

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 119

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

AN ACT

RELATING TO TAXATION; TEMPORARILY INCREASING THE RATE OF THE  
GROSS RECEIPTS TAX AND COMPENSATING TAX; ADDING A REFERENDUM  
REQUIREMENT TO LOCAL OPTION GROSS RECEIPTS TAXES CURRENTLY  
LACKING SUCH A REQUIREMENT; ADJUSTING CERTAIN DISTRIBUTIONS;  
PROVIDING A GROSS RECEIPTS TAX CREDIT.

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

Section 1. Section 4-61-2 NMSA 1978 (being Laws 1982,  
Chapter 44, Section 2, as amended) is amended to read:

"4-61-2. DEFINITIONS.--As used in the Small Counties  
Assistance Act:

A. "adjustment factor" means a fraction, the  
numerator of which is the net taxable value of the state for  
the property tax year prior to the year in which the amount of  
small counties assistance is being determined and the

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1 denominator of which is the net taxable value for property tax  
2 year 2002; the adjustment factor shall be calculated without  
3 reference to assessed value determined pursuant to the Oil and  
4 Gas Ad Valorem Production Tax Act, assessed value determined  
5 pursuant to the Oil and Gas Production Equipment Ad Valorem Tax  
6 Act or taxable value determined pursuant to the Copper  
7 Production Ad Valorem Tax Act;

8 B. "ceiling valuation" means:

9 (1) for the 2002 property tax year, one  
10 billion four hundred million dollars (\$1,400,000,000); and

11 (2) for each subsequent property tax year, an  
12 amount equal to the product obtained by multiplying one billion  
13 four hundred million dollars (\$1,400,000,000) by the adjustment  
14 factor for the year;

15 C. "demographer" means the bureau of business and  
16 economic research at the university of New Mexico;

17 D. "inflation factor" means a fraction whose  
18 numerator is the annual implicit price deflator index for state  
19 and local government purchases of goods and services, as  
20 published in the United States department of commerce monthly  
21 publication entitled "Survey of Current Business" or any  
22 successor publication prepared by an agency of the United  
23 States and adopted by the department of finance and  
24 administration, for the calendar year one year prior to the  
25 year in which the distribution is to be made and whose

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1 denominator is the annual index for calendar year 2004;  
2 provided that, if the inflation factor is calculated to have a  
3 value less than one, it shall be deemed to have a value of one;

4 E. "population" means the official population shown  
5 by the most recent federal decennial census or, if there is a  
6 change in boundaries after the date of the census, "population"  
7 for each affected unit shall be the most current estimated  
8 population for that unit provided in writing by the  
9 demographer; provided that after five years from the first day  
10 of the calendar year of the most recent federal decennial  
11 census, that census shall not be used, and "population" for the  
12 period from that date until the date when the next following  
13 official final decennial census population data are available  
14 shall be the most current estimated population provided in  
15 writing by the demographer;

16 F. "qualifying county" means a county that has:

17 (1) for the property tax year in which any  
18 distribution under the Small Counties Assistance Act is made to  
19 the county, imposed a property tax rate for general county  
20 purposes pursuant to Paragraph (1) of Subsection B of Section  
21 7-37-7 NMSA 1978 as limited by Section 7-37-7.1 NMSA 1978 of at  
22 least eight dollars eighty-five cents (\$8.85) per one thousand  
23 dollars (\$1,000) of net taxable value;

24 (2) by July 1 of the property tax year in  
25 which any distribution under the Small Counties Assistance Act

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1 is made to the county, received a written certification from  
2 the director of the property tax division of the taxation and  
3 revenue department that the county assessor of that county has  
4 implemented an acceptable program of maintaining current and  
5 correct property values for property taxation purposes as  
6 required by Section 7-36-16 NMSA 1978 or has submitted to the  
7 director an acceptable plan for the implementation of such a  
8 program;

9 (3) on July 1 of the year in which any  
10 distribution under the Small Counties Assistance Act is made to  
11 the county, a population of not more than forty-eight thousand;

12 (4) imposed county gross receipts tax  
13 increments authorized pursuant to Section 7-20E-9 NMSA 1978  
14 totaling at least three-eighths percent and has those  
15 increments in effect on July 1 of the year in which a  
16 distribution is made, provided that this paragraph does not  
17 apply to a county if the county's valuation for property  
18 taxation purposes does not exceed the product of two hundred  
19 thirty million dollars (\$230,000,000) multiplied by the  
20 adjustment factor for the year; and

21 (5) a total valuation for the property tax  
22 year preceding the year in which a distribution pursuant to the  
23 Small Counties Assistance Act for that county is to be made  
24 that is no greater than the ceiling valuation for that property  
25 tax year; [and]

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1           G. "tax rate factor" means a fraction, the  
 2           numerator of which is the average rate imposed in Section 7-9-7  
 3           NMSA 1978 for the calendar year one year prior to the year in  
 4           which the distribution is to be made and the denominator of  
 5           which is five percent; and

6           ~~[G.]~~ H. "total valuation" means the sum for a  
 7           jurisdiction for a property tax year of the net taxable value  
 8           determined pursuant to the Property Tax Code, the assessed  
 9           value determined pursuant to the Oil and Gas Ad Valorem  
 10          Production Tax Act, the assessed value determined pursuant to  
 11          the Oil and Gas Production Equipment Ad Valorem Tax Act and the  
 12          taxable value determined pursuant to the Copper Production Ad  
 13          Valorem Tax Act."

