

1 HOUSE BILL 412

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TAXATION; CHANGING A DISTRIBUTION OF THE LIQUOR
12 EXCISE TAX; DISTRIBUTING A PORTION OF THE MOTOR VEHICLE EXCISE
13 TAX TO THE STATE ROAD FUND AND THE LOCAL GOVERNMENTS ROAD FUND;
14 CREATING THE LOCAL GOVERNMENT STABILIZATION FUND; CREATING A
15 SINGLE BRACKET AND A SINGLE RATE FOR THE INCOME TAX AND FOR THE
16 CORPORATE INCOME TAX; UPDATING THE LOW-INCOME COMPREHENSIVE TAX
17 REBATE; MODIFYING CERTAIN TAX CREDITS SO THAT THE CREDITS
18 CANNOT BE APPLIED AGAINST MODIFIED COMBINED TAX LIABILITIES;
19 RENAMING THE GROSS RECEIPTS TAXES TO THE STATE SALES TAX AND
20 THE LOCAL OPTION SALES TAXES AND THE COMPENSATING TAX TO THE
21 USE TAX; BASING THE RATE OF THE STATE AND LOCAL SALES TAXES ON
22 A FORMULA USING ESTIMATES OF BASELINE AND REVENUE PROJECTIONS;
23 PROVIDING THAT A PERSON WITHOUT PHYSICAL PRESENCE IN THIS STATE
24 THAT HAS LESS THAN ONE HUNDRED THOUSAND DOLLARS (\$100,000) IN
25 GROSS RECEIPTS IS NOT ENGAGING IN BUSINESS; PROVIDING

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1 ALTERNATIVE EVIDENCE OTHER THAN A NONTAXABLE TRANSACTION
2 CERTIFICATE TO ENTITLE PERSONS TO A DEDUCTION FROM GROSS
3 RECEIPTS; DE-EARMARKING CERTAIN LOCAL OPTION TAXES; CHANGING A
4 DEDUCTION FROM GROSS RECEIPTS FOR THE SALE OF FOOD TO
5 BENEFICIARIES OF THE FEDERAL SUPPLEMENTAL NUTRITION ASSISTANCE
6 PROGRAM; REQUIRING MUNICIPALITIES AND COUNTIES TO IMPOSE A
7 LOCAL OPTION USE TAX; CHANGING PROVISIONS THAT LIMIT INCREASES
8 IN VALUE OF RESIDENTIAL PROPERTY FOR PROPERTY TAXATION
9 PURPOSES; NARROWING THE PREMIUM TAX IN LIEU OF PROVISION TO
10 REVENUE AND RECEIPTS FOR WHICH THE PREMIUM TAX IS ASSESSED;
11 PROVIDING THAT CHANGES OR REPEALS OF CERTAIN LOCAL OPTION GROSS
12 RECEIPTS TAXES SHALL NOT IMPAIR OUTSTANDING REVENUE BONDS;
13 PROVIDING A MORATORIUM ON NEW INCREMENTS OF LOCAL OPTION GROSS
14 RECEIPTS OR SALES TAXES; PROVIDING THAT PREVIOUSLY DEDICATED
15 REVENUE ATTRIBUTABLE TO A LOCAL OPTION GROSS RECEIPTS TAX SHALL
16 CONTINUE TO BE DEDICATED FOR THE SAME PURPOSES; AMENDING,
17 REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; PROVIDING A
18 CIVIL PENALTY; MAKING AN APPROPRIATION.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. Section 3-31-1 NMSA 1978 (being Laws 1973,
22 Chapter 395, Section 3, as amended) is amended to read:

23 "3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF
24 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

25 A. In addition to any other law and constitutional

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1 home rule powers authorizing a municipality to issue revenue
2 bonds, a municipality may issue revenue bonds pursuant to
3 Chapter 3, Article 31 NMSA 1978 for the purposes specified in
4 this section. ~~[The term "pledged revenues", as used in Chapter~~
5 ~~3, Article 31 NMSA 1978, means the revenues, net income or net~~
6 ~~revenues authorized to be pledged to the payment of particular~~
7 ~~revenue bonds as specifically provided in Subsections A through~~
8 ~~J of this section.~~

9 A.] B. Utility revenue bonds may be issued for
10 acquiring, extending, enlarging, bettering, repairing or
11 otherwise improving a municipal utility or for any combination
12 of the foregoing purposes. The municipality may pledge
13 irrevocably any or all of the net revenues from the operation
14 of the municipal utility or of any one or more of other such
15 municipal utilities for payment of the interest on and
16 principal of the revenue bonds. ~~[These bonds are sometimes~~
17 ~~referred to in Chapter 3, Article 31 NMSA 1978 as "utility~~
18 ~~revenue bonds" or "utility bonds".~~

19 B.] C. Joint utility revenue bonds may be issued
20 for acquiring, extending, enlarging, bettering, repairing or
21 otherwise improving joint water facilities, sewer facilities,
22 gas facilities or electric facilities or for any combination of
23 the foregoing purposes. The municipality may pledge
24 irrevocably any or all of the net revenues from the operation
25 of these municipal utilities for the payment of the interest on

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1 and principal of the bonds. [~~These bonds are sometimes~~
2 ~~referred to in Chapter 3, Article 31 NMSA 1978 as "joint~~
3 ~~utility revenue bonds" or "joint utility bonds".~~

