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**HOUSE BILL 224**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Patricia A. Lundstrom**

**AN ACT**

**RELATING TO TAXATION; AMENDING THE COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX ACT TO AUTHORIZE AN ADDITIONAL CLASS OF COUNTIES TO IMPOSE A COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX; EXPANDING THE USE OF THE REVENUE TO INCLUDE A COURTHOUSE AND COUNTY ADMINISTRATIVE OFFICE FACILITY.**

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

**Section 1. Section 7-20F-2 NMSA 1978 (being Laws 1993, Chapter 303, Section 2, as amended) is amended to read:**

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

**A. "county" means:**

**(1) a class A county, the population of which does not exceed one hundred fifty thousand people as**

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1 determined by the 1990 federal decennial census;

2 (2) a class B county with a population of at  
3 least fifty-seven thousand people but less than sixty thousand  
4 as determined by the 1990 federal decennial census; [or]

5 (3) a class B county with a population of at  
6 least forty-five thousand people but less than forty-seven  
7 thousand as determined by the 1990 federal decennial census;

8 or

9 (4) a class B county with a population of at  
10 least sixty thousand people but less than sixty-three thousand  
11 as determined by the 1990 federal decennial census;

12 B. "county board" means the board of county  
13 commissioners of a county;

14 C. "department" means the taxation and revenue  
15 department, the secretary of taxation and revenue or any  
16 employee of the department exercising authority lawfully  
17 delegated to that employee by the secretary;

18 D. "judicial-correctional facility" means a  
19 facility for housing and use by judicial and corrections  
20 agencies, including housing for persons confined in county  
21 corrections facilities; however, none of the facilities are  
22 required to be located on the same or contiguous parcels of  
23 land. A "judicial-correctional facility" also includes a  
24 courthouse and any other county facility used as a county  
25 administrative office;

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1           E. "municipality" means any incorporated city,  
2 town or village, whether incorporated under general act,  
3 special act or special charter;

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

6           G. "pledged revenues" means the revenue, net  
7 income or net revenues authorized to be pledged to the payment  
8 of revenue bonds issued pursuant to the provisions of the  
9 County Correctional Facility Gross Receipts Tax Act;

10          H. "refunding bond" means a refunding revenue bond  
11 issued pursuant to the provisions of the County Correctional  
12 Facility Gross Receipts Tax Act to refund revenue bonds issued  
13 pursuant to the provisions of that act; and

14          I. "revenue bond" means a county correctional  
15 facility gross receipts tax revenue bond. "

16          Section 2. Section 7-20F-3 NMSA 1978 (being Laws 1993,  
17 Chapter 303, Section 3, as amended) is amended to read:

18           "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS  
19 TAX--AUTHORITY TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--  
20 REFERENDUM --

21           A. For those counties described in Paragraphs (1)  
22 through (3) of Subsection A of Section 7-20F-2 NMSA 1978, the  
23 majority of the members elected to the county board may enact  
24 an ordinance imposing on a county-wide basis an excise tax not  
25 to exceed a rate of one-eighth of one percent of the gross

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1 receipts of any person engaging in business in the county,  
2 including all municipalities within the county; provided that  
3 the voters of:

4 (1) a class A county described in Paragraph  
5 (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B  
6 county described in Paragraph (2) of Subsection A of Section  
7 7-20F-2 NMSA 1978 have approved the issuance of general  
8 obligation bonds of the county sufficient to pay at least  
9 one-half of the costs of the construction and equipping of the  
10 new county judicial-correctional facility for which the county  
11 correctional facility gross receipts tax revenue is dedicated;  
12 or

13 (2) a class B county described in Paragraph  
14 (3) of Subsection A of Section 7-20F-2 NMSA 1978 have approved  
15 the issuance of bonds by the New Mexico finance authority  
16 sufficient to pay at least one-half of the costs of designing,  
17 constructing, equipping, furnishing and otherwise improving  
18 the new county correctional facility for which the county  
19 correctional facility gross receipts tax revenue is dedicated.

20 B. For those counties described in Paragraph (4)  
21 of Subsection A of Section 7-20F-2 NMSA 1978, the majority of  
22 the members elected to the county board may enact an ordinance  
23 imposing on a county-wide basis an excise tax not to exceed a  
24 rate of one-fourth of one percent of the gross receipts of any  
25 person engaging in business in the county, including all

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1 municipalities within the county.

2           ~~[B-]~~ C. The tax imposed pursuant to ~~[Subsection]~~  
3 Subsections A and B of this section may be referred to as the  
4 "county correctional facility gross receipts tax". The county  
5 correctional facility gross receipts tax shall be imposed only  
6 once for the period necessary for payment of the principal and  
7 interest on revenue bonds issued pursuant to the County  
8 Correctional Facility Gross Receipts Tax Act, but the period  
9 shall not exceed ten years from the effective date of the  
10 ordinance imposing the tax.