14          Section 2. Section 4-61-3 NMSA 1978 (being Laws 1982,  
 15          Chapter 44, Section 3, as amended) is amended to read:

16                 "4-61-3. SMALL COUNTIES ASSISTANCE FUND--  
 17          DISTRIBUTION.--

18                         A. The "small counties assistance fund" is created  
 19          within the state treasury.

20                         B. On or before September 1, 2003 and on or before  
 21          September 1 of each subsequent year, the demographer shall  
 22          certify in writing to the department of finance and  
 23          administration the population of the state and of each county  
 24          as of June 30 of the year.

25                         C. On or before September 15, 2003 and on or before

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1 September 15 of each subsequent year, the secretary of finance  
2 and administration shall certify to the state treasurer with  
3 respect to each qualifying county:

4 (1) its population as certified by the  
5 demographer;

6 (2) its total valuation for the preceding  
7 property tax year; and

8 (3) the distribution amount calculated for it.

9 D. The distribution amount for each qualifying  
10 county shall be determined for 2003 and each subsequent year in  
11 accordance with the following table; provided that the bracket  
12 amounts in the first two columns of the table shall be adjusted  
13 annually after 2003 by the adjustment factor. The bracket  
14 amounts in the last column shall be adjusted annually after  
15 2005 by the inflation factor and, from 2011 until 2015, shall  
16 be further adjusted by the tax rate factor. The department of  
17 finance and administration may round the results of the  
18 adjustments made pursuant to this subsection to the nearest one  
19 thousand dollars (\$1,000).

20 If the county's total valuation for the preceding property  
21 tax year is:

22	at least:	but less	and the county	then the distribution
23		than:	population is:	amount is:
24	\$ 0	\$100,000,000	under 1,000	\$450,000
25	\$ 0	\$100,000,000	at least 1,000	

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1			but under	4,000	
2					\$325,000
3	\$ 0	\$100,000,000	at least	4,000	\$250,000
4	\$100,000,000	\$230,000,000	under	12,000	\$175,000
5	\$100,000,000	\$230,000,000	at least	12,000	\$125,000
6	\$230,000,000	\$1,400,000,000	under	48,000	\$ 75,000.

7           E. If the balance in the small counties assistance  
8 fund as of the preceding August 31 exceeds the sum of the  
9 distributions to be made to qualifying counties pursuant to the  
10 provisions of Subsection D of this section, the department of  
11 finance and administration shall increase the distribution  
12 amount for each county receiving a distribution amount pursuant  
13 to the provisions of Subsection D of this section by:

14                   (1) thirty-five thousand dollars (\$35,000) if  
15 the county has imposed and has in effect on July 1 of the year  
16 in which the distribution is to be made a county correctional  
17 facility gross receipts tax at a rate of at least one-eighth  
18 percent;

19                   (2) fifteen thousand dollars (\$15,000) if the  
20 county has imposed and has in effect on July 1 of the year in  
21 which the distribution is to be made a county gross receipts  
22 tax increment of one-sixteenth percent; or

23                   (3) fifty thousand dollars (\$50,000) if the  
24 county has met the requirements of Paragraphs (1) and (2) of  
25 this subsection.

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1           F. If the balance in the small counties assistance  
2 fund as of the preceding August 31 is less than the sum of the  
3 distributions determined pursuant to Subsection D of this  
4 section plus the distribution increases authorized pursuant to  
5 Subsection E of this section, the distribution increases  
6 pursuant to Subsection E of this section shall be  
7 proportionately reduced.

8           G. If the balance in the small counties assistance  
9 fund as of the preceding August 31 is less than the sum of the  
10 distributions to be made to qualifying counties, the department  
11 of finance and administration shall reduce each qualifying  
12 county's calculated distribution by a percentage computed by  
13 dividing the amount by which the fund is insufficient by the  
14 sum of all the calculated distributions and shall certify the  
15 reduced amounts as the qualifying counties' distributions.

16           H. Any interest accruing from the temporary  
17 investment of the small counties assistance fund shall be  
18 credited to the general fund.

19           I. On or before September 30, 2003 and on or before  
20 September 30 of each subsequent year, the state treasurer shall  
21 distribute to each county for whom a distribution has been  
22 certified for that year the amount certified for that county  
23 for that year. If the balance in the fund as of the preceding  
24 August 31 exceeds the sum of certified amounts distributed, the  
25 difference shall revert to the general fund.

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1 J. If any date specified in Subsection B, C or I of  
 2 this section falls on a Saturday, Sunday or legal holiday, any  
 3 action required to be performed as provided in those  
 4 subsections is timely if performed on the next day that is not  
 5 a Saturday, Sunday or legal holiday."