4 ~~C. For the purposes of this subsection, "gross~~
5 ~~receipts tax revenue bonds" means gross receipts tax revenue~~
6 ~~bonds or sales tax revenue bonds. Gross receipts]~~

7 D. Sales tax revenue bonds may be issued for any
8 [~~one or more of the following purposes:~~

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

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

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

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

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1 ~~(5) reconstructing, resurfacing, maintaining,~~
2 ~~repairing or otherwise improving existing alleys, streets,~~
3 ~~roads or bridges or any combination of the foregoing or laying~~
4 ~~off, opening, constructing or otherwise acquiring new alleys,~~
5 ~~streets, roads or bridges or any combination of the foregoing;~~
6 ~~provided that any of the foregoing improvements may include but~~
7 ~~are not limited to the acquisition of rights of way;~~

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

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

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

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

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1 foregoing; and
2 ~~(10) acquiring, constructing, extending,~~
3 ~~bettering, repairing or otherwise improving a public transit~~
4 ~~system or regional transit systems or facilities. The]~~
5 municipal purpose. A municipality may pledge irrevocably any
6 or all of the [~~gross receipts~~] sales tax revenue received by
7 the municipality pursuant to Section [~~7-1-6.4 or~~] 7-1-6.12 NMSA
8 1978 to the payment of the interest on and principal of the
9 [~~gross receipts~~] sales tax revenue bonds [~~for any of the~~
10 ~~purposes authorized in this section or for specific purposes]~~
11 or for any area of municipal government services [~~including but~~
12 ~~not limited to those specified in Subsection C of Section~~
13 ~~7-19D-9 NMSA 1978, or for public purposes authorized by~~
14 ~~municipalities having constitutional home rule charters]~~. A
15 law that imposes or authorizes the imposition of a municipal
16 [~~gross receipts~~] sales tax or that affects the municipal [~~gross~~
17 ~~receipts~~] sales tax, or a law supplemental thereto or otherwise
18 appertaining thereto, shall not be repealed or amended or
19 otherwise directly or indirectly modified in such a manner as
20 to impair adversely any outstanding revenue bonds that may be
21 secured by a pledge of such municipal [~~gross receipts~~] sales
22 tax unless the outstanding revenue bonds have been discharged
23 in full or provision has been fully made therefor. Revenues in
24 excess of the annual principal and interest due on [~~gross~~
25 ~~receipts~~] sales tax revenue bonds secured by a pledge of [~~gross~~

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1 ~~receipts]~~ sales tax revenue may be accumulated in a debt
2 service reserve account. The governing body of the
3 municipality may appoint a commercial bank trust department to
4 act as trustee of the ~~[gross receipts]~~ sales tax revenue and to
5 administer the payment of principal of and interest on the
6 bonds.

7 ~~[D. As used in this section, the term "public~~
8 ~~building" includes but is not limited to fire stations, police~~
9 ~~buildings, municipal jails, regional jails or juvenile~~
10 ~~detention facilities, libraries, museums, auditoriums,~~
11 ~~convention halls, hospitals, buildings for administrative~~
12 ~~offices, city halls and garages for housing, repairing and~~
13 ~~maintaining city vehicles and equipment. As used in Chapter 3,~~
14 ~~Article 31 NMSA 1978, the term "gross receipts tax revenue~~
15 ~~bonds" means the bonds authorized in Subsection C of this~~
16 ~~section, and the term "gross receipts tax revenue" means the~~
17 ~~amount of money distributed to the municipality as authorized~~
18 ~~by Section 7-1-6.4 NMSA 1978 or the amount of money transferred~~
19 ~~to the municipality as authorized by Section 7-1-6.12 NMSA 1978~~
20 ~~for any municipal gross receipts tax imposed pursuant to the~~
21 ~~Municipal Local Option Gross Receipts Taxes Act. As used in~~
22 ~~Chapter 3, Article 31 NMSA 1978, the term "bond" means any~~
23 ~~obligation of a municipality issued under Chapter 3, Article 31~~
24 ~~NMSA 1978, whether designated as a bond, note, loan, warrant,~~
25 ~~debenture, lease-purchase agreement or other instrument~~

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1 ~~evidencing an obligation of a municipality to make payments.]~~

2 E. Gasoline tax revenue bonds may be issued for
3 laying off, opening, constructing, reconstructing, resurfacing,
4 maintaining, acquiring rights of way, repairing and otherwise
5 improving municipal buildings, alleys, streets, public roads
6 and bridges or any combination of the foregoing purposes. The
7 municipality may pledge irrevocably any or all of the gasoline
8 tax revenue received by the municipality to the payment of the
9 interest on and principal of the gasoline tax revenue bonds.

