

December 11, 2013

## Agenda

**5:00 P.M. Public Hearing**  
Valencia County Commission  
Chambers  
444 Luna Avenue  
Los Lunas, NM 87031

### Board of County Commissioners

Charles D. Eaton, Chair	District IV
Alicia Aguilar, Vice-Chair	District II
Mary Andersen	District I
Lawrence R. Romero	District III
Jhonathan Aragon	District V

***Please Silence all Electronic Devices***

- 1) Call Meeting to Order
- 2) Pledge of Allegiance
- 3) Approval of Agenda

A handwritten signature in black ink, likely belonging to Norbert Schueller.

### PRESENTATION(S)

- 4) Correctional Facility and Hold Harmless Gross Receipts Tax Issues. **Norbert Schueller**

### ACTION ITEM(S)

- 5) Direct Staff to Publish County Correctional Gross Receipts Tax Ordinance. **Commissioner Mary Andersen**

### PUBLIC HEARING ITEM(S)

- 6) Valencia County Ordinance 2013-\_\_ Amending Valencia County Solid Waste Ordinance 2010-01, The Solid Waste Management Ordinance (Modifying County Code 50.33 Requirements for Solid Waste Haulers Insurance.) **Kelly Bouska, Sarah Schnell**
- 7) Valencia County Ordinance 2013-\_\_ Pain Capable Unborn Child Protection Ordinance. **Commissioner Lawrence Romero**

### PUBLIC COMMENT

Please sign up on the sheet located just outside the Commission Chambers. The Board will allow each member of the public wishing to address the Board a full and complete opportunity to address the Commission.

### NEXT COMMISSION MEETING

**- December 18, 2013 – Business Meeting 5:00 P.M.**  
**Valencia County Commission Chambers, 444 Luna Ave., Los Lunas, NM 87031**

### ADJOURN

*If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Valencia County Manager's Office at the Valencia County Courthouse, Los Lunas, New Mexico, (505) 866-2014 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Valencia County Manager's Office at the old Valencia County Courthouse if a summary or other type of accessible format is needed.*

**B: 77 P: 479**



## VALENCIA COUNTY BOARD OF COMMISSIONERS

## PUBLIC HEARING

DECEMBER 11, 2013

PRESENT	ABSENT
Charles Eaton, Chairman	
	Alicia Aguilar, Vice-Chair
Lawrence R. Romero, Member	
Jhonathan Aragon, Member	
Mary J. Andersen, Member	
Nick Telles, Interim County Manager	
Adren Nance & Dave Pato, County Attorneys	
Peggy Carabajal, County Clerk	
Press and Public	

1) The meeting was called to order by Chairman Eaton at 5:06 P.M.

2) Julia Dendinger led the Pledge of Allegiance.

3) Approval of Agenda

Commissioner Aragon moved for approval. Seconded by Commissioner Andersen. Motion carried unanimously.

PRESENTATION(S)

4) Correctional Facility and Hold Harmless Gross Receipts Tax Issues. *Norbert Schueller*

Mr. Schueller gave a presentation on 2 GRT ordinances, the Correctional Facility GRT and the Hold Harmless GRT. These 2 taxes can be passed with the commission's vote of approval, without having to hold a special election. (See Exhibit A)

ACTION ITEM(S)

5) Direct Staff to Publish County Correctional Gross Receipts Tax Ordinance. *Commissioner Mary Andersen*

Commissioner Andersen stated that since the end of the Correctional GRT that was previously in place the county is losing \$1.5 million per year that was dedicated to the operation of the jail when this GRT was in place 3-4 years ago. Every year from the general fund we are transferring \$3+ million, money which should be going into the equipment for the roads, road improvements and employee salaries. Commissioner Andersen went on to say that if we don't get this tax re-imposed we are not going to be able to balance next year's budget; there will have to be cuts in staff and possibly salaries. The bulk of the money coming into the county goes into the operation of the jail, law enforcement and salaries. So you're looking at a very small amount of money that we have to spread a long way. The county is spending \$21,000 a year on each one of the beds at the Detention Center. Each one of the inmates is costing the taxpayer \$57 per day.

Commissioner Andersen moved to publish title and general subject matter of the proposed ordinance. Seconded by Chairman Eaton.

Chairman Eaton stated that since 2010 the county has paid a little over \$1.3 million to house inmates outside of the county and that is a tremendous amount of money that we are paying. We are depleting the general fund to operate the jail; the GRT tax would subsidize the general fund. This GRT would be derived from when people purchase items, it will not affect the property taxes. Commissioner Andersen added that she is not looking at this tax to solve all the problems because it won't. We are looking into the things that can make a more efficient county operation, we are also hoping to put a big emphasize on economic development. I want to assure the public that were not relying just on the tax but we need to have this. We need to put this county on a progressive path to a better economic culture.

Attorney Pato confirmed that Commissioner Anderson requested that this matter be heard at a Public Hearing on January 8<sup>th</sup> and be voted upon on the January 15<sup>th</sup> meeting. Chairman Eaton called for the vote. Motion carried unanimously. (See Exhibit B)

PUBLIC HEARING ITEM (S)

**B: 77 P: 480**



Minutes of December 11, 2013 Public Hearing

6) Valencia County Ordinance 2013-\_\_\_\_ Amending Valencia County Solid Waste Ordinance 2010-01, The Solid Waste Management Ordinance (Modifying County Code 50.33 Requirements for Solid Waste Haulers Insurance.) *Kelly Bouska/Sarah Schnell*  
Charles Montoya owner of AC Disposal Services commented that when his business was getting ready to renew the contract with the county for commercial hauling the county had asked him to get \$6 million dollars of insurance. Prior to that with residential services the county was only asking for \$1 million of insurance, so going from \$1 million to \$6 million is a \$9,000 difference for his company per year. Many insurance companies will not give us that amount because we are a small company. Please change the ordinance to keep it at \$1 million as it used to be.

7) Valencia County Ordinance 2013- \_\_\_\_ Pain Capable Unborn Child Protection Ordinance. *Commissioner Lawrence Romero*

There were a number of individuals speaking in favor of the proposed ordinance and also a number of people that were opposed to the ordinance. Both sides had many things to say to as to why they were either for or against the ordinance.

The individuals speaking at tonight's meeting that are in support of the proposed ordinance include Kristopher Ramos, Ms. Justice, Archie Farnsworth, Jackie Farnsworth, Glenda Miller, Eleanor Love, Marcella Melendez, Lauri Reed, Priscilla Ebert, Larry Chambers, Ginger Brown, Fred Jaramillo, and Howard Stansell.

The individuals speaking at tonight's meeting that are opposed to the proposed ordinance include Diane Laydon, Debbie Christensen, Geri Rhodes, Lois Sullivan, Charlene Moore, Stacey Ward, Janet Yates, Lisa Chavez, Michael Doyle, Pam Cordova, April Sanchez, Kimberly Johnson, Kathleen McCord, Laura Sanchez, Dell Washington, Tom Welch, Michael Melendez, and Rachel Maestas.

Attorney Pato announced that there will be another public hearing on this issue on December 20, 2013 at 5:00 p.m.

**NEXT COMMISSION MEETING:**

The next Regular Meeting of the Valencia County Board of County Commission will be held on December 18, 2013 at 5:00 P.M. Meeting in the County Commission Room at the Valencia County Courthouse.

**8) Adjournment**

Commissioner Andersen moved for adjournment. Seconded by Commissioner Romero. Motion carried unanimously. TIME: 7:48 P.M.

