed according to a plan that takes into consideration progress indicators that include current budgets, fiscal responsibility and attendance;

(b) educational institutions serving kindergarten through twelfth grade are not eligible for distributions pursuant to this paragraph; and

(c) a portion of the funds may be expended by the municipality pursuant to an operating agreement with an organization that operates a facility owned by the municipality;

(2) for the purpose of providing cultural programs and services to the residents of the county, sixteen percent may be distributed through contracts for services with private nonprofit organizations with an annual operating budget of more than one hundred thousand dollars (\$100,000) and two percent may be distributed through contracts for services with private nonprofit organizations with an annual operating budget of one hundred thousand dollars (\$100,000) or less. To be eligible for a distribution pursuant to this paragraph, an organization shall have:

(a) been granted for the prior three consecutive years exemption from the federal income tax by the United States commissioner of the internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986;

(b) as its primary purpose cultural programs; and

(c) its principal office located within the exterior boundaries of the county; and

(3) for the purpose of providing cultural programs to residents of the county, twelve percent to:

(a) organizations that have a strong cultural program but do not have culture as their primary purpose; or

(b) foundations that are affiliated with state or federally owned institutions and that do not otherwise qualify for funding pursuant to this section but that offer cultural programs to the general public.

J. Every four years, the cultural advisory board shall review and revise as necessary:

(1) the guidelines and procedures for applying for funding;

(2) the criteria by which applications for funding will be evaluated; and

(3) the percentages specified in Paragraph (1) of Subsection I of this section for distribution of net revenue to municipally owned or county-owned institutions.

K. As used in this section:

(1) "county area" means that portion of a county located outside the boundaries of any municipality, except that for H class counties and class A counties with a population in excess of two hundred fifty thousand, according to the most recent federal decennial census, "county area" means the entire county; and

(2) "cultural organizations and institutions" means organizations and institutions that have

as a primary purpose the advancement or preservation of zoology, museums, library sciences, art, music, theater, dance, literature or the humanities."

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

"QUALITY OF LIFE GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS--USE OF REVENUE--ELECTION.--

A. Prior to January 1, 2016, the majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the municipality for the privilege of engaging in business. The tax may be imposed in one or more increments of one-sixteenth percent not to exceed an aggregate rate of one-fourth percent. The tax shall be imposed for a period of not more than ten years from the effective date of the ordinance imposing the tax. Having enacted an ordinance imposing the tax prior to January 1, 2016 pursuant to the provisions of this section, the governing body may enact subsequent ordinances for succeeding periods of not more than ten years; provided that each ordinance meets the requirements of this section and of the Municipal Local Option Gross Receipts Taxes Act. The tax imposed pursuant to the provisions of this section may be referred to as the "quality of life gross receipts tax".

B. The governing body, at the time of enacting an ordinance imposing the quality of life gross receipts tax, shall dedicate the revenue to cultural programs and activities provided by a local government and to cultural programs, events and activities provided by contract or operating agreement with nonprofit or publicly owned cultural organizations and institutions.

C. An ordinance imposing any increment of the quality of life gross receipts tax shall not go into effect until after an election is held and a majority of the voters in 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 ninety days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the voters 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. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated pursuant to this section. If a majority of the voters voting on the question approves the ordinance imposing the quality of life gross receipts tax, 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 quality of life 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.

D. The quality of life gross receipts tax revenue shall be used to meet the following goals: promoting and preserving cultural diversity; enhancing the quality of cultural programs and activities; fostering greater access to cultural opportunities; promoting culture in order to further economic development within the municipality; and supporting programs, events and organizations with direct, identifiable and measurable public benefit to residents of the municipality. It is the objective of the quality of life gross receipts tax that the revenue from the tax be used to expand and sustain existing programs and to develop new programs, events and activities, rather than to replace other funding sources for existing programs, events and activities.

E. The governing body of a municipality that imposes the quality of life gross receipts tax shall, within sixty days of the election approving the imposition of the tax, appoint a municipal cultural advisory board consisting of between nine and fifteen members. Persons appointed to the board shall be residents of the municipality who are knowledgeable about the activities eligible for quality of life tax funding. The members of the board shall be appointed

for fixed terms and shall not be removed during their terms except for malfeasance. The terms of the initial board members shall be staggered so that one-third of the members are appointed for one-year terms, one-third are appointed for two-year terms and one-third are appointed for three-year terms. Subsequent appointments to the board shall be for three-year terms. If a vacancy on the board occurs, the governing body shall appoint a replacement member for the remainder of the unexpired term. A board member shall not serve for more than two consecutive terms.

F. The municipal cultural advisory board shall have the responsibility of overseeing the distribution of the quality of life gross receipts tax revenue for the goals listed in Subsection D of this section. The board shall:

(1) biennially submit recommendations to the governing body for expenditures of revenue from the quality of life gross receipts tax that are allocated pursuant to this section through contracts for services with appropriate organizations and institutions;

(2) establish and publicize the necessary qualifications for organizations and institutions to receive quality of life gross receipts tax funding; and

(3) develop guidelines and procedures for applying for funding through a request for proposals process and the criteria by which contracts will be awarded. The

evaluation process shall include a public review component.

G. The municipal cultural advisory board shall establish reporting requirements for recipients of the quality of life gross receipts tax revenue. The board shall provide to the governing body an annual evaluation of the use of revenue from the quality of life gross receipts tax to ensure that it is meeting the goals listed in Subsection D of this section.

H. Every four years, the municipal cultural advisory board shall review and revise as necessary:

(1) the guidelines and procedures for applying for funding; and

(2) the criteria by which applications for funding will be evaluated.

I. As used in this section:

(1) "cultural organizations and institutions" means organizations or institutions that have as a primary purpose the advancement or preservation of zoology, museums, library sciences, art, music, theater, dance, literature or the humanities; and

(2) "municipality" means an incorporated municipality except for an incorporated municipality with a population in excess of two hundred fifty thousand according to the most recent federal decennial census."

Section 3. EFFECTIVE DATE.--The effective date of the

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provisions of this act is July 1, 2005. _____

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