10 ~~[As used in Chapter 3, Article 31 NMSA 1978, "gasoline tax~~
11 ~~revenue bonds" means the bonds authorized in this subsection,~~
12 ~~and "gasoline tax revenue" means all or portions of the amounts~~
13 ~~of tax revenues distributed to municipalities pursuant to~~
14 ~~Sections 7-1-6.9 and 7-1-6.27 NMSA 1978, as from time to time~~
15 ~~amended and supplemented.]~~

16 F. Project revenue bonds may be issued for
17 acquiring, extending, enlarging, bettering, repairing,
18 improving, constructing, purchasing, furnishing, equipping and
19 rehabilitating any revenue-producing project, including, where
20 applicable, purchasing, otherwise acquiring or improving the
21 ground therefor, including ~~[but not necessarily limited to]~~
22 acquiring and improving parking lots, or for any combination of
23 the foregoing purposes. The municipality may pledge
24 irrevocably any or all of the net revenues from the operation
25 of the revenue-producing project for which the particular

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1 project revenue bonds are issued to the payment of the interest
2 on and principal of the project revenue bonds. The net
3 revenues of any revenue-producing project may not be pledged to
4 the project revenue bonds issued for a revenue-producing
5 project that clearly is unrelated in nature; but nothing in
6 this subsection shall prevent the pledge to such project
7 revenue bonds of any revenues received from existing, future or
8 disconnected facilities and equipment that are related to and
9 that may constitute a part of the particular revenue-producing
10 project. A general determination by the governing body that
11 any facilities or equipment is reasonably related to and
12 constitutes a part of a specified revenue-producing project
13 shall be conclusive if set forth in the proceedings authorizing
14 the project revenue bonds. [~~As used in Chapter 3, Article 31~~
15 ~~NMSA 1978:~~

16 ~~(1) "project revenue bonds" means the bonds~~
17 ~~authorized in this subsection; and~~

18 ~~(2) "project revenues" means the net revenues~~
19 ~~of revenue-producing projects that may be pledged to project~~
20 ~~revenue bonds pursuant to this subsection.]~~

21 G. Fire district revenue bonds may be issued for
22 acquiring, extending, enlarging, bettering, repairing,
23 improving, constructing, purchasing, furnishing, equipping and
24 rehabilitating any fire district project, including, where
25 applicable, purchasing, otherwise acquiring or improving the

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1 ground therefor, or for any combination of the foregoing
2 purposes. The municipality may pledge irrevocably any or all
3 of the revenues received by the fire district from the fire
4 protection fund as provided in the Fire Protection Fund Law and
5 any or all of the revenues provided for the operation of the
6 fire district project for which the particular bonds are issued
7 to the payment of the interest on and principal of the bonds.
8 The revenues of any fire district project shall not be pledged
9 to the bonds issued for a fire district project that clearly is
10 unrelated in its purpose; but nothing in this section prevents
11 the pledge to such bonds of any revenues received from
12 existing, future or disconnected facilities and equipment that
13 are related to and that may constitute a part of the particular
14 fire district project. A general determination by the
15 governing body of the municipality that any facilities or
16 equipment is reasonably related to and constitutes a part of a
17 specified fire district project shall be conclusive if set
18 forth in the proceedings authorizing the fire district bonds.

19 H. Law enforcement protection revenue bonds may be
20 issued for the repair and purchase of law enforcement apparatus
21 and equipment that meet nationally recognized standards. The
22 municipality may pledge irrevocably any or all of the revenues
23 received by the municipality from the law enforcement
24 protection fund distributions pursuant to the Law Enforcement
25 Protection Fund Act to the payment of the interest on and

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1 principal of the law enforcement protection revenue bonds.

2 ~~[I. Economic development gross receipts tax revenue~~
3 ~~bonds may be issued for the purpose of furthering economic~~
4 ~~development projects as defined in the Local Economic~~
5 ~~Development Act. The municipality may pledge irrevocably any~~
6 ~~or all of the revenue received from the municipal~~
7 ~~infrastructure gross receipts tax to the payment of the~~
8 ~~interest on and principal of the economic development gross~~
9 ~~receipts tax revenue bonds for any of the purposes authorized~~
10 ~~in this subsection. A law that imposes or authorizes the~~
11 ~~imposition of a municipal infrastructure gross receipts tax or~~
12 ~~that affects the municipal infrastructure gross receipts tax,~~
13 ~~or a law supplemental to or otherwise pertaining to the tax,~~
14 ~~shall not be repealed or amended or otherwise directly or~~
15 ~~indirectly modified in such a manner as to impair adversely any~~
16 ~~outstanding revenue bonds that may be secured by a pledge of~~
17 ~~the municipal infrastructure gross receipts tax unless the~~
18 ~~outstanding revenue bonds have been discharged in full or~~
19 ~~provision has been fully made for their discharge. As used in~~
20 ~~Chapter 3, Article 31 NMSA 1978, "economic development gross~~
21 ~~receipts tax revenue bonds" means the bonds authorized in this~~
22 ~~subsection, and "municipal infrastructure gross receipts tax~~
23 ~~revenue" means any or all of the revenue from the municipal~~
24 ~~infrastructure gross receipts tax transferred to the~~
25 ~~municipality pursuant to Section 7-1-6.12 NMSA 1978.~~