6 Section 3. Section 7-1-6.16 NMSA 1978 (being Laws 1983,  
 7 Chapter 213, Section 27, as amended) is amended to read:

8 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

9 A. Beginning on September 15, 1989 and on September  
 10 15 of each year thereafter, the department shall distribute to  
 11 any county that has imposed or continued in effect during the  
 12 state's preceding fiscal year a county gross receipts tax  
 13 pursuant to Section 7-20E-9 NMSA 1978 an amount equal to:

14 (1) the product of a fraction, the numerator  
 15 of which is the county's population and the denominator of  
 16 which is the state's population, multiplied by the annual sum  
 17 for the county; less

18 (2) the net receipts received by the  
 19 department during the report year, including any increase or  
 20 decrease made pursuant to Section 7-1-6.15 NMSA 1978,  
 21 attributable to the county gross receipts tax at a rate of one-  
 22 eighth percent; provided that for any month in the report year,  
 23 if no county gross receipts tax was in effect in the county in  
 24 the previous month, the net receipts, for the purposes of this  
 25 section, for that county for that month shall be zero.

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1           B. If the amount determined by the calculation in  
2 Subsection A of this section is zero or a negative number for a  
3 county, no distribution shall be made to that county.

4           C. As used in this section:

5                   (1) "annual sum" means for each county the sum  
6 of the monthly amounts for those months in the report year that  
7 follow a month in which the county had in effect a county gross  
8 receipts tax;

9                   (2) "monthly amount" means an amount equal to  
10 the product of:

11                           (a) the net receipts received by the  
12 department in the month attributable to the state gross  
13 receipts tax plus [~~five percent of~~] the total amount of  
14 deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the  
15 month multiplied by the tax rate imposed by Section 7-9-4 NMSA  
16 1978 in effect on the last day of the previous month plus [~~five~~  
17 ~~percent of~~] the total amount of deductions claimed pursuant to  
18 Section 7-9-93 NMSA 1978 for the month multiplied by the tax  
19 rate imposed by Section 7-9-4 NMSA 1978 in effect on the last  
20 day of the previous month; and

21                           (b) a fraction, the numerator of which  
22 is one-eighth percent and the denominator of which is the tax  
23 rate imposed by Section 7-9-4 NMSA 1978 in effect on the last  
24 day of the previous month;

25                   (3) "population" means the most recent

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1 official census or estimate determined by the United States  
 2 census bureau for the unit or, if neither is available, the  
 3 most current estimated population for the unit provided in  
 4 writing by the bureau of business and economic research at the  
 5 university of New Mexico; and

6 (4) "report year" means the twelve-month  
 7 period ending on the July 31 immediately preceding the date  
 8 upon which a distribution pursuant to this section is required  
 9 to be made."

10 Section 4. Section 7-9-4 NMSA 1978 (being Laws 1966,  
 11 Chapter 47, Section 4, as amended) is amended to read:

12 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
 13 "GROSS RECEIPTS TAX".--

14 A. For the privilege of engaging in business, an  
 15 excise tax equal to ~~[five percent of gross receipts]~~ the amount  
 16 specified in Subsection B of this section is imposed on any  
 17 person engaging in business in New Mexico. ~~[B.]~~ The tax  
 18 imposed by this section shall be referred to as the "gross  
 19 receipts tax".

20 B. The gross receipts tax shall be equal to:

21 (1) from July 1, 2010 to June 30, 2011, five  
 22 and one-half percent of gross receipts;

23 (2) from July 1, 2011 to June 30, 2012, five  
 24 and three-eighths percent of gross receipts;

25 (3) from July 1, 2012 to June 30, 2013, five

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1 and one-fourth percent of gross receipts;

2 (4) from July 1, 2013 to June 30, 2014, five  
3 and one-eighth percent of gross receipts; and

4 (5) on or after July 1, 2014, five percent of  
5 gross receipts."

6 Section 5. Section 7-9-7 NMSA 1978 (being Laws 1966,  
7 Chapter 47, Section 7, as amended) is amended to read:

8 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
9 "COMPENSATING TAX".--

10 A. For the privilege of using tangible property in  
11 New Mexico, there is imposed on the person using the property  
12 an excise tax equal to ~~[five percent]~~ the percent specified in  
13 Subsection E of this section of the value of tangible property  
14 that was:

15 (1) manufactured by the person using the  
16 property in the state;

17 (2) acquired outside this state as the result  
18 of a transaction that would have been subject to the gross  
19 receipts tax had it occurred within this state; or

20 (3) acquired as the result of a transaction  
21 ~~[which]~~ that was not initially subject to the compensating tax  
22 imposed by Paragraph (2) of this subsection or the gross  
23 receipts tax but which transaction, because of the buyer's  
24 subsequent use of the property, should have been subject to the  
25 compensating tax imposed by Paragraph (2) of this subsection or

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1 the gross receipts tax.