**NOTE:** All proposals, documents, items, etc., pertaining to items on the agenda of the December 11, 2013 Public Hearing (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

**VALENCIA COUNTY BOARD OF COMMISSIONERS**

  
CHARLES EATON, CHAIRMAN


  
ALICIA AGUILAR, VICE-CHAIR

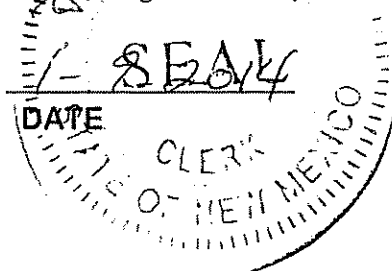
  
LAWRENCE R. ROMERO, MEMBER

  
JHONATHAN ARAGON, MEMBER

  
MARY J. ANDERSEN, MEMBER

ATTEST:

  
PEGGY CARABAJAL, COUNTY CLERK



**B: 77 P: 481**



Exhibit A

# OVERVIEW of Potential Taxes

One Possible Solution for Long-Term  
Additional Revenue for  
Valencia County Government

presented to Valencia County Commissioners  
Commission Hearing Meeting, 11 December 2013

**B: 77 P: 482**



<u>Name of Tax</u>	<u>Statutory Authority</u>	<u>Elect?</u>	<u>Dedication</u>	<u>Rate</u>	<u>Monthly Amount</u>	<u>Annual Amount</u>
<b>1. Hold Harmless GRT – Co. option</b>	§ 7-20E-28, NMSA 1978 (2013)	NO; No Ref.	Public Works (Roads) Sheriff's Dept. &/or <u>Co. Detention Facility</u> (Jail)	3/8 <sup>th</sup> % (0.375%)	c. \$270k	c. \$3M
<b>2. County Infrastructure GRT</b>	§ 7-20E-19, NMSA 1978 (2003)	YES; No Ref.	Public Works (any county infrastructure: e.g., roads) &/or <u>Co. Detention Facility</u> (Jail)	1/16 <sup>th</sup> % (0.0625%) → 1/8 <sup>th</sup> % (0.125%)	c. \$45k → \$90k	c. \$550k → \$1M
<b>3. County Capital Outlay GRT</b>	§ 7-20E-21, NMSA 1978 (2010)	YES; No Ref.	Any county infra- structure purpose: (e.g., roads; buildings) &/or <u>Co. Detention Facility</u> (Jail)	1/16 <sup>th</sup> % (0.0625%) → ¼ % (0.25%)	c. \$45k → \$180k	c. \$550k → \$2M
<b>4. County correctional facility GRT</b>	§ 7-20F-3, NMSA 1978 (2004)	NO; pos. Neg. Ref.	Operating, maintain- ing, equipping a county correctional facility (jail)	1/16 <sup>th</sup> % (0.0625%) → 1/8 <sup>th</sup> % (0.125%)	c. \$45k → \$90k	c. \$550k → \$1M

# 4. above ↑, should be pursued with extreme caution; funds for the jail can be obtained with the other 3 GRTs, without the risk of a possible Negative Referendum under § 7-20E-3(A)(1), NMSA 1978 (2004).

B: 77 P: 483



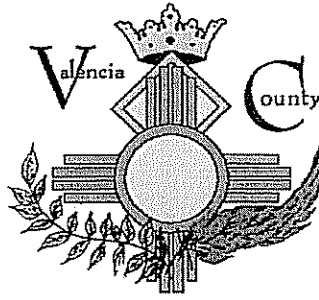
**PROPERTY TAX:**

According to Planning & Zoning, there are c. 200,000 ¼-acre lots in east county, previously owned by V.I.A. According to V.I.A. representations to the Assessor’s Office, some of those lots have recently been sold. IF the Assessor can find a basis for imposition of a minimum property tax of \$27.50 per ¼-acre parcel, the resulting revenue to the county would be c. \$5.5M.

# 2 Proposed GRT Ordinances

B: 77 P: 484





**VALENCIA COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
**ORDINANCE No. 2014 - \_\_\_\_\_**  
**ADOPTING A COUNTY HOLD HARMLESS**  
**GROSS RECEIPTS TAX**

**BE IT ORDAINED BY THE GOVERNING BODY,**  
**THE BOARD OF COUNTY COMMISSIONERS,**  
**OF THE COUNTY OF VALENCIA, STATE OF NEW MEXICO**

**SECTION 1. Imposition of Tax.** There is imposed on any person engaging in business in the county, for the privilege of engaging in business in this county an excise tax equal to three-eighths ( $3/8^{\text{ths}}$ ) of one percent (0.375%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "*county hold harmless gross receipts tax*."

**SECTION 2. General Provisions.** This ordinance hereby adopts by reference all definitions, exemptions and deductions contain in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

**SECTION 3. Specific Exemptions.** No county hold harmless gross receipts tax shall be imposed on the gross receipts arising from:

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Page 1 of 2

**B: 77 P: 485**



- A. transporting persons or property for hire by railroad, motor vehicles, air transportation or any others means from one point within the county to another point outside the county;
- B. direct broadcast satellite services.

**SECTION 4. Dedication.** Revenue from the county hold harmless gross receipts tax will be used for the purposes listed below:

- A. one-third (1/3<sup>rd</sup>) for the operations of the Valencia County Sheriff's Department;
- B. one-third (1/3<sup>rd</sup>) for the operations of the Valencia County Detention facility (jail);
- C. one-third (1/3<sup>rd</sup>) for the maintenance and repair of the roads &/or streets within the unincorporated portions of Valencia County.

**SECTION 5. Effective Date.** The effective date of the county hold harmless gross receipts tax shall be either January 1, or July 1, whichever date occurs after the expiration of three months from the date this ordinance is adopted.

**ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF VALENCIA COUNTY, STATE OF NEW MEXICO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.**

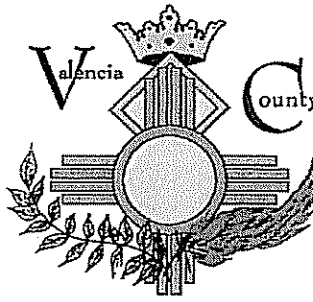
**ATTEST:**

\_\_\_\_\_  
Charles D. Eaton,  
Chair, District IV

\_\_\_\_\_  
Peggy Carabajal, County Clerk







**VALENCIA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
ORDINANCE No. 2014 - \_\_\_\_\_  
ADOPTING A COUNTY CORRECTIONAL  
FACILITY GROSS RECEIPTS TAX**

**BE IT ORDAINED BY THE GOVERNING BODY,  
THE BOARD OF COUNTY COMMISSIONERS,  
OF THE COUNTY OF VALENCIA, STATE OF NEW MEXICO**

**SECTION 1. Imposition of Tax.** There is imposed on any person engaging in business in the county, for the privilege of engaging in business in this county an excise tax equal to one-eighth ( $1/8^{\text{th}}$ ) of one percent (0.125%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "*county correctional facility gross receipts tax*."

**SECTION 2. General Provisions.** This ordinance hereby adopts by reference all definitions, exemptions and deductions contain in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

**SECTION 3. Specific Exemptions.** No county correctional facility gross receipts tax shall be imposed on the gross receipts arising from:

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Page 1 of 2

**B: 77 P: 487**



- A. transporting persons or property for hire by railroad, motor vehicles, air transportation or any others means from one point within the county to another point outside the county;
- B. direct broadcast satellite services.

**SECTION 4. Dedication.** Revenue from the county correctional facility gross receipts tax will be used for the purposes listed below:

for the operation and maintenance of Valencia County's Correctional Detention Facility, more commonly referred to as the "*county jail*".

**SECTION 5. Effective Date.** The effective date of the county correctional facility gross receipts tax shall be either January 1, or July 1, whichever date occurs after the expiration of three months from the date this ordinance is adopted.

**ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF VALENCIA COUNTY, STATE OF NEW MEXICO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.**

**ATTEST:**

\_\_\_\_\_  
Charles D. Eaton,  
Chair, District IV

\_\_\_\_\_  
Peggy Carabajal, County Clerk



# TIMELINE for 2 GRTS

**B: 77 P: 489**



Timeline for Hold Harmless & Correctional Facility GRTs

HH	CF
Wed., 4 December 2013	Regular Commission Business Meeting Presentation of 2 proposed GRT ordinances: <i>Hold Harmless &amp; Correctional Facility GRTs</i>
Wed., 18 December 2013	Regular Commission Business Meeting Proposed ordinances authorized for publication: 1 <sup>st</sup> step of enacting an ordinance
Thurs., 26 December 20 13	One-time publication in <i>Valencia County News-Bulletin</i> : 2 <sup>nd</sup> step of enacting an ordinance
12/18/2013 → 01/14/2014	PUBLIC AWARENESS & PUBLIC INFORMATION CAMPAIGN to make public aware of need, especially for <i>Correctional Facility GRT</i> , which is subject to a Negative Referendum
Thurs., 2 January 2014	Regular Commission Business Meeting New Year: Organizational Meeting of Commission
Wed., 8 January 2014	Commission Hearing <u>OPTIONAL</u> Hearing for both Ordinances
Wed., 15 January 2014	Regular Commission Business Meeting Enactment of County <i>Hold Harmless &amp; Correctional Facility GRT</i> Ordinances: 3 <sup>rd</sup> step in enacting the ordinance
c. Monday, 3 February 2014 01/15/2014 → 03/16/2014	<i>Hold Harmless GRT</i> submitted to NM TRD for final approval & implementation on <u>1 July 2014</u> : Final step 60-day period to allow for petition by 5% [c., 2,175] of <u>registered</u> voters requesting an election on question of approving or disapproving the <i>Correct. Facility</i> ordinance
Mon., 17 March 2013	IF NO Petition, <i>Correctional Facility</i> Ordinance can go to TRD for final approval & implementation on <u>1 July 2014</u> : Final step
17 March 2014 & subsequent within 60 days of verification	IF there is a Petition, matter goes to County Clerk for verification of signatures of registered voters Election on question of approving or disapproving the <i>Correctional Facility GRT</i> ordinance
by 30 September 2014	IF approved by voters, ordinance goes to TRD for approval and implementation on <u>1 January 2015</u> : Final step
	IF disapproved by voters, this ordinance cannot be re-enacted by BOCC for one year after the election



**"Hold  
Harmless"  
GRT**

**B: 77 P: 491**



**7-20E-28. County hold harmless gross receipts tax.**

A. The majority of the members of the governing body of any county may impose by ordinance an excise tax not to exceed a rate of three-eighths percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of gross receipts tax rate increments, but the total gross receipts tax rate imposed by all ordinances pursuant to this section shall not exceed an aggregate rate of three-eighths percent of the gross receipts of a person engaging in business. Counties may impose increments of one-eighth of one percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county hold harmless gross receipts tax". The imposition of a county hold harmless gross receipts tax is not subject to referendum.

C. The governing body of a county may, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, dedicate the revenue for a specific purpose or area of county government services, including but not limited to police protection, fire protection, public transportation or street repair and maintenance. If the governing body proposes to dedicate such revenue, the ordinance and any revenue so dedicated shall be used by the county for that purpose unless a subsequent ordinance is adopted to change the purpose to which the revenue is dedicated or to place the revenue in the general fund of the county.

D. Any law that imposes or authorizes the imposition of a county hold harmless gross receipts tax or that affects the county hold harmless gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such county hold harmless gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

History: Laws 2013, ch. 160, § 12.

**B: 77 P: 492**



the county. Counties imposing this tax are required to include the following language in their enacting ordinance:

(1) an amount not to exceed \$750,000 of the money from the county business retention gross receipts tax shall be distributed to the State General Fund to reduce the impact to the State General Fund of gaming tax lost to the state from the county from reduced gaming tax revenue due to decreased economic activity in the county; and

(2) any remaining revenue from the county business retention gross receipts tax shall be distributed back to the county for promotion or administration of the county, instructional or general purposes for a public post-secondary educational institution in the county, capital outlay to expand or relocate a public post-secondary educational institution in the county or funding professional services contracts related to implementing an economic development plan adopted by the government body that shall be updated on an annual basis during the period in which this tax is imposed.

See page 22 for the county business retention gross receipts tax model ordinance.

**COUNTY HOLD HARMLESS GROSS RECEIPTS TAX**



Counties can impose a maximum county hold harmless gross receipts tax of three-eighths of one percent (.375%) of gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county. The tax can be implemented by adoption of one or more ordinances, in one-eighth increments up to an aggregate rate of three-eighths percent. Proceeds from the tax may be dedicated to a specific purpose or area of county government services, including but not limited to police protection, fire protection, public transportation or street repair and maintenance. No election is required and voters cannot petition for an election.

Any law that imposes or authorizes the imposition of a county hold harmless gross receipts tax or that affects the county hold harmless gross receipts tax,

or any supplemental law, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of county hold harmless gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made.

See page 22 for the county hold harmless gross receipts tax model ordinance.

**AMENDING AN EXISTING ORDINANCE**

The only section of a County Gross Receipts Tax Ordinance that can be amended is Section 4, the dedication section. The procedures for enacting the ordinance to amend an ordinance and any election requirements are the same as those for enacting the original ordinance.

See model ordinance for amending a dedication of a county local option gross receipts tax on page 23.

**REPEALING AN EXISTING ORDINANCE**

The procedures for enacting an ordinance to repeal an ordinance and any election requirements are the same as those for enacting the original ordinance.

See model ordinance for repealing a county local option gross receipts tax on page 23.





MODEL ORDINANCE – CBRGRT - 2013  
County Business Retention Gross Receipts Tax  
Adopting a Tax Increment

ORDINANCE NUMBER \_\_\_\_\_  
ADOPTING A COUNTY BUSINESS RETENTION  
GROSS RECEIPTS TAX

BE IT ORDAINED BY THE GOVERNING BODY OF  
(Name of County):

**Section 1. Imposition of Tax.** There is imposed on any person engaging in business in the county for the privilege of engaging in business in the county an excise tax equal to ~~[one-sixteenth of one percent (.0625%), one-eighth of one percent (.125%), three-sixteenths of one percent (.1875%), or one-fourth of one percent (.25%)]~~ of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "county business retention gross receipts tax."

**Section 2. General Provisions.** This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

**Section 3. Specific Exemptions.** No county business retention gross receipts tax shall be imposed on the gross receipts arising from:

- A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county;
- B. direct broadcast satellite services.

**Section 4. Dedication.** Revenue from the county business retention gross receipts tax will be used for the purpose(s) listed below:

- 1) an amount not to exceed \$750,000 of the money from the county business retention gross receipts tax shall be distributed to the State General Fund to reduce the impact to the State General Fund of gaming tax lost to the state from the county from reduced gaming tax revenue due to decreased economic activity in the county; and
- 2) any remaining revenue from the county business retention gross receipts tax shall be distributed back to the county for promotion or administration of the county, instructional or general purposes for a public post-secondary educational institution in the county, capital outlay to expand or relocate a public post-secondary educational institution in the county or funding professional services contracts related to implementing an economic development plan adopted by the government body that shall be updated on an annual basis during the period in which this tax is imposed.

**Section 5. Effective Date.** The effective date of the countywide emergency communications and emergency medical and behavioral health services tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date when the results of the election are certified to be in favor of the ordinance's adoption and the adopted ordinance is delivered or mailed to the Taxation and Revenue Department.

**Section 6. Delayed Repeal. (Mandatory)** Ordinance Number \_\_\_\_\_ (if it becomes law) is repealed effective \_\_\_\_\_

ADOPTED BY THE GOVERNING BODY OF \_\_\_\_\_ THIS  
\_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

ATTEST: (Signatures of County Clerk and Chairperson of the Board of County Commissioners)

June 2013

B: 77 P: 494



MODEL ORDINANCE – CHHGRT - 2013  
County Hold Harmless Gross Receipts Tax  
Adopting a Tax Increment

ORDINANCE NUMBER \_\_\_\_\_  
ADOPTING A COUNTY HOLD HARMLESS  
GROSS RECEIPTS TAX

BE IT ORDAINED BY THE GOVERNING BODY OF  
(Name of County):

**Section 1. Imposition of Tax.** There is imposed on any person engaging in business in the county, for the privilege of engaging in business in this county an excise tax equal to ~~[one-eighth of one percent (.125%) or one-fourth of one percent (.25%) or three eighths of one percent (.375%)]~~ of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "county hold harmless gross receipts tax."