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1 J. ~~Municipal higher education facilities gross~~
2 ~~receipts tax revenue bonds may be issued for the purpose of~~
3 ~~acquisition, construction, renovation or improvement of~~
4 ~~facilities of a four-year post-secondary public educational~~
5 ~~institution located in the municipality and acquisition of or~~
6 ~~improvements to land for those facilities. The municipality~~
7 ~~may pledge irrevocably any or all of the revenue received from~~
8 ~~the municipal higher education facilities gross receipts tax to~~
9 ~~the payment of the interest on and principal of the municipal~~
10 ~~higher education facilities gross receipts tax revenue bonds.~~
11 ~~A law that imposes or authorizes the imposition of a municipal~~
12 ~~higher education facilities gross receipts tax or that affects~~
13 ~~the municipal higher education facilities gross receipts tax,~~
14 ~~or a law supplemental to or otherwise pertaining to the tax,~~
15 ~~shall not be repealed or amended or otherwise directly or~~
16 ~~indirectly modified in such a manner as to impair adversely any~~
17 ~~outstanding revenue bonds that may be secured by a pledge of~~
18 ~~the municipal higher education facilities gross receipts tax~~
19 ~~unless the outstanding revenue bonds have been discharged in~~
20 ~~full or provision has been fully made for their discharge. As~~
21 ~~used in Chapter 3, Article 31 NMSA 1978, "municipal higher~~
22 ~~education facilities gross receipts tax revenue bonds" means~~
23 ~~the bonds authorized in this subsection and "municipal higher~~
24 ~~education facilities gross receipts tax revenue" means any or~~
25 ~~all of the revenue from the municipal higher education~~

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1 ~~facilities gross receipts tax transferred to the municipality~~
2 ~~pursuant to Section 7-1-6.12 NMSA 1978.~~

3 ~~K.]~~ I. Except for the purpose of refunding previous
4 revenue bond issues, no municipality may sell revenue bonds
5 payable from pledged revenues after the expiration of two years
6 from the date of the ordinance authorizing the issuance of the
7 bonds or, for bonds to be issued and sold to the New Mexico
8 finance authority as authorized in Subsection C of Section
9 3-31-4 NMSA 1978, after the expiration of two years from the
10 date of the resolution authorizing the issuance of the bonds.
11 However, any period of time during which a particular revenue
12 bond issue is in litigation shall not be counted in determining
13 the expiration date of that issue."

14 **SECTION 2.** A new section of Chapter 3, Article 31 NMSA
15 1978 is enacted to read:

16 "[NEW MATERIAL] DEFINITIONS.--As used in Chapter 3,
17 Article 31 NMSA 1978:

18 A. "bond" means any obligation of a municipality
19 issued under Chapter 3, Article 31 NMSA 1978, whether
20 designated as a bond, note, loan, warrant, debenture, lease-
21 purchase agreement or other instrument evidencing an obligation
22 of a municipality to make payments;

23 B. "gasoline tax revenue" means all or portions of
24 the amounts of tax revenues distributed to municipalities
25 pursuant to Sections 7-1-6.9 and 7-1-6.27 NMSA 1978;

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1 C. "gasoline tax revenue bonds" means the bonds
2 authorized by Subsection E of Section 3-31-1 NMSA 1978;

3 D. "joint utility revenue bonds" or "joint utility
4 bonds" means the bonds authorized by Subsection C of Section
5 3-31-1 NMSA 1978;

6 E. "pledged revenues" means the revenues, net
7 income or net revenues authorized to be pledged to the payment
8 of revenue bonds as specifically provided in Chapter 3, Article
9 31 NMSA 1978;

10 F. "project revenue bonds" means the bonds
11 authorized by Subsection F of Section 3-31-1 NMSA 1978;

12 G. "sales tax revenue" means the amount of money
13 transferred to the municipality as authorized by Section
14 7-1-6.12 NMSA 1978 for any municipal sales tax imposed pursuant
15 to the Municipal Local Option Sales and Use Tax Act;

16 H. "sales tax revenue bonds" means the bonds
17 authorized by Subsection D of Section 3-31-1 NMSA 1978; and

18 I. "utility revenue bonds" or "utility bonds" means
19 the bonds authorized by Subsection B of Section 3-31-1 NMSA
20 1978."

21 SECTION 3. Section 3-37A-2 NMSA 1978 (being Laws 1979,
22 Chapter 284, Section 2, as amended) is amended to read:

23 "3-37A-2. DEFINITIONS.--As used in the Small Cities
24 Assistance Act:

25 A. "municipality" means an incorporated city, town

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1 or village, whether incorporated under general act, special act
2 or special charter, and incorporated counties and H-class
3 counties;

4 B. "municipal share" means [~~one and thirty-five~~
5 ~~one-hundredths percent of~~] the rate determined pursuant to
6 Subsection A of Section 7-1-84 NMSA 1978 multiplied by the
7 taxable gross receipts as defined in the [~~Gross Receipts and~~
8 ~~Compensating~~] Sales and Use Tax Act reported annually for each
9 municipality to the taxation and revenue department during a
10 twelve-month period ending June 30;

11 C. "total municipal share" means the sum of all
12 municipal shares;

13 D. "statewide per capita average" means the
14 quotient of the total municipal share divided by the total
15 population in all municipalities;

16 E. "municipal per capita average" means the
17 quotient of the municipal share divided by the municipality's
18 population;

19 F. "population" means the most recent official
20 census or estimate determined by the United States census
21 bureau [~~of the census~~], or, if neither is available,
22 "population" means an estimate as determined by the local
23 government division of the department of finance and
24 administration;

25 G. "local tax effort" means the amount produced by

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1 ~~[a one-fourth of one percent municipal gross receipts tax]~~ the
2 rate determined pursuant to Subsection B of Section 7-1-84 NMSA
3 1978 in the previous fiscal year;

