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**HOUSE BILL 787**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

Manuel G. Herrera

**AN ACT**

**RELATING TO COUNTY REVENUE BONDS; PROVIDING COUNTIES THE  
ABILITY TO USE THE PROCEEDS FROM GROSS RECEIPTS TAX REVENUES  
ONCE THE AMOUNT PLEDGED ON BONDS IS SATISFIED; REPEALING LAWS  
2001, CHAPTER 172, SECTION 3.**

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

**Section 1. Section 4-62-1 NMSA 1978 (being Laws 1992,  
Chapter 95, Section 1, as amended by Laws 2001, Chapter 172,  
Section 3 and also by Laws 2001, Chapter 328, Section 2) 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**

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1 specified in this section. The term "pledged revenues", as  
2 used in Chapter 4, Article 62 NMSA 1978, means the revenues,  
3 net income or net revenues authorized to be pledged to the  
4 payment of particular revenue bonds as specifically provided in  
5 Subsections B through L of this section.

6 B. Gross receipts tax revenue bonds may be issued  
7 for one or more of the following purposes:

8 (1) constructing, purchasing, furnishing,  
9 equipping, rehabilitating, making additions to or making  
10 improvements to one or more public buildings or purchasing or  
11 improving ground relating thereto, including but not  
12 necessarily limited to acquiring and improving parking lots, or  
13 any combination of the foregoing;

14 (2) acquiring or improving county or public  
15 parking lots, structures or facilities or any combination of  
16 the foregoing;

17 (3) purchasing, acquiring or rehabilitating  
18 firefighting equipment or any combination of the foregoing;

19 (4) acquiring, extending, enlarging,  
20 bettering, repairing, otherwise improving or maintaining storm  
21 sewers and other drainage improvements, sanitary sewers, sewage  
22 treatment plants, water utilities or other water, wastewater or  
23 related facilities, including but not limited to the  
24 acquisition of rights of way and water and water rights, or any  
25 combination of the foregoing;

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1 (5) reconstructing, resurfacing, maintaining,  
2 repairing or otherwise improving existing alleys, streets,  
3 roads or bridges or any combination of the foregoing or laying  
4 off, opening, constructing or otherwise acquiring new alleys,  
5 streets, roads or bridges or any combination of the foregoing;  
6 provided that any of the foregoing improvements may include the  
7 acquisition of rights of way;

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

13 (7) purchasing or otherwise acquiring or  
14 clearing land or purchasing, otherwise acquiring and  
15 beautifying land for open space;

16 (8) acquiring, constructing, purchasing,  
17 equipping, furnishing, making additions to, renovating,  
18 rehabilitating, beautifying or otherwise improving public  
19 parks, public recreational buildings or other public  
20 recreational facilities or any combination of the foregoing;

21 (9) acquiring, constructing, extending,  
22 enlarging, bettering, repairing or otherwise improving or  
23 maintaining solid waste disposal equipment, equipment for  
24 operation and maintenance of sanitary landfills, sanitary  
25 landfills, solid waste facilities or any combination of the

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1 foregoing; or

2 (10) acquiring, constructing, extending,  
3 bettering, repairing or otherwise improving public transit  
4 systems or any regional transit systems or facilities.

5 A county may pledge irrevocably any or all of the revenue  
6 from the first one-eighth ~~[of one]~~ percent increment and the  
7 third one-eighth ~~[of one]~~ percent increment of the county gross  
8 receipts tax and any increment of the county infrastructure  
9 gross receipts tax and county capital outlay gross receipts tax  
10 for payment of principal and interest due in connection with,  
11 and other expenses related to, gross receipts tax revenue bonds  
12 for any of the purposes authorized in this section or specific  
13 purposes or for any area of county government services. If the  
14 revenue from the first one-eighth ~~[of one]~~ percent increment or  
15 the third one-eighth ~~[of one]~~ percent increment of the county  
16 gross receipts tax or any increment of the county  
17 infrastructure gross receipts tax or county capital outlay  
18 gross receipts tax is pledged for payment of principal and  
19 interest as authorized by this subsection, the pledge shall  
20 require the revenues received from that increment of the county  
21 gross receipts tax or any increment of the county  
22 infrastructure gross receipts tax or county capital outlay  
23 gross ~~[receipt]~~ receipts tax to be deposited into a special  
24 bond fund for payment of the principal, interest and expenses.  
25 ~~[At the end of each fiscal year]~~ Money remaining in the special

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1 bond fund after the annual obligations for the bonds are fully  
2 met may be transferred to any other fund of the county.