**Section 2. General Provisions.** This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

**Section 3. Specific Exemptions.** No county hold harmless gross receipts tax shall be imposed on the gross receipts arising from:

- A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county;
- B. direct broadcast satellite services.

**Section 4. Dedication.** Revenue from the county hold harmless gross receipts tax will be used for the purpose(s) listed below:

**Section 5. Effective Date.** The effective date of the county hold harmless gross receipts tax shall be either January 1, or July 1, whichever date occurs first after the expiration of three months from the date this ordinance is adopted.

**Section 6. Delayed Repeal. (Optional)** Ordinance Number \_\_\_\_\_ (if it becomes law) is repealed effective (date).

ADOPTED BY THE GOVERNING BODY OF \_\_\_\_\_  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

ATTEST: (Signatures of Municipal Clerk and Mayor)





# **"Correctional Facility" GRT**

**B: 77 P: 495**



**7-20F-3. County correctional facility gross receipts tax; authority to impose; rate; ordinance requirements; referendum.**

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

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

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

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

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

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

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

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

(c) to payment of principal and interest on revenue bonds or refunding bonds issued pursuant to the provisions of the County Correctional Facility Gross Receipts Tax Act [7-20F-1 NMSA 1978].

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

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

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

G. The repeal of an ordinance imposing a county correctional facility gross receipts tax shall state that the repeal shall be effective on January 1 or July 1, whichever occurs first following the date the department is notified personally or by mail by the county of the repeal.

History: Laws 1993, ch. 303, § 3; 1994, ch. 101, § 10; 1998, ch. 65, § 3; 2004, ch. 110, § 7.

**B: 77 P: 496**



the renovation, design, construction, equipping or furnishing of hospital facilities or health care clinic facilities to be operated by the county or operated and maintained by another party pursuant to a health care facilities contract lease or management contract with the county; and 2) use as matching funds for state or federal programs benefiting the facilities. Effective July 1, 2009, **San Juan** County may also enact an ordinance to modify, prior to the delayed repeal date, the dedication of an existing imposition to one or more of the purposes listed in this paragraph.

An election is required for impositions of the local hospital gross receipts tax or any modification of an existing imposition.

See page 16 for the local hospital gross receipts tax model ordinance.

### **COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX (7-20E-12.1)**

At this time Sierra and Hidalgo Counties are the only counties authorized to impose the county hospital emergency gross receipts tax. Both counties have imposed the county hospital emergency gross receipts tax. The county hospital emergency gross receipts tax shall be imposed at a rate of one-fourth of one percent (.25%). No election is required. The tax is imposed on all persons engaging in business in the county. The proceeds from this tax may be used for the design and construction of a county hospital facility, acquisition of land or buildings, or to repay a bond or loan for acquisition, equipping, remodeling or improvement of a county hospital facility (Sierra County) or a county health facility (Hidalgo County).

See page 17 for the county hospital emergency gross receipts tax model ordinance.

### **COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX (7-20F-1 through 7-20F-12)**

The county correctional facility gross receipts tax may be imposed in increments of one-sixteenth of one percent (.0625%), up to a maximum of one-

eighth of one percent (.125%). The tax is imposed on all persons engaging in business in the county. Although no election is required when adopting the tax, voters may petition for an election to approve or disapprove the ordinance imposing the tax. All action necessary to adopt an ordinance, including the completion of a petition period, must be completed three months prior to the proposed effective date. The proceeds must be used for operating, maintaining, constructing, purchasing, furnishing, equipping, rehabilitating, expanding or improving a judicial-correctional or county correctional facility or the grounds of a judicial-correctional or county correctional facility, including acquiring and improving parking lots, landscaping, transporting or extraditing prisoners or for the payment of principal and interest on revenue bonds.

See page 17 for the county correctional facility gross receipts tax model ordinance.

### **COUNTY EMERGENCY GROSS RECEIPTS TAX (7-20E-12)**

Although no county currently qualifies, there is an authorization to impose a county emergency gross receipts tax at a rate of up to three-eighths of one percent (.375%), in increments of one-eighth of one percent (.125%). The tax is imposed on all taxpayers in the county. No election is required and voters cannot petition for an election. Any ordinance imposing the tax can be effective for no more than twelve months. Whether the tax may be imposed depends on certain factors related to property tax collections.

See page 18 for the county emergency gross receipts tax model ordinance.

### **COUNTY EDUCATION GROSS RECEIPTS TAX (7-20E-20)**

Taos County is the only county authorized to impose the county education gross receipts tax and reimpose the tax upon expiration of a previously imposed tax. The county education gross receipts tax shall be imposed at a rate of one-half of one percent (.5%).





MODEL ORDINANCE - CHEGRT - 2013  
County Hospital Emergency Gross Receipts Tax  
Adopting a Tax Increment

ORDINANCE NUMBER \_\_\_\_\_  
ADOPTING A COUNTY HOSPITAL EMERGENCY  
GROSS RECEIPTS TAX

BE IT ORDAINED BY THE GOVERNING BODY OF  
(Name of County):

**Section 1. Imposition of Tax.** There is imposed on any person engaging in business in this county for the privilege of engaging in business in this county an excise tax equal to one-fourth of one percent (.25%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "county hospital emergency gross receipts tax."

**Section 2. General Provisions.** This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

**Section 3. Specific Exemptions.** No county hospital emergency gross receipts tax shall be imposed on the gross receipts arising from:

- A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county; or
- B. direct satellite broadcast services.

**Section 4. Dedication.** Revenue from the county hospital emergency gross receipts tax is dedicated to the payment of a bond or loan for acquisition, equipping, remodeling and improvement of a county hospital facility (Sierra County) or county health facility (Hidalgo County).

**Section 5. Effective Date.** The effective date of the county hospital emergency gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date this ordinance is adopted, unless an election is held on the question of approving the ordinance, in which case the effective date shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date when the results of the election are certified to be in favor of the ordinance's adoption.

**Section 6. Delayed Repeal. (Mandatory)** Ordinance Number \_\_\_\_\_ (if it becomes law) is repealed effective \_\_\_\_\_.

ADOPTED BY THE GOVERNING BODY OF \_\_\_\_\_  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

ATTEST: (Signatures of County Clerk and Chairperson of the Board of County Commissioners)

MODEL ORDINANCE - CCFGRT - 2013  
County Correctional Facility Gross Receipts Tax  
Adopting a Tax Increment

ORDINANCE NUMBER \_\_\_\_\_  
ADOPTING A COUNTY CORRECTIONAL  
FACILITY GROSS RECEIPTS TAX

BE IT ORDAINED BY THE GOVERNING BODY OF  
(Name of County):

**Section 1. Imposition of Tax.** There is imposed on any person engaging in business in this county for the privilege of engaging in business in this county an excise tax equal to [one-sixteenth of one percent (.0625%) or one-eighth of one percent (.125%)] of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Correctional Facility Gross Receipts Tax Act as it now exists or as it may be amended and shall be known as the "county correctional facility gross receipts tax."

**Section 2. General Provisions.** This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

**Section 3. Specific Exemptions.** No county correctional facility gross receipts tax shall be imposed on the gross receipts arising from:

- A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county; or
- B. direct broadcast satellite services.

**Section 4. Dedication.** Revenue from the county correctional facility gross receipts tax will be used for the purpose(s) listed below:

**Section 5. Effective Date.** The effective date of the county correctional facility gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date this ordinance is adopted, unless an election is held on the question of approving the ordinance, in which case the effective date shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date when the results of the election are certified to be in favor of the ordinance's adoption.

**Section 6. Delayed Repeal. (Optional)** Ordinance Number \_\_\_\_\_ (if it becomes law) is repealed effective \_\_\_\_\_.