4 H. "qualifying municipality" means a municipality
5 with a population of less than ten thousand that has enacted on
6 or before the last day of the preceding fiscal year an
7 ordinance or ordinances imposing a municipal ~~[gross receipts]~~
8 sales tax ~~[pursuant to Section 7-19D-9 NMSA 1978]~~ at ~~[a rate of~~
9 ~~one-fourth of one percent or more]~~ the rate determined pursuant
10 to Subsection B of Section 7-1-84 NMSA 1978;

11 I. "enacted" means adopted by a majority of the
12 members of the governing body of the municipality pursuant to
13 Section 7-19D-9 NMSA 1978 and:

14 (1) for which no election has been called in
15 the manner and within the time provided by Section 7-19D-9 NMSA
16 1978; or

17 (2) that has been approved by a majority of
18 the registered voters voting on the question pursuant to
19 Section 7-19D-9 NMSA 1978; and

20 J. "minimum amount" means an amount equal to ninety
21 thousand dollars (\$90,000)."

22 SECTION 4. Section 3-65-8 NMSA 1978 (being Laws 2001,
23 Chapter 231, Section 8) is amended to read:

24 "3-65-8. AUTHORIZATION OF PROJECT.--

25 A. Pursuant to the provisions of Section 6-21-6

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1 NMSA 1978, the legislature authorizes the authority to make a
2 loan from the public project revolving fund to a municipality
3 to acquire land for and to design, purchase, construct,
4 remodel, renovate, rehabilitate, improve, equip or furnish a
5 minor league baseball stadium on terms and conditions
6 established by the authority.

7 B. Prior to receiving the loan, the governing body
8 shall approve the loan and related documents by an ordinance to
9 be adopted by a majority of the members of the governing body.
10 The ordinance shall pledge the stadium surcharge receipts to
11 make the loan payments. In addition to pledging stadium
12 surcharge receipts for making loan payments, the ordinance
13 shall pledge legally available [~~gross receipts~~] sales tax
14 revenues [~~distributed~~] transferred to a municipality pursuant
15 to Section [~~7-1-6.4 or~~] 7-1-6.12 NMSA 1978 in an amount
16 satisfactory to the authority and in an amount at least
17 sufficient to make the loan payments. No action shall be
18 brought questioning the legality of the pledge of receipts and
19 revenues, the ordinance, the loan, the proceedings, the stadium
20 surcharge or any other matter concerning the loan after thirty
21 days from the date of publication of the ordinance approving
22 the loan and related documents and pledging stadium surcharge
23 receipts and [~~gross receipts~~] sales tax revenues of the
24 municipality to make the loan payments.

25 C. The legislature or a municipality shall not

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1 repeal, amend or otherwise modify any law or ordinance that
2 adversely affects or impairs the stadium surcharge or any loan
3 from the authority secured by a pledge of the stadium surcharge
4 and [~~gross receipts~~] sales tax revenues, unless the loan has
5 been paid in full or provisions have been made for full
6 payment."

7 SECTION 5. Section 3-66-8 NMSA 1978 (being Laws 2005,
8 Chapter 351, Section 10) is amended to read:

9 "3-66-8. ISSUANCE OF BONDS.--

10 A. A municipality may issue revenue bonds, in
11 accordance with the procedures set forth in Sections 3-31-3
12 through 3-31-7 NMSA 1978, to acquire land for and to design,
13 purchase, construct, remodel, renovate, rehabilitate, improve,
14 equip or furnish a municipal event center.

15 B. Revenue bonds issued by a municipality may be
16 secured by event center revenues, event center surcharge
17 receipts or [~~gross receipts~~] sales tax revenues [~~distributed~~]
18 transferred to that municipality pursuant to Section [~~7-1-6.4~~
19 ~~or~~] 7-1-6.12 NMSA 1978.

20 C. An action shall not be brought questioning the
21 legality of the pledge of event center revenues, event center
22 surcharge receipts or [~~gross receipts~~] sales tax revenues,
23 bonds issued pursuant to the Municipal Event Center Funding
24 Act, issuance of those bonds, an event center surcharge
25 included in a vendor contract or any other matter concerning

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1 the bonds after thirty days from the date of publication of the
2 ordinance authorizing issuance of the bonds and the pledging of
3 event center receipts, event center surcharge receipts or
4 [~~gross receipts~~] sales tax revenues of a municipality to make
5 debt service payments.

6 D. The legislature or a municipality shall not
7 repeal, amend or otherwise modify any law or ordinance that
8 adversely affects or impairs the event center surcharge or any
9 bonds secured by a pledge of the event center revenues, event
10 center surcharge receipts or [~~gross receipts~~] sales tax
11 revenues, unless the bonds have been paid in full or provisions
12 have been made for full payment."