3 Revenues in excess of the annual principal and interest  
4 due on gross receipts tax revenue bonds secured by a pledge of  
5 gross receipts tax revenue may be accumulated in a debt service  
6 reserve account. The governing body of the county may appoint  
7 a commercial bank trust department to act as trustee of the  
8 proceeds of the tax and to administer the payment of principal  
9 of and interest on the bonds.

10 C. Fire protection revenue bonds may be issued for  
11 acquiring, extending, enlarging, bettering, repairing,  
12 improving, constructing, purchasing, furnishing, equipping or  
13 rehabilitating any independent fire district project or  
14 facilities, including where applicable purchasing, otherwise  
15 acquiring or improving the ground for the project, or any  
16 combination of such purposes. A county may pledge irrevocably  
17 any or all of the county fire protection excise tax revenue for  
18 payment of principal and interest due in connection with, and  
19 other expenses related to, fire protection revenue bonds.  
20 These bonds may be referred to in Chapter 4, Article 62 NMSA  
21 1978 as "fire protection revenue bonds".

22 D. Environmental revenue bonds may be issued for  
23 the acquisition and construction of solid waste facilities,  
24 water facilities, wastewater facilities, sewer systems and  
25 related facilities. A county may pledge irrevocably any or all

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1 of the county environmental services gross receipts tax revenue  
2 for payment of principal and interest due in connection with,  
3 and other expenses related to, environmental revenue bonds.  
4 These bonds may be referred to in Chapter 4, Article 62 NMSA  
5 1978 as "environmental revenue bonds".

6 E. Gasoline tax revenue bonds may be issued for the  
7 acquisition of rights of way for and the construction,  
8 reconstruction, resurfacing, maintenance, repair or other  
9 improvement of county roads and bridges. A county may pledge  
10 irrevocably any or all of the county gasoline tax revenue for  
11 payment of principal and interest due in connection with, and  
12 other expenses related to, county gasoline tax revenue bonds.  
13 These bonds may be referred to in Chapter 4, Article 62 NMSA  
14 1978 as "gasoline tax revenue bonds".

15 F. Utility revenue bonds or joint utility revenue  
16 bonds may be issued for acquiring, extending, enlarging,  
17 bettering, repairing or otherwise improving water facilities,  
18 sewer facilities, gas facilities or electric facilities or for  
19 any combination of the foregoing purposes. A county may pledge  
20 irrevocably any or all of the net revenues from the operation  
21 of the utility or joint utility for which the particular  
22 utility or joint utility bonds are issued to the payment of  
23 principal and interest due in connection with, and other  
24 expenses related to, utility or joint utility revenue bonds.  
25 These bonds may be referred to in Chapter 4, Article 62 NMSA

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1 1978 as "utility revenue bonds" or "joint utility revenue  
2 bonds".

3 G. Project revenue bonds may be issued for  
4 acquiring, extending, enlarging, bettering, repairing,  
5 improving, constructing, purchasing, furnishing, equipping or  
6 rehabilitating any revenue-producing project, including as  
7 applicable purchasing, otherwise acquiring or improving the  
8 ground therefor and including but not limited to acquiring and  
9 improving parking lots, or may be issued for any combination of  
10 the foregoing purposes. The county may pledge irrevocably any  
11 or all of the net revenues from the operation of the revenue-  
12 producing project for which the particular project revenue  
13 bonds are issued to the payment of the interest on and  
14 principal of the project revenue bonds. The net revenues of  
15 any revenue-producing project [~~may~~] shall not be pledged to the  
16 project revenue bonds issued for any other revenue-producing  
17 project that is clearly unrelated in nature; but nothing in  
18 this subsection prevents the pledge to any of the project  
19 revenue bonds of the revenues received from existing, future or  
20 disconnected facilities and equipment that are related to and  
21 that may constitute a part of the particular revenue-producing  
22 project. A general determination by the governing body that  
23 facilities or equipment is reasonably related to and  
24 constitutes a part of a specified revenue-producing project  
25 shall be conclusive if set forth in the proceedings authorizing