ADOPTED BY THE GOVERNING BODY OF \_\_\_\_\_  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

ATTEST: (Signatures of County Clerk and Chairperson of the Board of County Commissioners)



B: 77 P: 498



**7-20E-3. Optional referendum selection; effective date of ordinance.**

A. The governing body of a county imposing a tax or an increment of tax authorized by the County Local Option Gross Receipts Taxes Act [7-20E-1 NMSA 1978] or any other county local option gross receipts tax act that is subject to optional referendum selection shall select, when enacting the ordinance imposing the tax, one of the following referendum options:

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

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

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

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

(2) the ordinance imposing the tax or increment of tax shall not go into effect until after an election is held and a simple majority of the registered voters of the county voting on the question votes in favor of imposing the tax or increment of tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax or increment of tax. Such question may be submitted to the voters and voted upon as a separate question at any general election or at any special election called for that purpose by the governing body. The election upon the question shall be called, held, conducted and canvassed in substantially the same manner as may be provided by law for general elections. If the question of imposing the tax or increment of tax fails, the governing body shall not again propose the tax or increment of tax for a period of one year after the election.

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

History: 1978 Comp., § 7-20E-3, enacted by Laws 1993, ch. 354, § 3; 2004, ch. 110, § 1.

**B: 77 P: 499**



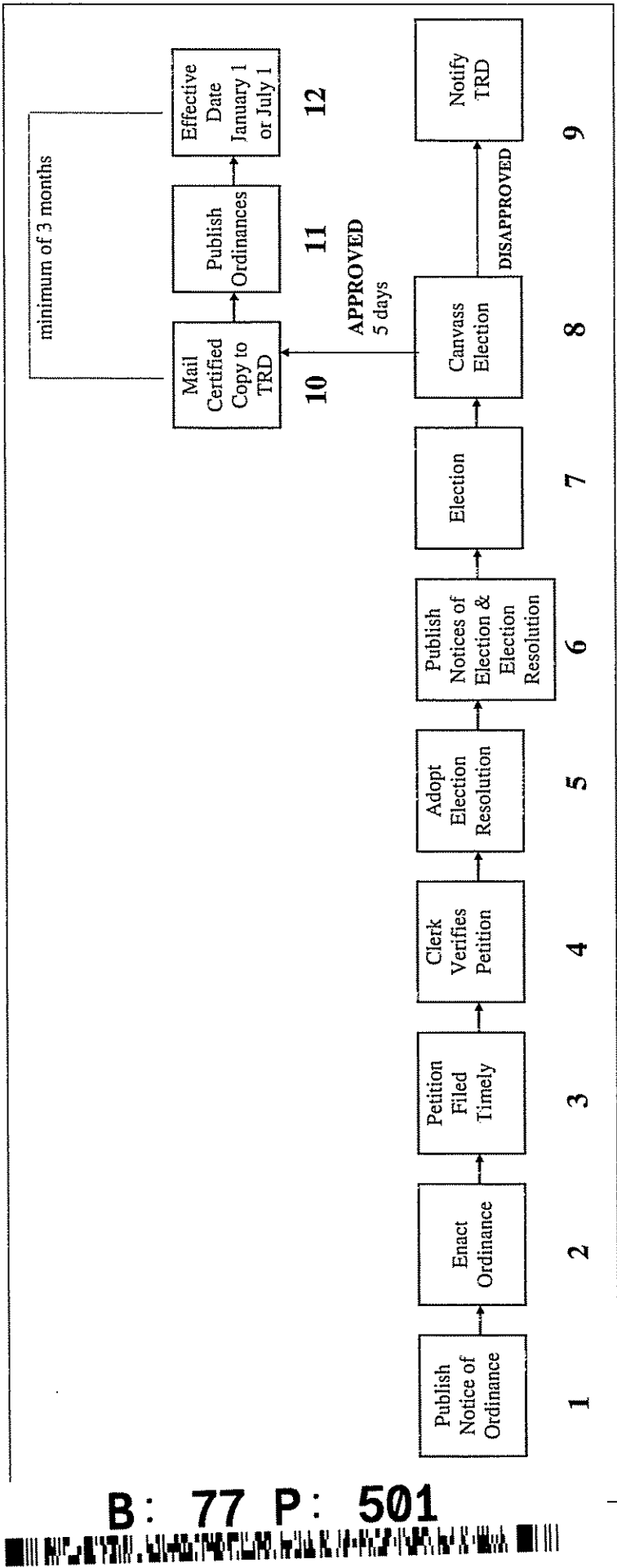
**Timeline for *Correctional Facility* GRT under § 7-20E-3**

Wed., 18 December 2013	Proposed ordinance authorized for publication
Thurs., 26 December 2013	One-time publication in <i>Valencia County News-Bulletin</i>
Wed., 8 January 2014	Optional Hearing
Wed., 15 January 2014	Enactment of County <i>Correctional Facility</i> GRT Ordinance
01/15/2014 → 03/16/2014	60-day period for petition by 5% [c., 2,175] of registered voters requesting an election on question of approving or disapproving the ordinance
17 March 2014 & subsequent	IF NO Petition, Ordinance can go to TRD for final approval & implementation on 1 July 2014  IF a Petition, matter goes to County Clerk for verification
within 60 days of verification	Election on question of approving or disapproving the ordinance
by 30 September 2014	IF approved by voters, Ordinance goes to TRD for approval and implementation on 1 January 2015  IF disapproved by voters, this ordinance cannot be re-enacted by BOCC for one year after the election

**B: 77 P: 500**



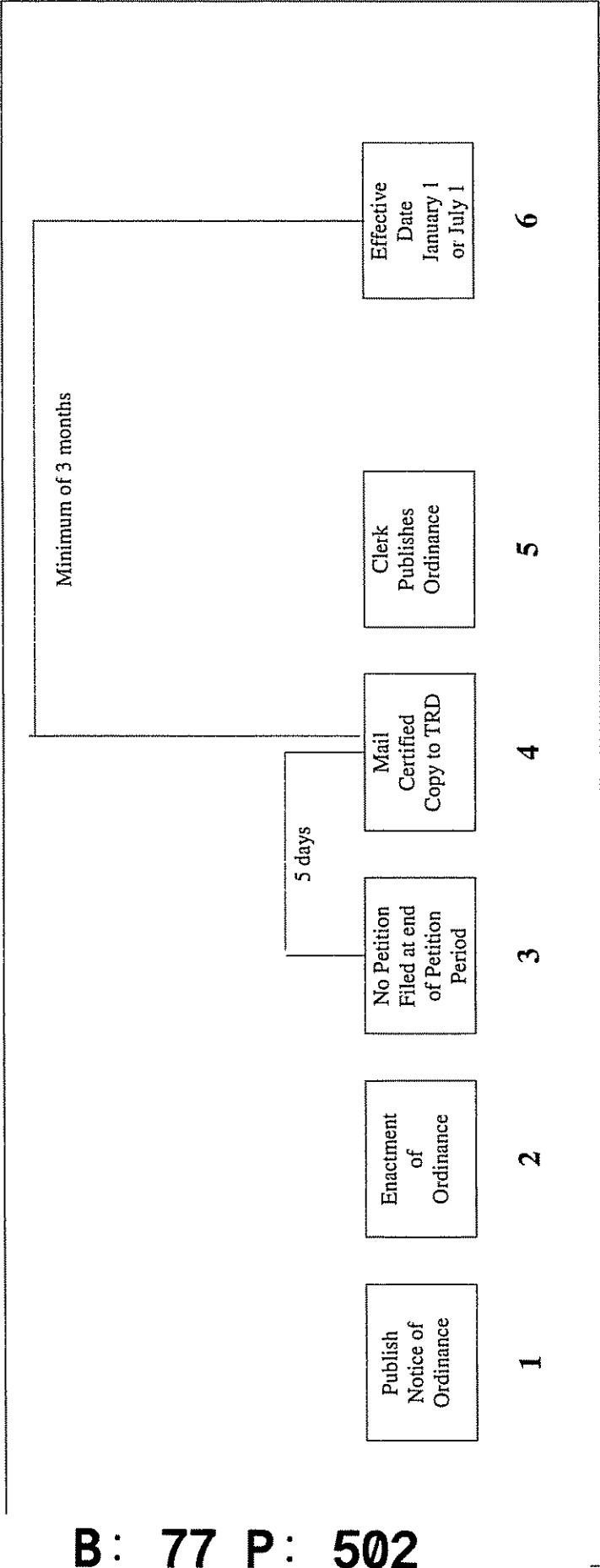
TABLE 2  
PETITION PROCESS  
**COUNTY LOCAL OPTION GROSS RECEIPTS TAXES**  
County Opts for Petition (Negative Referendum) and VALID PETITION IS FILED by the End of a Petition Period