13 SECTION 6. Section 4-48B-12 NMSA 1978 (being Laws 1981,
14 Chapter 83, Section 12, as amended) is amended to read:

15 "4-48B-12. TAX LEVIES AUTHORIZED.--

16 A. The county commissioners are authorized to
17 impose a mill levy and collect annual assessments against the
18 net taxable value of the property in a county to pay the cost
19 of operating and maintaining county hospitals or to pay to
20 contracting hospitals in accordance with a health care
21 facilities contract and in class A counties to pay for the
22 county's transfer to the county-supported medicaid fund
23 pursuant to Section 27-10-4 NMSA 1978 as follows:

24 (1) in class A counties as defined in Section
25 4-44-1 NMSA 1978, the mill levy shall not exceed a rate of six
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1 dollars fifty cents (\$6.50), or any lower maximum amount
2 required by operation of the rate limitation provisions of
3 Section 7-37-7.1 NMSA 1978 upon a mill levy imposed pursuant to
4 this paragraph, on each one thousand dollars (\$1,000) of net
5 taxable value of property allocated to the county; however, if
6 the county uses any portion, not to exceed one dollar fifty
7 cents (\$1.50), of the rate authorized by this paragraph to meet
8 the requirement of Section 27-10-4 NMSA 1978, the provisions of
9 Section 7-37-7.1 NMSA 1978 do not apply to the portion of the
10 rate necessary to produce the revenues required; provided that
11 the portion of the rate does not exceed one dollar fifty cents
12 (\$1.50); and

13 (2) in other counties, the mill levy shall not
14 exceed four dollars twenty-five cents (\$4.25), or any lower
15 maximum amount required by operation of the rate limitation
16 provisions of Section 7-37-7.1 NMSA 1978 upon a mill levy
17 imposed pursuant to this paragraph, on each one thousand
18 dollars (\$1,000) of net taxable value of property allocated to
19 the county.

20 B. The mill levies provided in Paragraphs (1) and
21 (2) of Subsection A of this section shall be made at the
22 direction of the county commissioners, but only to the extent
23 that the county commissioners deem it necessary to operate and
24 maintain county hospitals, to pay the amounts required in the
25 performance of any health care facilities contracts made

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1 pursuant to the Hospital Funding Act and to provide for a class
2 A county's transfer to the county-supported medicaid fund
3 pursuant to Section 27-10-4 NMSA 1978.

4 C. In the event that the mill levy provided for in
5 Paragraph (1) of Subsection A of this section is not authorized
6 by the electorate or the resulting mill levy proceeds are not
7 remitted to the entity operating the hospital within a
8 reasonable time period, any lease for operation of the hospital
9 between a county and a state educational institution named in
10 Article 12, Section 11 of the constitution of New Mexico may,
11 at the option of the state educational institution, be
12 terminated immediately. Except as provided in Subsection D of
13 this section, in the event that the mill levy provided for in
14 Paragraph (1) of Subsection A of this section is authorized, an
15 amount not less than the amount that would be produced by a
16 mill levy at the rate of four dollars (\$4.00), or any lower
17 amount that would be required by operation of the rate
18 limitation provisions of Section 7-37-7.1 NMSA 1978 upon this
19 rate, on each one thousand dollars (\$1,000) of net taxable
20 value of property allocated to the county shall be provided
21 from the proceeds of the mill levy to the state educational
22 institution operating the hospital for hospital purposes unless
23 the institution determines that the amount is not necessary.

24 D. A class A county imposing the mill levy provided
25 for in Paragraph (1) of Subsection A of this section may enter

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1 into a mutual agreement with a state educational institution
2 named in Article 12, Section 11 of the constitution of New
3 Mexico operating the hospital permitting the transfer to the
4 county-supported medicaid fund by the county pursuant to
5 Section 27-10-4 NMSA 1978 of not to exceed the amount that
6 would be produced by a mill levy at a rate of one dollar fifty
7 cents (\$1.50) applied to the net taxable value of property
8 allocated to the county for the prior property tax year and
9 also not to exceed the amount that would be produced by
10 imposition of [~~the county health care gross receipts tax~~] the
11 rate determined pursuant to Subsection C of Section 7-1-84 NMSA
12 1978.

13 E. The distribution of the mill levy authorized at
14 the rates specified in Subsection A of this section shall be
15 made to county and contracting hospitals as authorized in the
16 Hospital Funding Act."

17 SECTION 7. Section 4-61-2 NMSA 1978 (being Laws 1982,
18 Chapter 44, Section 2, as amended) is amended to read:

19 "4-61-2. DEFINITIONS.--As used in the Small Counties
20 Assistance Act:

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

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1 year 2002; the adjustment factor shall be calculated without
2 reference to assessed value determined pursuant to the Oil and
3 Gas Ad Valorem Production Tax Act, assessed value determined
4 pursuant to the Oil and Gas Production Equipment Ad Valorem Tax
5 Act or taxable value determined pursuant to the Copper
6 Production Ad Valorem Tax Act;

7 B. "ceiling valuation" means,

8 [~~(1) for the 2002 property tax year, one~~
9 ~~billion four hundred million dollars (\$1,400,000,000); and~~
10 ~~(2)] for each [subsequent] property tax year,
11 an amount equal to the product obtained by multiplying one
12 billion four hundred million dollars (\$1,400,000,000) by the
13 adjustment factor for the year;~~

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

16 D. "inflation factor" means a fraction whose
17 numerator is the annual implicit price deflator index for state
18 and local government purchases of goods and services, as
19 published in the United States department of commerce monthly
20 publication entitled "Survey of Current Business" or any
21 successor publication prepared by an agency of the United
22 States and adopted by the department of finance and
23 administration, for the calendar year one year prior to the
24 year in which the distribution is to be made and whose
25 denominator is the annual index for calendar year 2004;

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1 provided that, if the inflation factor is calculated to have a
2 value less than one, it shall be deemed to have a value of one;

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

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

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

23 (2) by July 1 of the property tax year in
24 which any distribution under the Small Counties Assistance Act
25 is made to the county, received a written certification from