2 B. For the purpose of Subsection A of this section,  
3 value of tangible property shall be the adjusted basis of the  
4 property for federal income tax purposes determined as of the  
5 time of acquisition or introduction into this state or of  
6 conversion to use, whichever is later. If no adjusted basis  
7 for federal income tax purposes is established for the  
8 property, a reasonable value of the property shall be used.

9 C. For the privilege of using services rendered in  
10 New Mexico, there is imposed on the person using such services  
11 an excise tax equal to ~~[five percent]~~ the percent specified in  
12 Subsection E of this section of the value of the services at  
13 the time they were rendered. The services, to be taxable under  
14 this subsection, must have been rendered as the result of a  
15 transaction ~~[which]~~ that was not initially subject to the gross  
16 receipts tax but which transaction, because of the buyer's  
17 subsequent use of the services, should have been subject to the  
18 gross receipts tax.

19 D. The tax imposed by this section shall be  
20 referred to as the "compensating tax".

21 E. The compensating tax rate shall be:

22 (1) from July 1, 2010 to June 30, 2011, five  
23 and one-half percent;

24 (2) from July 1, 2011 to June 30, 2012, five  
25 and three-eighths percent;

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1                   (3) from July 1, 2012 to June 30, 2013, five  
2 and one-fourth percent;

3                   (4) from July 1, 2013 to June 30, 2014, five  
4 and one-eighth percent; and

5                   (5) on or after July 1, 2014, five percent."

6           Section 6. A new section of the Gross Receipts and  
7 Compensating Tax Act is enacted to read:

8                   "[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--RECEIPTS OF  
9 CERTAIN MEDICAID PROVIDERS.--

10                   A. An eligible medicaid dental provider may claim a  
11 credit for a reporting period against gross receipts tax due  
12 for that reporting period as follows:

13                               (1) on or after July 1, 2010 but before July  
14 1, 2011, in an amount equal to one-half percent of the  
15 provider's taxable gross receipts for that reporting period  
16 from the provision of pediatric dental services to medicaid or  
17 state children's health insurance program recipients;

18                               (2) on or after July 1, 2011 but before July  
19 1, 2012, in an amount equal to three-eighths percent of the  
20 provider's taxable gross receipts for that reporting period  
21 from the provision of pediatric dental services to medicaid or  
22 state children's health insurance program recipients;

23                               (3) on or after July 1, 2012 but before July  
24 1, 2013, in an amount equal to one-fourth percent of the  
25 provider's taxable gross receipts for that reporting period

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1 from the provision of pediatric dental services to medicaid or  
2 state children's health insurance program recipients; and

3 (4) on or after July 1, 2013 but before July  
4 1, 2014, in an amount equal to one-eighth percent of the  
5 provider's taxable gross receipts for that reporting period  
6 from the provision of pediatric dental services to medicaid or  
7 state children's health insurance program recipients.

8 B. Before a person may claim the credit provided in  
9 this section, the person shall submit an application to the  
10 department of health containing all information the department  
11 of health may require to determine if the person is an eligible  
12 medicaid dental provider as defined in this section. The  
13 department of health shall determine whether the applicant is  
14 an eligible medicaid dental provider and shall notify in  
15 writing both the applicant and the taxation and revenue  
16 department of its decision. A person claiming the credit shall  
17 submit a copy of the notification of eligibility from the  
18 department of health to the department of taxation and revenue  
19 pursuant to requirements established by the department of  
20 taxation and revenue.

21 C. For the purposes of this section:

22 (1) "eligible medicaid dental provider" means  
23 a person whose primary business is the provision of pediatric  
24 dental services to patients and whose patient base in the  
25 previous fiscal year was at least seventy-five percent

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1 pediatric dental medicaid or state children's health insurance  
2 program recipients;

3 (2) "medicaid or state children's health  
4 insurance program recipients" means persons receiving services  
5 pursuant to Title 19 or Title 21 of the federal Social Security  
6 Act as administered by the human services department; and

7 (3) "pediatric dental services" means services  
8 that are provided to persons eighteen years of age or younger  
9 by a dentist or dental hygienist licensed pursuant to the  
10 Dental Health Care Act and that are within the scope of  
11 services of that act."

12 Section 7. Section 7-19D-10 NMSA 1978 (being Laws 1990,  
13 Chapter 99, Section 51, as amended) is amended to read:

14 "7-19D-10. MUNICIPAL ENVIRONMENTAL SERVICES GROSS  
15 RECEIPTS TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

16 A. Except as otherwise provided in this section,  
17 the majority of the members of the governing body of a  
18 municipality may enact an ordinance imposing an excise tax on  
19 any person engaging in business in the municipality for the  
20 privilege of engaging in business. The rate of the tax shall  
21 be one-sixteenth of one percent of the gross receipts of the  
22 person engaging in business.