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1 the project revenue bonds. As used in Chapter 4, Article 62  
2 NMSA 1978:

3 (1) "project revenue bonds" means the bonds  
4 authorized in this subsection; and

5 (2) "project revenues" means the net revenues  
6 of revenue-producing projects that may be pledged to project  
7 revenue bonds pursuant to this subsection.

8 H. Fire district revenue bonds may be issued for  
9 acquiring, extending, enlarging, bettering, repairing,  
10 improving, constructing, purchasing, furnishing, equipping and  
11 rehabilitating any fire district project, including where  
12 applicable purchasing, otherwise acquiring or improving the  
13 ground therefor, or for any combination of the foregoing  
14 purposes. The county may pledge irrevocably any or all of the  
15 revenues received by the fire district from the fire protection  
16 fund as provided in the Fire Protection Fund Law and any or all  
17 of the revenues provided for the operation of the fire district  
18 project for which the particular bonds are issued to the  
19 payment of the interest on and principal of the bonds. The  
20 revenues of a fire district project shall not be pledged to the  
21 bonds issued for a fire district project that clearly is  
22 unrelated in its purpose; but nothing in this section prevents  
23 the pledge to such bonds of revenues received from existing,  
24 future or disconnected facilities and equipment that are  
25 related to and that may constitute a part of the particular

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1 fire district project. A general determination by the  
2 governing body of the county that facilities or equipment is  
3 reasonably related to and constitutes a part of a specified  
4 fire district project shall be conclusive if set forth in the  
5 proceedings authorizing the fire district revenue bonds.

6 I. Law enforcement protection revenue bonds may be  
7 issued for the repair and purchase of law enforcement apparatus  
8 and equipment that meet nationally recognized standards. The  
9 county may pledge irrevocably any or all of the revenues  
10 received by the county from the law enforcement protection fund  
11 distributions pursuant to the Law Enforcement Protection Fund  
12 Act to the payment of the interest on and principal of the law  
13 enforcement protection revenue bonds.

14 J. Hospital emergency gross receipts tax revenue  
15 bonds may be issued for acquiring, equipping, remodeling or  
16 improving a county hospital or county health facility. A  
17 county may pledge irrevocably to the payment of the interest on  
18 and principal of the hospital emergency gross receipts tax  
19 revenue bonds any or all of the revenues received by the county  
20 from a county hospital emergency gross receipts tax imposed  
21 pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to  
22 payment of bonds or a loan for acquiring, equipping, remodeling  
23 or improving a county hospital or county health facility.

24 K. Economic development gross receipts tax revenue  
25 bonds may be issued for the purpose of furthering economic

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1 development projects as defined in the Local Economic  
2 Development Act. A county may pledge irrevocably any or all of  
3 the county infrastructure gross receipts tax to the payment of  
4 the interest on and principal of the economic development gross  
5 receipts tax revenue bonds for the purpose authorized in this  
6 subsection.

7 L. County education gross receipts tax revenue  
8 bonds may be issued for public school or off-campus instruction  
9 program capital projects as authorized in Section 7-20E-20 NMSA  
10 1978. A county may pledge irrevocably any or all of the county  
11 education gross receipts tax revenue to the payment of interest  
12 on and principal of the county education gross receipts tax  
13 revenue bonds for the purpose authorized in this section.

14 M Except for the purpose of refunding previous  
15 revenue bond issues, no county may sell revenue bonds payable  
16 from pledged revenue after the expiration of two years from the  
17 date of the ordinance authorizing the issuance of the bonds or,  
18 for bonds to be issued and sold to the New Mexico finance  
19 authority as authorized in Subsection C of Section  
20 4-62-4 NMSA 1978, after the expiration of two years from the  
21 date of the resolution authorizing the issuance of the bonds.  
22 However, any period of time during which a particular revenue  
23 bond issue is in litigation shall not be counted in determining  
24 the expiration date of that issue.