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

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

11 (4) imposed county ~~[gross receipts]~~ sales tax
12 increments ~~[authorized pursuant to Section 7-20E-9 NMSA 1978~~
13 ~~totaling at least three-eighths percent]~~ at a rate of at least
14 the rate determined pursuant to Subsection D of Section 7-1-84
15 NMSA 1978 and has those increments in effect on July 1 of the
16 year in which a distribution is made; provided that this
17 paragraph does not apply to a county if the county's valuation
18 for property taxation purposes does not exceed the product of
19 two hundred thirty million dollars (\$230,000,000) multiplied by
20 the 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;

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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 fiscal year one year prior to the fiscal year~~
4 ~~in which the distribution is to be made and the denominator of~~
5 ~~which is five]~~ one and twenty-five thousandths percent; and

6 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 8.** 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, in 2011 [~~and subsequent~~
16 ~~years~~] through 2018 shall also be adjusted by the tax rate
17 factor. The department of finance and administration may round
18 the results of the adjustments made pursuant to this subsection
19 to the nearest one 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	\$515,000
25	\$ 0	\$100,000,000	at least 1,000	

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1 but under 4,000 \$370,000
2 \$ 0 \$100,000,000 at least 4,000 \$285,000
3 \$100,000,000 \$230,000,000 under 12,000 \$200,000
4 \$100,000,000 \$230,000,000 at least 12,000 \$145,000
5 \$230,000,000 \$1,400,000,000 under 48,000 \$85,000.

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

13 (1) fifty thousand dollars (\$50,000) if the
14 county has imposed and has in effect on July 1 of the year in
15 which the distribution is to be made, a county [~~correctional~~
16 ~~facility gross receipts~~] sales tax at a rate of at least [~~one-~~
17 ~~eighth percent~~] the rate determined pursuant to Subsection E
18 of Section 7-1-84 NMSA 1978 and the revenue from those
19 increments is dedicated as follows:

20 (a) for the purpose of operating,
21 maintaining, constructing, purchasing, furnishing, equipping,
22 rehabilitating, expanding or improving a judicial-correctional
23 or a county correctional facility or the grounds of a
24 judicial-correctional or county correctional facility,
25 including acquiring and improving parking lots, landscaping or

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1 any combination of the foregoing;

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

4 (c) to payment of principal and
5 interest on revenue bonds or refunding bonds issued for the
6 purposes described in Subparagraphs (a) and (b) of this
7 paragraph;

8 (2) twenty thousand dollars (\$20,000) if the
9 county has imposed and has in effect on July 1 of the year in
10 which the distribution is to be made, a county [~~gross~~
11 ~~receipts~~] sales tax increment of [~~one-sixteenth percent~~] the
12 rate determined pursuant to Subsection E of Section 7-1-84
13 NMSA 1978; or

14 (3) seventy thousand dollars (\$70,000) if the
15 county has met the requirements of Paragraphs (1) and (2) of
16 this subsection.

17 F. If the balance in the small counties assistance
18 fund as of the preceding August 31 is less than the sum of the
19 distributions determined pursuant to Subsection D of this
20 section plus the distribution increases authorized pursuant to
21 Subsection E of this section, the distribution increases
22 pursuant to Subsection E of this section shall be
23 proportionately reduced.

24 G. If the balance in the small counties assistance
25 fund as of the preceding August 31 is less than the sum of the

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1 distributions to be made to qualifying counties, the
2 department of finance and administration shall reduce each
3 qualifying county's calculated distribution by a percentage
4 computed by dividing the amount by which the fund is
5 insufficient by the sum of all the calculated distributions
6 and shall certify the reduced amounts as the qualifying
7 counties' distributions.

8 H. Any interest accruing from the temporary
9 investment of the small counties assistance fund shall be
10 credited to the general fund.

11 I. On or before September 30, 2003 and on or
12 before September 30 of each subsequent year, the state
13 treasurer shall distribute to each county for whom a
14 distribution has been certified for that year the amount
15 certified for that county for that year. If the balance in
16 the fund as of the preceding August 31 exceeds the sum of
17 certified amounts distributed, the difference shall revert to
18 the general fund.

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

24 SECTION 9. Section 4-62-1 NMSA 1978 (being Laws 1992,
25 Chapter 95, Section 1, as amended) is amended to read:

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[bracketed material] = delete

1 "4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF
2 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

3 A. In addition to any other law authorizing a
4 county to issue revenue bonds, a county may issue revenue
5 bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the
6 purposes specified in this section. [~~The term "pledged~~
7 ~~revenues", as used in Chapter 4, Article 62 NMSA 1978, means~~
8 ~~the revenues, net income or net revenues authorized to be~~
9 ~~pledged to the payment of particular revenue bonds as~~
10 ~~specifically provided in Subsections B through M of this~~
11 ~~section.~~]

12 B. [~~Gross receipts~~] Sales tax revenue bonds may be
13 issued for [~~one or more of the following purposes:~~

14 (1) ~~constructing, purchasing, furnishing,~~
15 ~~equipping, rehabilitating, making additions to or making~~
16 ~~improvements to one or more public buildings or purchasing or~~
17 ~~improving ground relating thereto, including but not~~
18 ~~necessarily limited to acquiring and improving parking lots,~~
19 ~~or any combination of the foregoing;~~