23 B. The tax imposed in accordance with Subsection A  
24 of this section may be referred to as the "municipal  
25 environmental services gross receipts tax". ~~[The imposition of~~

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1 ~~a municipal environmental services gross receipts tax is not~~  
2 ~~subject to referendum.]~~

3 C. The governing body of a municipality shall, at  
4 the time of enacting an ordinance imposing the rate of the tax  
5 authorized in Subsection A of this section, dedicate the  
6 revenue for acquisition, construction, operation and  
7 maintenance of solid waste facilities, water facilities,  
8 wastewater facilities, sewer systems and related facilities.

9 D. The governing body of a municipality in a class  
10 B county with a net taxable value used for rate-setting  
11 purposes for the 2008 property tax year of greater than seven  
12 hundred fifty million dollars (\$750,000,000) and a population  
13 in the entire county according to the most recent federal  
14 decennial census of less than twenty-five thousand may enact an  
15 ordinance imposing an excise tax on any person engaging in  
16 business in the municipality for the privilege of engaging in  
17 business; provided that:

18 (1) the rate of the tax imposed shall not  
19 exceed one-half of one percent of the gross receipts of the  
20 person engaging in business;

21 (2) the tax is imposed in one-fourth of one  
22 percent increments; and

23 (3) the population of the municipality  
24 imposing the municipal environmental services gross receipts  
25 tax according to the most recent federal decennial census is:

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1 (a) more than seven thousand five  
2 hundred but less than seven thousand eight hundred; or

3 (b) more than one thousand five hundred  
4 but less than two thousand.

5 E. An election shall be called on the questions of  
6 disapproval or approval of any ordinance enacted pursuant to  
7 this section or any ordinance amending such ordinance:

8 (1) if the governing body chooses to provide  
9 in the ordinance that it shall not be effective until the  
10 ordinance is approved by the majority of the registered voters  
11 voting on the question at an election to be held pursuant to  
12 the provisions of a home-rule charter or on a date set by the  
13 governing body and pursuant to the provisions of the Municipal  
14 Election Code governing special elections; or

15 (2) if the ordinance does not contain a  
16 mandatory election provision as provided in Paragraph (1) of  
17 this subsection, upon the filing of a petition requesting such  
18 an election if the petition is filed:

19 (a) pursuant to the requirements of a  
20 referendum provision contained in a municipal home-rule charter  
21 and signed by the number of registered voters in the  
22 municipality equal to the number of registered voters required  
23 in its charter to seek a referendum; or

24 (b) in all other municipalities, with  
25 the municipal clerk within thirty days after the adoption of

1 such ordinance and the petition has been signed by a number of  
2 registered voters in the municipality equal to at least five  
3 percent of the number of the voters in the municipality who  
4 were registered to vote in the most recent regular municipal  
5 election.

6 F. The signatures on the petition filed in  
7 accordance with Subsection E of this section shall be verified  
8 by the municipal clerk. If the petition is verified by the  
9 municipal clerk as containing the required number of signatures  
10 of registered voters, the governing body shall adopt an  
11 election resolution calling for the holding of a special  
12 election on the question of approving or disapproving the  
13 ordinance unless the ordinance is repealed before the adoption  
14 of the election resolution. An election held pursuant to  
15 Subparagraph (a) or (b) of Paragraph (2) of Subsection E of  
16 this section shall be called, conducted and canvassed as  
17 provided in the Municipal Election Code for special elections,  
18 and the election shall be held within seventy-five days after  
19 the date the petition is verified by the municipal clerk or it  
20 may be held in conjunction with a regular municipal election if  
21 such election occurs within seventy-five days after the date of  
22 verification by the municipal clerk.

23 G. If at an election called pursuant to Subsection  
24 E of this section a majority of the registered voters voting on  
25 the question approves the ordinance imposing the tax, the

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1 ordinance shall become effective in accordance with the  
2 provisions of the Municipal Local Option Gross Receipts Taxes  
3 Act. If at such an election a majority of the registered  
4 voters voting on the question disapproves the ordinance, the  
5 ordinance imposing the tax shall be deemed repealed and the  
6 question of imposing any increment of the municipal gross  
7 receipts tax authorized in this section shall not be considered  
8 again by the governing body for a period of one year from the  
9 date of the election."

10 Section 8. Section 7-19D-11 NMSA 1978 (being Laws 1991,  
11 Chapter 9, Section 3, as amended) is amended to read:

12 ` "7-19D-11. MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS  
13 TAX--AUTHORITY BY MUNICIPALITY TO IMPOSE--ORDINANCE  
14 REQUIREMENTS--ELECTION.--

15 A. A majority of the members of the governing body  
16 of a municipality may enact an ordinance imposing an excise tax  
17 on any person engaging in business in the municipality for the  
18 privilege of engaging in business. The rate of the tax shall  
19 not exceed one-fourth of one percent of the gross receipts of  
20 the person engaging in business and may be imposed in one-  
21 sixteenth of one percent increments by separate ordinances.