25 N. No bonds may be issued by a county, other than

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1 an H class county, a class B county as defined in Section  
2 4-36-8 NMSA 1978 or a class A county as described in Section  
3 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,  
4 repair or construct a utility unless the utility is regulated  
5 by the public regulation commission pursuant to the Public  
6 Utility Act and the issuance of the bonds is approved by the  
7 commission. For purposes of Chapter 4, Article 62 NMSA 1978, a  
8 "utility" includes but is not limited to a water, wastewater,  
9 sewer, gas or electric utility or joint utility serving the  
10 public. H class counties shall obtain public regulation  
11 commission approvals required by Section 3-23-3 NMSA 1978.

12 0. Any law that imposes or authorizes the  
13 imposition of a county gross receipts tax, a county  
14 environmental services gross receipts tax, a county fire  
15 protection excise tax, a county infrastructure gross receipts  
16 tax, the county education gross receipts tax, a county capital  
17 outlay gross receipts tax, the gasoline tax or the county  
18 hospital emergency gross receipts tax, or that affects any of  
19 those taxes, shall not be repealed or amended in such a manner  
20 as to impair outstanding revenue bonds that are issued pursuant  
21 to Chapter 4, Article 62 NMSA 1978 and that may be secured by a  
22 pledge of those taxes unless the outstanding revenue bonds have  
23 been discharged in full or provision has been fully made  
24 therefor.

25 P. As used in this section:

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1 (1) "county infrastructure gross receipts tax  
2 revenue" means the revenue from the county infrastructure gross  
3 receipts tax transferred to the county pursuant to Section  
4 7-1-6.13 NMSA 1978;

5 (2) "county capital outlay gross receipts tax  
6 revenue" means the revenue from the county capital outlay gross  
7 receipts tax transferred to the county pursuant to Section  
8 7-1-6.13 NMSA 1978;

9 (3) "county education gross receipts tax  
10 revenue" means the revenue from the county education gross  
11 receipts tax transferred to the county pursuant to Section  
12 7-1-6.13 NMSA 1978;

13 (4) "county environmental services gross  
14 receipts tax revenue" means the revenue from the county  
15 environmental services gross receipts tax transferred to the  
16 county pursuant to Section 7-1-6.13 NMSA 1978;

17 (5) "county fire protection excise tax  
18 revenue" means the revenue from the county fire protection  
19 excise tax transferred to the county pursuant to Section  
20 7-1-6.13 NMSA 1978;

21 (6) "county gross receipts tax revenue" means  
22 the revenue attributable to the first one-eighth [~~of one~~]  
23 percent and the third one-eighth [~~of one~~] percent increments of  
24 the county gross receipts tax transferred to the county  
25 pursuant to Section 7-1-6.13 NMSA 1978 and any distribution

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1 related to the first one-eighth [~~of one~~] percent made pursuant  
2 to Section 7-1-6.16 NMSA 1978;

3 (7) "gasoline tax revenue" means the revenue  
4 from that portion of the gasoline tax distributed to the county  
5 pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978; and

6 (8) "public building" includes but is not  
7 limited to fire stations, police buildings, county or regional  
8 jails, county or regional juvenile detention facilities,  
9 libraries, museums, auditoriums, convention halls, hospitals,  
10 buildings for administrative offices, courthouses and garages  
11 for housing, repairing and maintaining county vehicles and  
12 equipment.

13 Q. As used in Chapter 4, Article 62 NMSA 1978, the  
14 term "bond" means any obligation of a county issued under  
15 Chapter 4, Article 62 NMSA 1978, whether designated as a bond,  
16 note, loan, warrant, debenture, lease-purchase agreement or  
17 other instrument evidencing an obligation of a county to make  
18 payments. "

19 Section 2. REPEAL. -- Laws 2001, Chapter 172, Section 3 is  
20 repealed.