- 1 The county gives notice of the proposed ordinance by publishing its title and subject matter at least two weeks prior to consideration of the ordinance by the governing body
- 2 The governing body enacts the ordinance. The model ordinance provided by the Taxation and Revenue Department, which includes an election certification, must be adopted *verbatim*.
- 3 Registered voters file with the county clerk a valid petition calling for a referendum
- 4 The county clerk verifies the petition. To be valid it must contain the signatures of 5% of the registered voters in the county who were registered to vote in the most recent general election
- 5 The governing body adopts a resolution calling for an election
- 6 The county clerk publishes the notice of election
- 7 The county clerk conducts the election
- 8 The county clerk canvasses and certifies the election results
- 9 The county must notify the Taxation and Revenue Department if the ordinance is disapproved by the electorate, or proceed with step 10
- 10 The county sends a certified copy of the approved ordinance to the Taxation and Revenue Department within 5 days after the election results are certified. The copy should be sent by certified mail, return receipt requested, or hand delivered to the Department. The county must keep a copy of the ordinance for its official records. *Failure to deliver a certified copy to the Department may result in the Department's taking no action to collect the tax and a delay of at least six (6) months of the expected revenue.*
- 11 The county publishes the adopted ordinance in its entirety or by title and summary
- 12 The ordinance becomes effective January 1 or July 1.

TABLE 3  
PETITION PROCESS  
**COUNTY LOCAL OPTION GROSS RECEIPTS TAXES**  
County Opts for Petition (Negative Referendum) and NO PETITION IS FILED by the End of a Petition Period

B: 77 P: 502



**NO PETITION FILED**

- |    |   |  |
|----|---|--|
| 1. | The county gives notice of the proposed ordinance by publishing its title and subject matter at least two weeks prior to consideration of the ordinance by the governing body             | within 5 days. The copy should be sent by certified mail, return receipt requested, or hand delivered to the Department. The county must keep a copy of the ordinance for its official records. <i>Failure to deliver a certified copy to the Department may result in the Department's taking no action to collect the tax and a delay of at least six (6) months of the expected revenue.</i> The county must provide a written statement that it did not receive a valid petition for referendum. |
| 2. | The governing body enacts the ordinance. The model ordinance provided by the Taxation and Revenue Department, which includes an election certification, must be adopted <i>verbatim</i> . |  |
| 3. | Voters do not file a petition calling for a referendum  | 5. The county publishes the adopted ordinance in its entirety or by title and summary  |
| 4. | The county sends a certified copy of the approved ordinance to the Taxation and Revenue Department  | 6. The ordinance becomes effective January 1 or July 1   |



# County Ordinance Procedure

**B: 77 P: 503**



**4-37-7. Proposal of ordinances; publication.**

A. Ordinances may be proposed by any member of the board of county commissioners. Ordinances shall not be submitted to the board for final passage until a majority of the members have directed that the title and a general summary of the subject matter of the proposed ordinances be published one time in a newspaper of general circulation within the county at least two weeks prior to the meeting of the board at which the ordinance is proposed for final passage. The date and time of the meeting at which the ordinance is to be considered shall also be published.

B. Copies of proposed ordinances shall be made available to interested persons during normal and regular business hours of the county clerk upon request and payment of reasonable charge, beginning with the date of publication and continuing to the date of consideration by the county's elected commission.

C. This section shall not apply to ordinances dealing with an emergency declared by the board of county commissioners to be an immediate danger to the public health, safety and welfare of the county or to ordinances the subject matter of which amends a city zoning map if the amendment has been considered by, and recommended to, the board of county commissioners by a planning commission with jurisdiction in the matter.

D. It is a sufficient defense to any suit or prosecution to show that notice by publication was not made.

**History:** 1953 Comp., § 15-36A-7, enacted by Laws 1975, ch. 312, § 7; 1981, ch. 218, § 2.

**B: 77 P: 504**



**4-37-9. County ordinances; recording and publication; effective date.**

A. All county ordinances, immediately after their passage, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the county clerk.

B. No ordinance shall take effect until thirty days after the ordinance has been recorded in the book kept by the county for that purpose.

C. Notwithstanding the provisions of Subsection B of this section, when a board of county commissioners declares that it is necessary for the public peace, health and safety that an ordinance take effect immediately after passage, the ordinance shall take effect when it is recorded in the book kept by the county for that purpose and authenticated by the signature of the county clerk.

**History:** 1953 Comp., § 15-36A-9, enacted by Laws 1975, ch. 312, § 9; 1997, ch. 37, § 1.

**B: 77 P: 505**



# Other GRT Possibilities

B: 77 P: 506



B: 77 P: 507

**7-20E-19. County infrastructure gross receipts tax; authority to impose rate; use of funds; election.**

A. 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-eighth of one percent of the gross receipts of any person engaging in business in the county area for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth of one percent not to exceed an aggregate rate of one-eighth of one percent.

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

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of this section, may dedicate the revenue for:

- (1) county general purposes;
- (2) payment of gross receipts tax revenue bonds issued pursuant to Chapter 4, Article 62 NMSA 1978;
- (3) repair, replacement, construction or acquisition of any county infrastructure improvements;
- (4) acquisition, construction, operation or maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities;
- (5) acquiring, constructing, extending, bettering, repairing or otherwise improving or operating or maintaining public transit systems or regional transit systems or authorities;
- (6) planning, design, construction, equipping, maintenance or operation of a county jail or juvenile detention facility; planning, assessment, design or operation of a regional system of juvenile services, including secure detention and nonsecure alternatives, that serves multiple contiguous counties; planning, design, construction, maintenance or operation of multipurpose regional adult jails or juvenile detention facilities; housing of county prisoners or juvenile offenders in any county jail or detention facility; or substance abuse, mental health or other programs for county prisoners or other inmates in county jails or for juvenile offenders in county or regional detention facilities; and
- (7) furthering or implementing economic development plans and projects as defined in the Local Economic Development Act [5-10-1 NMSA 1978] or projects as defined in the Statewide Economic Development Finance Act [6-25-1 NMSA 1978], and use of not more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected for promotion and administration of or professional services contracts related to implementation of an economic development plan adopted by the governing body pursuant to the Local Economic Development Act and in accordance with law.

D. An ordinance imposing the county infrastructure gross receipts tax shall not go into effect until after an election is held and a majority of the voters in the county area voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the county area 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. If a majority of the voters voting on the question approves the ordinance imposing the county infrastructure gross receipts tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option Gross Receipts Taxes Act [7-20E-1 NMSA 1978]. If the question of imposing the county infrastructure 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.

**History:** Laws 1998, ch. 90, § 7; 2003, ch. 349, § 19.

**B: 77 P: 508**



**7-20E-21. County capital outlay gross receipts tax; purposes; referendum.**

A. 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 of one percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth of one percent not to exceed an aggregate rate of one-fourth of one percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county capital outlay gross receipts tax".