22 ~~[Any ordinance enacting any increment of the first one-eighth~~  
23 ~~of one percent of the tax is not subject to a referendum of any~~  
24 ~~kind, notwithstanding any requirement of any charter~~  
25 ~~municipality, except that an increment that is imposed after~~

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1 ~~July 1, 1998 for economic development purposes set forth in~~  
 2 ~~Paragraph (5) of Subsection C of this section shall be subject~~  
 3 ~~to a referendum as provided in Subsection D of this section.]~~

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

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

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

13 (2) repair, replacement, construction or  
 14 acquisition of infrastructure improvements, including sanitary  
 15 sewer lines, storm sewers and other drainage improvements,  
 16 water, water rights, water lines and utilities, streets,  
 17 alleys, rights of way, easements, international ports of entry  
 18 and land within the municipality or within the extraterritorial  
 19 zone of the municipality;

20 (3) municipal general purposes;

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

25 (5) furthering or implementing economic

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

10 D. An ordinance imposing any increment of the  
11 municipal infrastructure gross receipts tax [~~in excess of the~~  
12 ~~first one-eighth of one percent or any increment imposed after~~  
13 ~~July 1, 1998 for economic development purposes set forth in~~  
14 ~~Paragraph (5) of Subsection C of this section]~~ shall not go  
15 into effect until after an election is held and a majority of  
16 the voters of the municipality voting in the election votes in  
17 favor of imposing the tax. The governing body shall adopt a  
18 resolution calling for an election within seventy-five days of  
19 the date the ordinance is adopted on the question of imposing  
20 the tax. The question shall be submitted to the voters of the  
21 municipality as a separate question at a regular municipal  
22 election or at a special election called for that purpose by  
23 the governing body. A special municipal election shall be  
24 called, conducted and canvassed as provided in the Municipal  
25 Election Code. If a majority of the voters voting on the

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1 question approves the ordinance imposing the municipal  
 2 infrastructure gross receipts tax, then the ordinance shall  
 3 become effective in accordance with the provisions of the  
 4 Municipal Local Option Gross Receipts Taxes Act. If the  
 5 question of imposing the municipal infrastructure gross  
 6 receipts tax fails, the governing body shall not again propose  
 7 the imposition of any increment of the tax in excess of the  
 8 first one-eighth of one percent for a period of one year from  
 9 the date of the election."

10 Section 9. Section 7-20E-10 NMSA 1978 (being Laws 1983,  
 11 Chapter 213, Section 32, as amended) is amended to read:

12 "7-20E-10. COUNTY GROSS RECEIPTS TAX--REFERENDUM  
 13 REQUIREMENTS.--~~[A.] An ordinance enacting [the first or third~~  
 14 ~~one-eighth increment or the one-sixteenth]~~ any increment of  
 15 county gross receipts tax pursuant to Section 7-20E-9 NMSA 1978  
 16 shall be subject to optional referendum selection by the  
 17 governing body, pursuant to Subsection A of Section 7-20E-3  
 18 NMSA 1978.

19 ~~[B. Imposition by any county of the second~~  
 20 ~~one-eighth increment of county gross receipts tax shall not be~~  
 21 ~~subject to a referendum of any kind unless prescribed by the~~  
 22 ~~county charter or the governing body of the county.]"~~

23 Section 10. Section 7-20E-12 NMSA 1978 (being Laws 1989,  
 24 Chapter 239, Section 1, as amended) is amended to read:

25 "7-20E-12. COUNTY EMERGENCY GROSS RECEIPTS TAX--AUTHORITY

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1 TO IMPOSE [~~IN LIEU OF PROPERTY TAX~~].--

2 A. The majority of the members of the governing  
3 body of any county may enact an ordinance [~~or ordinances~~]  
4 imposing an excise tax not to exceed a rate of three-eighths of  
5 one percent of the gross receipts of any person engaging in  
6 business in the county for the privilege of engaging in  
7 business in the county. Any ordinance imposing an excise tax  
8 pursuant to this section shall impose the tax in any number of  
9 increments of one-eighth percent not to exceed an aggregate  
10 amount of three-eighths of one percent. Any ordinance adopted  
11 [~~under~~] pursuant to the provisions of this section shall be in  
12 effect only for the twelve-month period beginning with the  
13 effective date of the ordinance and shall expire on the date  
14 one year after its effective date.

15 B. The tax imposed by this section may be referred  
16 to as the "county emergency gross receipts tax".

17 C. The tax authorized by this section may be  
18 imposed only in a property tax year for which the property  
19 taxes not admitted to be due in the aggregate claims for refund  
20 filed under the provisions of Section 7-38-40 NMSA 1978 for  
21 property taxes imposed in the county [~~under~~] pursuant to the  
22 provisions of Paragraph (1) of Subsection B of Section 7-37-7  
23 NMSA 1978 for that property tax year are more than ten percent  
24 of property taxes imposed in the county under the cited  
25 provisions for that property tax year.

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1                   D. An ordinance imposing a county emergency gross  
2                   receipts tax shall be subject to optional referendum selection  
3                   by the governing body pursuant to Subsection A of Section  
4                   7-20E-3 NMSA 1978.