11           ~~[C-]~~ D. Any ordinance imposing a county  
12 correctional facility gross receipts tax pursuant to this  
13 section shall:

14                           (1) impose the tax in any number of  
15 increments of one-sixteenth of one percent not to exceed:

16   (a) an aggregate amount of one-eighth  
17 of one percent if imposed pursuant to Subsection A of this  
18 section; or

19   (b) an aggregate amount of one-fourth  
20 of one percent if imposed pursuant to Subsection B of this  
21 section;

22                           (2) specify that the imposition of the tax  
23 will begin on either July 1 or January 1, whichever occurs  
24 first after the expiration of at least three months from the  
25 date that the adopted ordinance is mailed or delivered to the

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1 department or from the date that the department is notified  
2 personally or by mail by the county that imposition of the  
3 county correctional facility gross receipts tax has been  
4 approved by a majority of the registered voters in the county  
5 voting on the question, whichever is applicable; and

6 (3) dedicate the revenue from the county  
7 correctional facility gross receipts tax for the purpose of  
8 constructing, purchasing, furnishing, equipping,  
9 rehabilitating, expanding or improving a judicial-correctional  
10 or a county correctional facility or the grounds of a  
11 judicial-correctional or county correctional facility,  
12 including [~~but not limited to~~] acquiring and improving parking  
13 lots, landscaping or any combination of the foregoing or to  
14 payment of principal and interest on revenue bonds or  
15 refunding bonds issued pursuant to the provisions of the  
16 County Correctional Facility Gross Receipts Tax Act.

17 [~~D.~~] E. For those counties described in Paragraphs  
18 (1) through (3) of Subsection A of Section 7-20F-2 NMSA 1978,  
19 an ordinance imposing a county correctional facility gross  
20 receipts tax pursuant to this section shall not become  
21 effective until after an election is held and a simple  
22 majority of the qualified electors of the county voting in the  
23 election votes in favor of imposing the tax. For those  
24 counties described in Paragraph (4) of Subsection A of Section  
25 7-20F-2 NMSA 1978, the ordinance imposing a county

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1 correctional facility gross receipts tax pursuant to this  
2 section shall become effective without an election, and the  
3 provisions of Subsections F through I of this section do not  
4 apply.

5           ~~[E-]~~ F. The governing body shall adopt a  
6 resolution calling for an election within seventy-five days of  
7 the date the ordinance is adopted on the question of imposing  
8 the tax, and:

9                   (1) in a class A county described in  
10 Paragraph (1) of Subsection A of Section 7-20F-2 NMSA 1978 or  
11 a class B county described in Paragraph (2) of Subsection A of  
12 Section 7-20F-2 NMSA 1978, if a property tax at a rate  
13 necessary to comply with the provisions of Subsection A of  
14 this section has not been approved by the voters of the  
15 county, the question submitted to the voters shall be the  
16 question of imposing a county correctional facility gross  
17 receipts tax and a property tax at a rate necessary for the  
18 issuance of general obligation bonds of the county sufficient  
19 to comply with the provisions of the County Correctional  
20 Facility Gross Receipts Tax Act; or

21                   (2) in a class B county described in  
22 Paragraph (3) of Subsection A of Section 7-20F-2 NMSA 1978,  
23 the question to be submitted to the voters is: "Shall a  
24 county correctional facility gross receipts tax be imposed to  
25 repay bonds that will be issued by the New Mexico finance

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1 authority in an amount sufficient to pay at least one-half of  
2 the costs of designing, constructing, equipping, furnishing  
3 and otherwise improving the new county correctional  
4 facility?".

5 ~~[F.]~~ G. The question shall be submitted to the  
6 voters at any general election or special election called for  
7 that purpose by the board.

8 ~~[G.]~~ H. The election upon the question shall be  
9 called, held, conducted and canvassed in substantially the  
10 same manner as may be provided by law for general elections.

11 ~~[H.]~~ I. If the question of imposing the county  
12 correctional facility gross receipts tax and a property tax,  
13 if the question includes a property tax, fails, the board  
14 shall not again propose imposition of a county correctional  
15 facility gross receipts tax for a period of one year after the  
16 election.

17 ~~[I.]~~ J. Revenue produced by the imposition of a  
18 county correctional facility gross receipts tax that is in  
19 excess of the annual principal and interest due on bonds  
20 secured by a pledge of the county correctional facility gross  
21 receipts tax may be accumulated in a debt service reserve  
22 account until an amount equal to the maximum amount permitted  
23 pursuant to the provisions of the United States treasury  
24 regulations is accumulated in the debt service reserve  
25 account. After the debt service reserve account requirements



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1 have been met, the excess revenue shall be accumulated in an  
2 extraordinary mandatory redemption fund and annually used to  
3 redeem the bonds prior to their stated maturity date.

4 [~~J-~~] K. When all outstanding bonds have been paid,  
5 whether from the debt service reserve, the redemption fund or  
6 maturity, the ordinance shall be repealed if the county  
7 correctional facility gross receipts tax revenue is no longer  
8 required for the purposes for which it may be used pursuant to  
9 the provisions of the County Correctional Facility Gross  
10 Receipts Tax Act.

11 [~~K-~~] L. The repeal of an ordinance imposing a  
12 county correctional facility gross receipts tax shall state  
13 that the repeal shall be effective on January 1 or July 1,  
14 whichever occurs first following the date the department is  
15 notified personally or by mail by the county of the repeal."

16 Section 3. EFFECTIVE DATE. --The effective date of the  
17 provisions of this act is July 1, 2001.