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of this section, may dedicate the revenue for any county infrastructure purpose, including:

(1) the design, construction, acquisition, improvement, renovation, rehabilitation, equipping or furnishing of public buildings or facilities, including parking facilities, the acquisition of land for the public buildings or facilities and the acquisition or improvement of the grounds surrounding public buildings or facilities;

(2) acquisition, construction or improvement of water, wastewater or solid waste systems or facilities and related facilities, including water or sewer lines and storm sewers and other drainage improvements;

(3) design, construction, acquisition, improvement or equipping of a county jail, juvenile detention facility or other county correctional facility or multipurpose regional adult jail or juvenile detention facility;

(4) construction, reconstruction or improvement of roads, streets or bridges, including acquisition of rights of way;

(5) design, construction, acquisition, improvement or equipping of airport facilities, including acquisition of land, easements or rights of way for airport facilities;

(6) acquisition of land for open space, public parks or public recreational facilities and the design, acquisition, construction, improvement or equipping of parks and recreational facilities; and

(7) payment of gross receipts tax revenue bonds issued pursuant to Chapter 4, Article 62 NMSA 1978 for infrastructure purposes.

D. An ordinance imposing the county capital outlay gross receipts tax shall not go into effect until after an election is held on the question of imposing the tax for the purpose for which the revenue is dedicated and a majority of the voters in the county voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the county 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. If a majority of the voters voting on the question approves the question of imposing the county capital outlay gross receipts tax, then 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 county capital outlay 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.

History: Laws 2001, ch. 172, § 2; 2005, ch. 129, § 2; 2010, ch. 44, § 2.

**B: 77 P: 509**



motor vehicle, air transportation or any other means from one point within the county to another point outside the county, or on gross receipts arising from direct broadcast satellite services. Counties must use the model ordinance available from the Department. All action necessary to adopt an ordinance, including the completion of a petition period, must be completed three months prior to the proposed effective date, and a certified copy of the ordinance must be provided to the Department within five days from the date the ordinance is certified. The effective date of the ordinance must be January 1 or July 1, whichever date occurs first after the expiration of at least three months from the date the ordinance is mailed or delivered to the Department. When the county holds an election and the majority of the registered voters who vote in the election fail to approve an ordinance, the county cannot propose the imposition of any increment of the tax for one year after the date of the failed election.

**COUNTY GROSS RECEIPTS TAX**  
(7-20E-9 through 7-20E-11)

Counties can impose a maximum county gross receipts tax of seven-sixteenths of one percent (.4375%). This tax is imposed on all taxpayers in the county. The tax can be implemented by adoption of three separate ordinances in tax rate increments of one-eighth of one percent (.125%) and one ordinance of one-sixteenth of one percent (.0625%). Although no election is required when adopting the first one-eighth, third one-eighth increment or the one-sixteenth increment of county gross receipts tax, voters may petition for an election to approve or disapprove the ordinance imposing these increments of the tax. Unless prescribed by county charter, the imposition of the second one-eighth increment of tax is not subject to referendum. All action necessary to adopt an ordinance, including the completion of a petition period, must be completed three months prior to the proposed effective date. Proceeds from the first one-eighth increment of the tax may be dedicated to the county general fund, county road fund or both, or for the payment of gross receipts tax bonds in connection with county government services, except that one-fourth (25%) of the revenue

generated by the first one-eighth must be set aside monthly in a reserve fund each fiscal year. The reserve fund is released after the close of the fiscal year. All of the second one-eighth increment of the tax must be dedicated to the support of indigent patients who are residents of that county, and the revenue from the tax must be deposited into the county indigent hospital claims fund. All of the third one-eighth increment and the one-sixteenth increment of the tax can be used for general purposes or for the payment of gross receipts tax bonds in connection with county government services. However, if one-half of the third increment is dedicated (or was dedicated as of January 1996) to county indigent patient purposes, that revenue must also be deposited in the county indigent hospital claims fund. Class A Counties are subject to additional requirements described in 7-20E-9(C).

See pages 11 and 12 for the county gross receipts tax model ordinances.

**COUNTY INFRASTRUCTURE GROSS RECEIPTS TAX (7-20E-19)**



The county infrastructure gross receipts tax is imposed on persons engaging in business in the county area outside the boundaries of any incorporated municipality. The tax may be imposed in increments of one-sixteenth of one percent (.0625%) not to exceed an aggregate rate of one-eighth of one percent (.125%). The proceeds from the tax can be used for various purposes including: county general purposes; payment of gross receipts tax revenue bonds; county infrastructure improvements; solid waste and wastewater facilities construction and operation; improving or operating a public transit system; construction and operation of a county jail or juvenile detention facility and inmate services, and implementing economic development plans. An election is required to impose this tax. A majority of voters living in the county outside incorporated municipalities and voting in the election must approve the ordinance imposing the county infrastructure gross receipts tax.





See page 13 for the county infrastructure gross receipts tax model ordinance.

**COUNTY CAPITAL OUTLAY GROSS RECEIPTS TAX (7-20E-21)**



Counties can impose a maximum county capital outlay gross receipts tax of one-fourth of one percent (.25%). The tax can be implemented by adoption of one or more ordinances in tax rate increments of one-sixteenth of one percent (.0625%). The tax is imposed on all persons engaging in business in the county. Proceeds from the tax may be dedicated to any county infrastructure purpose, including county building projects and for the payment of revenue bonds for infrastructure purposes. All ordinances, regardless of the tax rate increment, imposing the capital outlay gross receipts tax require an election.

See page 13 for the county capital outlay gross receipts tax model ordinance.

**COUNTY ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX (7-20E-17)**

Counties can impose a county environmental services gross receipts tax of one-eighth of one percent (.125%). This tax may be imposed only on persons engaging in business in the county area outside the boundaries of any incorporated municipality. No election is necessary unless required by the county's charter. Voters cannot petition for an election. Proceeds from the tax must be dedicated for the acquisition, construction, operation and maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities.

See page 14 for the county environmental services gross receipts tax model ordinance.

**COUNTY FIRE PROTECTION EXCISE TAX (7-20E-15 and 7-20E-16)**

Counties can impose a county fire protection excise tax at a rate of either one-fourth of one percent (.25%) or one-eighth of one percent (.125%). This tax is imposed only on persons engaging in business in

the county area outside the boundaries of any incorporated municipality. An election is required to impose this tax. A majority of voters living in the county outside incorporated municipalities and voting in the election must approve the ordinance imposing the county fire protection excise tax. Proceeds from the tax may be dedicated for the operational expenses (exclusive of salaries), ambulance services or capital outlay costs of independent fire districts or for ambulance services provided by the county.

See page 14 for the county fire protection excise tax model ordinance.

**COUNTY HEALTH CARE GROSS RECEIPTS TAX (7-20E-18)**

The governing body of a county may adopt an ordinance imposing the county health care gross receipts tax at a rate of one-sixteenth of one percent (.0625%). This tax is imposed on all taxpayers in the county. No election is required and voters cannot petition for an election. The revenue from the county health care gross receipts tax must be dedicated to the state's county-supported Medicaid fund.

Effective July 1, 2006, the majority of the members of the governing body of a county having a population of more than 500,000 persons (Bernalillo County) may enact an ordinance imposing an additional one-sixteenth of one percent (.0625%) increment of county health care gross receipts tax. The revenue from the additional increment must be dedicated to the support of indigent patients. The imposition of the additional increment must be for a period ending no later than June 30, 2009, to continue an increment after June 30, 2009, or beyond any five-year period for which the increment has been imposed, the members of the governing body shall review the need for the increment. If the majority of the members vote in favor of continuing the increment, the increment shall be imposed for an additional five-year period.

See page 15 for the county health care gross receipts tax model ordinances.





**MODEL ORDINANCE - CIGRT - 2013**  
**County Infrastructure Gross Receipts Tax**  
**Adopting a Tax Increment**

ORDINANCE NUMBER \_\_\_\_\_  
ADOPTING A COUNTY INFRASTRUCTURE  
GROSS RECEIPTS TAX

BE IT ORDAINED BY THE GOVERNING BODY OF  
(Name of County):

**Section 1. Imposition of Tax.** There is imposed on any person engaging in business in the county area outside of the boundaries of any incorporated municipality, for the privilege of engaging in business in the county area, an excise tax equal to [one-sixteenth of one percent (.0625%) or one-eighth of one percent (.125%)] of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "county infrastructure gross receipts tax."