5                   ~~[D-]~~ E. As used in this section, "county" means a  
6                   class B county of the state with:

7                               (1) a population of not less than thirty  
8                   thousand and not more than thirty thousand seven hundred  
9                   according to the most recent federal decennial census and a net  
10                  taxable value for rate-setting purposes for the 1988 property  
11                  tax year or any subsequent year of more than ninety-two million  
12                  dollars (\$92,000,000) but less than one hundred twenty-five  
13                  million dollars (\$125,000,000);

14                              (2) a population of not less than fifty-six  
15                  thousand and not more than fifty-six thousand seven hundred  
16                  according to the most recent federal decennial census and a net  
17                  taxable value for rate-setting purposes for the 1988 property  
18                  tax year or any subsequent year of more than five hundred  
19                  million dollars (\$500,000,000) but less than five hundred fifty  
20                  million dollars (\$550,000,000); and

21                              (3) a population of not less than eighty-one  
22                  thousand and not more than eighty-one thousand seven hundred  
23                  according to the most recent federal decennial census and a net  
24                  taxable value for rate-setting purposes for the 1988 property  
25                  tax year or any subsequent year of more than one billion five

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1 hundred million dollars (\$1,500,000,000) but less than two  
2 billion dollars (\$2,000,000,000).

3 ~~[E-]~~ F. The governing body prior to the month in  
4 which the proceeds of this tax will first be distributed may  
5 request the department to make an advance distribution. Upon  
6 concurrence of the department of finance and administration,  
7 the department shall make the advance distribution. An advance  
8 distribution is an amount equal to the product of the net  
9 receipts with respect to the gross receipts tax reported from  
10 business locations in the county for the month multiplied by a  
11 fraction the numerator of which is the rate imposed by the  
12 county under this section and the denominator of which is the  
13 rate imposed for the month by Section 7-9-4 NMSA 1978. The  
14 aggregate amount of advance distributions made to the county  
15 shall be recovered by the department by reducing the monthly  
16 amount transferable to the county as a result of the imposition  
17 of a tax ~~[under]~~ pursuant to the provisions of this section by  
18 one-twelfth of the aggregate amount of advance distributions  
19 made."

20 Section 11. Section 7-20E-12.1 NMSA 1978 (being Laws  
21 1994, Chapter 14, Section 1, as amended) is amended to read:

22 "7-20E-12.1. COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS  
23 TAX--AUTHORITY TO IMPOSE--USE OF PROCEEDS.--

24 A. A majority of the members of a governing body  
25 may enact an ordinance imposing an excise tax on a person

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1 engaging in business in the county for the privilege of  
2 engaging in business. The rate of the tax shall be one-fourth  
3 of one percent of the gross receipts of the person engaging in  
4 business. The tax shall be imposed for a period of not more  
5 than two years from the effective date of the ordinance  
6 imposing the tax. The tax may be imposed for an additional  
7 period not to exceed three years from the date of the ordinance  
8 imposing the tax for that period. On or after July 1, 1997:

9 (1) in a county described in Paragraph (1) of  
10 Subsection [~~D~~] E of this section, the tax may be imposed for  
11 the period necessary for payment of bonds or a loan for  
12 acquisition, equipping, remodeling or improvement of a county  
13 hospital facility, but the period shall not exceed twenty years  
14 from the effective date of the ordinance imposing the tax for  
15 that period; and

16 (2) in a county described in Paragraph (2) of  
17 Subsection [~~D~~] E of this section, the tax may be imposed for  
18 the period necessary for payment of bonds or a loan for  
19 acquisition, equipping, remodeling or improvement of a county  
20 health facility, but the period shall not exceed twenty years  
21 from the effective date of the ordinance imposing the tax for  
22 that period.

23 B. The tax imposed by this section may be referred  
24 to as the "county hospital emergency gross receipts tax".

25 C. At the time of enacting the ordinance imposing

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1 the tax authorized in this section:

2 (1) if the effective date of the tax is prior  
3 to July 1, 1997, the governing body shall dedicate the revenue  
4 for current operations and maintenance of a hospital owned by  
5 the county or a hospital with which the county has entered into  
6 a health care facilities contract; provided that a majority of  
7 the members of a governing body may enact an ordinance to  
8 change the purposes for which the revenue from a previously  
9 imposed tax is dedicated and to dedicate that revenue during  
10 the remainder of the tax imposition period to payment of bonds  
11 or a loan for acquisition, equipping, remodeling or improvement  
12 of a county hospital facility; and

13 (2) if the effective date of the tax is on or  
14 after July 1, 1997:

15 (a) the governing body of a county  
16 described in Paragraph (1) of Subsection ~~[D]~~ E of this section  
17 shall dedicate the revenue for the period of time the tax is  
18 imposed to payment of a bond or loan for acquisition,  
19 equipping, remodeling and improvement of a county hospital  
20 facility; and

21 (b) the governing body of a county  
22 described in Paragraph (2) of Subsection ~~[D]~~ E of this section  
23 shall dedicate the revenue for the period of time the tax is  
24 imposed to payment of a bond or loan for acquisition,  
25 equipping, remodeling and improvement of a county health

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1 facility.