**Section 2. General Provisions.** This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

**Section 3. Specific Exemptions.** No county infrastructure gross receipts tax shall be imposed on the gross receipts arising from:

- A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county; or
- B. direct broadcast satellite services.

**Section 4. Dedication.** Revenue from the county infrastructure gross receipts tax will be used for the purpose(s) listed below:

**Section 5. Effective Date.** The effective date of the county infrastructure gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date when the results of the election are certified to be in favor of the ordinance's adoption and the adopted ordinance is delivered or mailed to the Taxation and Revenue Department.

**Section 6. Delayed Repeal.** (Optional) Ordinance Number \_\_\_\_\_  
(if it becomes law) is repealed effective \_\_\_\_\_.

ADOPTED BY THE GOVERNING BODY OF \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

ATTEST: (Signatures of County Clerk and Chairperson of the Board of County Commissioners)



**MODEL ORDINANCE - CCOGRT - 2013**  
**County Capital Outlay Gross Receipts Tax**  
**Adopting a Tax Increment**

ORDINANCE NUMBER \_\_\_\_\_  
ADOPTING A COUNTY CAPITAL OUTLAY  
GROSS RECEIPTS TAX

BE IT ORDAINED BY THE GOVERNING BODY OF  
(Name of County):

**Section 1. Imposition of Tax.** There is imposed on any person engaging in business in the county for the privilege of engaging in business in the county an excise tax equal to [one-sixteenth of one percent (.0625%), one-eighth of one percent (.125%), three-sixteenths of one percent (.1875%), or one-fourth of one percent (.25%)] of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "county capital outlay gross receipts tax."

**Section 2. General Provisions.** This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

**Section 3. Specific Exemptions.** No county capital outlay gross receipts tax shall be imposed on the gross receipts arising from:

- A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county; or
- B. direct broadcast satellite services.

**Section 4. Dedication.** Revenue from the county capital outlay gross receipts tax will be used for the purpose(s) listed below:

**Section 5. Effective Date.** The effective date of the county capital outlay gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date when the results of the election are certified to be in favor of the ordinance's adoption and the adopted ordinance is delivered or mailed to the Taxation and Revenue Department.

**Section 6. Delayed Repeal.** (Optional) Ordinance Number \_\_\_\_\_  
(if it becomes law) is repealed effective \_\_\_\_\_.

ADOPTED BY THE GOVERNING BODY OF \_\_\_\_\_ THIS  
DAY OF \_\_\_\_\_, 20\_\_\_\_.

ATTEST: (Signatures of County Clerk and Chairperson of the Board of County Commissioners)

# Taxation & Revenue (TRD) Guidelines

B: 77 P: 513



TABLE OF ENACTMENT DATES -- COUNTY LOCAL OPTION GROSS RECEIPTS TAXES

COUNTY: \_\_\_\_\_ COUNTY CODE \_\_\_\_\_ DATE \_\_\_\_\_  
DATE: \_\_\_\_\_ SIGNATURE \_\_\_\_\_

Type of Tax	Ordinance Number	Effective Date	Dedication	Sunset or Amendment Date	Rate
County Gross Receipts -- 1 <sup>st</sup> 1/8%					
County Gross Receipts -- 2 <sup>nd</sup> 1/8%					
County Gross Receipts -- 3 <sup>rd</sup> 1/8%					
County Gross Receipts -- 1/16%					
County Infrastructure Gross Receipts -- 1 <sup>st</sup> 1/16%					
County Infrastructure Gross Receipts -- 2 <sup>nd</sup> 1/16%					
County Capital Outlay Gross Receipts					
County Fire Protection Excise					
County Environmental Services Gross Receipts					
County Health Care Gross Receipts					
Special County Hospital Gross Receipts					
County Emergency Gross Receipts					
County Correctional Facilities Gross Receipts					
Local Hospital Gross Receipts					
County Hospital Emergency Gross Receipts					
County Education Gross Receipts					
Countywide/County Area Emergency Communications & Emergency Medical & Behavioral Health Services					
County Regional Transit Gross Receipts					
County Quality of Life Gross Receipts					
County Regional Spaceport Gross Receipts					
County Water and Sanitation Gross Receipts					
County Business Retention Gross Receipts Tax					
County Hold Harmless Gross Receipts Tax					
Total County Gross Receipts Tax Rate					5.125%
State Gross Receipts Tax Rate					
Total Combined Rate of all Ordinances Including State Gross Receipts Tax Rate					

COUNTY GROSS RECEIPTS TAX RATE FOR THE MUNICIPALITIES WITHIN COUNTY: ☐ Correct ☐ Incorrect

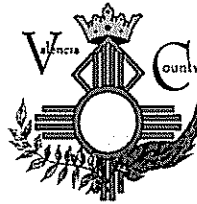
**POINTS TO REMEMBER**

1. To be effective on July 1, all action necessary to adopt an ordinance imposing a tax must be completed on or before the last day of March of that year.
2. To be effective on January 1, all action necessary to adopt an ordinance imposing a tax must be completed on or before the last day of September of the previous year.
3. Actions necessary to adopt the ordinance include, completion of required petition periods, notification that no petition was filed, elections held and notifying the Taxation and Revenue Department of election results.
4. Failure to adopt the ordinance using the *model ordinance* furnished by the Taxation and Revenue Department will invalidate any ordinance adopted that imposes any county local option gross receipts tax.
5. If an election is held and the electorate fails to approve the proposed ordinance, amendment or repeal, the county must wait one year from the election date before attempting to impose, amend or repeal the increment of tax again.
6. Failure to submit a certified copy of the ordinance to the Taxation and Revenue Department within 5 days after the ordinance is adopted may result in the loss of the revenue for at least six months.
7. The Tax Information and Policy Office of the Taxation and Revenue Department can assist and advise you concerning the adoption of any county gross receipts tax ordinance. Please visit our website at <http://www.tax.newmexico.gov/Tax-Library/For-Governments/Pages/Home.aspx> or call (505)827-0679. Questions concerning the election process should be directed to the Information Services Division of the New Mexico Association of Counties at (505) 983-2101.

**TABLE OF ENACTMENT DATES – COUNTY GROSS RECEIPTS TAXES**

The Table of Enactment Dates on the following page should be used by the county to keep a record of each ordinance enacted. The Taxation and Revenue Department will send a survey table to each county every six months asking for this information. Please feel free to copy this table for your use.



**Exhibit B**

**VALENCIA COUNTY ORDINANCE № 2014-\_\_\_\_**  
**ADOPTING A COUNTY CORRECTIONAL**  
**FACILITY GROSS RECEIPTS TAX**

BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF VALENCIA:

**Section 1. Imposition of Tax.** There is imposed on any person engaging in business in this county for the privilege of engaging in business in this county an excise tax equal to one-eighth of one percent (.125%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Correctional Facility Gross Receipts Tax Act as it now exists or as it may be amended and shall be known as the "county correctional facility gross receipts tax."

**Section 2. General Provisions.** This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

**Section 3. Specific Exemptions.** No county correctional facility gross receipts tax shall be imposed on the gross receipts arising from:

(a) transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county;

or

(b) direct broadcast satellite services.

**Section 4. Dedication.** Revenue from the county correctional facility gross receipts tax will be used for the purpose(s) listed below:

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

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

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

**Section 5. Effective Date.** The effective date of the county correctional facility gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date this ordinance is adopted, unless an election is held on the question of approving the ordinance, in which case the effective date shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date when the results of the election are certified to be in favor of the ordinance's adoption.

ADOPTED BY THE GOVERNING BODY OF VALENCIA COUNTY THIS \_\_\_\_ DAY OF JANUARY 2014.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Charles D. Eaton  
Chairman, District IV

\_\_\_\_\_  
Alicia Aguilar  
Vice-Chair, District II

\_\_\_\_\_  
Mary J. Andersen  
Commissioner, District I

\_\_\_\_\_  
Lawrence R. Romero  
Commissioner, District III

\_\_\_\_\_  
Jhonathan Aragon  
Commissioner, District V

Attest:

\_\_\_\_\_  
Peggy Carabajal, County Clerk