2 D. An ordinance imposing a county hospital  
 3 emergency gross receipts tax shall be subject to optional  
 4 referendum selection by the governing body pursuant to  
 5 Subsection A of Section 7-20E-3 NMSA 1978.

6 ~~[D-]~~ E. As used in this section, "county" means:

7 (1) a class B county with a population of less  
 8 than ten thousand according to the 1990 federal decennial  
 9 census and with a net taxable value for rate-setting purposes  
 10 for the 1993 property tax year in excess of one hundred million  
 11 dollars (\$100,000,000); or

12 (2) a class B county with a population of less  
 13 than ten thousand according to the 1990 federal decennial  
 14 census and with a net taxable value for rate-setting purposes  
 15 for the 1997 property tax year of more than one hundred million  
 16 dollars (\$100,000,000) but less than one hundred twenty million  
 17 dollars (\$120,000,000)."

18 Section 12. Section 7-20E-17 NMSA 1978 (being Laws 1990,  
 19 Chapter 99, Section 58, as amended) is amended to read:

20 "7-20E-17. COUNTY ENVIRONMENTAL SERVICES GROSS RECEIPTS  
 21 TAX--AUTHORITY TO IMPOSE RATE--USE OF FUNDS.--

22 A. The majority of the members of the governing  
 23 body of any county may enact an ordinance imposing an excise  
 24 tax at a rate of one-eighth of one percent of the gross  
 25 receipts of any person engaging in business in the county area

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underscored material = new  
 [bracketed material] = delete

1 for the privilege of engaging in business.

2 B. This tax is to be referred to as the "county  
3 environmental services gross receipts tax".

4 ~~[C. Imposition by any county of the county  
5 environmental services gross receipts tax shall not be subject  
6 to a referendum of any kind unless prescribed by the county  
7 charter.]~~

8 C. An ordinance imposing a county environmental  
9 services gross receipts tax shall be subject to optional  
10 referendum selection by the governing body pursuant to  
11 Subsection A of Section 7-20E-3 NMSA 1978.

12 D. Any county, at the time of enacting an ordinance  
13 imposing a county environmental services gross receipts tax,  
14 shall dedicate the entire amount of revenue produced by the tax  
15 for the acquisition, construction, operation and maintenance of  
16 solid waste facilities, water facilities, wastewater  
17 facilities, sewer systems and related facilities.

18 E. Any ordinance enacted ~~[under]~~ pursuant to the  
19 provisions of Subsection A of this section shall include an  
20 effective date of either July 1 or January 1 in accordance with  
21 the provisions of the County Local Option Gross Receipts Taxes  
22 Act."

23 Section 13. Section 7-20E-18 NMSA 1978 (being Laws 1991,  
24 Chapter 212, Section 7, as amended) is amended to read:

25 "7-20E-18. COUNTY HEALTH CARE GROSS RECEIPTS TAX--

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## 1 AUTHORITY TO IMPOSE RATE.--

2 A. The majority of the members of the governing  
3 body of any county may enact an ordinance imposing an excise  
4 tax at a rate of one-sixteenth percent of the gross receipts of  
5 any person engaging in business in the county for the privilege  
6 of engaging in business in the county. [~~Any ordinance imposing~~  
7 ~~an excise tax pursuant to this section shall not be subject to~~  
8 ~~a referendum.~~] The governing body of a county shall, at the  
9 time of enacting an ordinance imposing the tax, dedicate the  
10 revenue to the county-supported medicaid fund. This tax is to  
11 be referred to as the "county health care gross receipts tax".

12 B. In addition to the imposition of the county  
13 health care gross receipts tax authorized by Subsection A of  
14 this section, the majority of the members of the governing body  
15 of a county having a population of more than five hundred  
16 thousand persons according to the most recent federal decennial  
17 census may enact an ordinance imposing an additional one-  
18 sixteenth percent increment of county health care gross  
19 receipts tax; provided that the imposition of the additional  
20 increment shall be for a period that ends no later than June  
21 30, 2009. To continue an increment after June 30, 2009 or  
22 beyond any five-year period for which the increment has been  
23 imposed, the members of the governing body shall review the  
24 need for the increment and if the majority of the members vote  
25 in favor of continuing the increment imposed pursuant to this

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1 subsection, the increment shall be imposed for an additional  
2 period of five years. The governing body of the county shall,  
3 at the time of enacting an ordinance imposing the additional  
4 increment of county health care gross receipts tax, dedicate  
5 the revenue to the support of indigent patients.

6 C. An ordinance imposing a county health care gross  
7 receipts tax shall be subject to optional referendum selection  
8 by the governing body pursuant to Subsection A of Section  
9 7-20E-3 NMSA 1978.

10 [~~C.~~] D. Any ordinance enacted pursuant to the  
11 provisions of Subsection A or B of this section shall include  
12 an effective date of either July 1 or January 1 in accordance  
13 with the provisions of the County Local Option Gross Receipts  
14 Taxes Act."

15 Section 14. EFFECTIVE DATE.--The effective date of the  
16 provisions of this act is July 1, 2010.