20 (2) ~~acquiring or improving county or public~~
21 ~~parking lots, structures or facilities or any combination of~~
22 ~~the foregoing;~~

23 (3) ~~purchasing, acquiring or rehabilitating~~
24 ~~firefighting equipment or any combination of the foregoing;~~

25 (4) ~~acquiring, extending, enlarging,~~

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[bracketed material] = delete

1 ~~bettering, repairing or otherwise improving or maintaining~~
2 ~~storm sewers and other drainage improvements, sanitary sewers,~~
3 ~~sewage treatment plants, water utilities or other water,~~
4 ~~wastewater or related facilities, including but not limited to~~
5 ~~the acquisition of rights of way and water and water rights,~~
6 ~~or any combination of the foregoing;~~

7 ~~(5) reconstructing, resurfacing, maintaining,~~
8 ~~repairing or otherwise improving existing alleys, streets,~~
9 ~~roads or bridges or any combination of the foregoing or laying~~
10 ~~off, opening, constructing or otherwise acquiring new alleys,~~
11 ~~streets, roads or bridges or any combination of the foregoing;~~
12 ~~provided that any of the foregoing improvements may include~~
13 ~~the acquisition of rights of way;~~

14 ~~(6) purchasing, acquiring, constructing,~~
15 ~~making additions to, enlarging, bettering, extending or~~
16 ~~equipping airport facilities or any combination of the~~
17 ~~foregoing, including without limitation the acquisition of~~
18 ~~land, easements or rights of way;~~

19 ~~(7) purchasing or otherwise acquiring or~~
20 ~~clearing land or purchasing, otherwise acquiring and~~
21 ~~beautifying land for open space;~~

22 ~~(8) acquiring, constructing, purchasing,~~
23 ~~equipping, furnishing, making additions to, renovating,~~
24 ~~rehabilitating, beautifying or otherwise improving public~~
25 ~~parks, public recreational buildings or other public~~

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1 ~~recreational facilities or any combination of the foregoing;~~

2 ~~(9) acquiring, constructing, extending,~~
3 ~~enlarging, bettering, repairing or otherwise improving or~~
4 ~~maintaining solid waste disposal equipment, equipment for~~
5 ~~operation and maintenance of sanitary landfills, sanitary~~
6 ~~landfills, solid waste facilities or any combination of the~~
7 ~~foregoing; or~~

8 ~~(10) acquiring, constructing, extending,~~
9 ~~bettering, repairing or otherwise improving public transit~~
10 ~~systems or any regional transit systems or facilities] any~~
11 county purpose. A county may pledge irrevocably any or all of
12 the revenue [~~from the first one-eighth increment, the third~~
13 ~~one-eighth increment and the one-sixteenth increment of the~~
14 ~~county gross receipts tax and any increment of the county~~
15 ~~infrastructure gross receipts tax and county capital outlay~~
16 ~~gross receipts tax] received by the county pursuant to Section~~
17 7-1-6.13 NMSA 1978 for payment of principal and interest due
18 in connection with, and other expenses related to, [~~gross~~
19 ~~receipts] sales tax revenue bonds [~~for any of the purposes~~
20 ~~authorized in this section or specific purposes] or for any~~
21 area of county government services. If the revenue [~~from the~~
22 ~~first one-eighth increment, the third one-eighth increment or~~
23 ~~the one-sixteenth increment of the county gross receipts tax~~
24 ~~or any increment of the county infrastructure gross receipts~~
25 ~~tax or county capital outlay gross receipts tax] is pledged~~~~

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1 for payment of principal and interest as authorized by this
2 subsection, the pledge shall require the revenues received
3 ~~[from that increment of the county gross receipts tax or any~~
4 ~~increment of the county infrastructure gross receipts tax or~~
5 ~~county capital outlay gross receipts tax]~~ to be deposited into
6 a special bond fund for payment of the principal, interest and
7 expenses. At the end of each fiscal year, money remaining in
8 the special bond fund after the annual obligations for the
9 bonds are fully met may be transferred to any other fund of
10 the county. Revenues in excess of the annual principal and
11 interest due on ~~[gross receipts]~~ sales tax revenue bonds
12 secured by a pledge of ~~[gross receipts]~~ sales tax revenue may
13 be accumulated in a debt service reserve account. The
14 governing body of the county may appoint a commercial bank
15 trust department to act as trustee of the proceeds of the tax
16 and to administer the payment of principal of and interest on
17 the bonds.

18 ~~[C. Fire protection revenue bonds may be issued~~
19 ~~for acquiring, extending, enlarging, bettering, repairing,~~
20 ~~improving, constructing, purchasing, furnishing, equipping or~~
21 ~~rehabilitating any independent fire district project or~~
22 ~~facilities, including where applicable purchasing, otherwise~~
23 ~~acquiring or improving the ground for the project, or any~~
24 ~~combination of such purposes. A county may pledge irrevocably~~
25 ~~any or all of the county fire protection excise tax revenue~~

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1 ~~for payment of principal and interest due in connection with,~~
2 ~~and other expenses related to, fire protection revenue bonds.~~
3 ~~These bonds may be referred to in Chapter 4, Article 62 NMSA~~
4 ~~1978 as "fire protection revenue bonds".~~

5 ~~D. Environmental revenue bonds may be issued for~~
6 ~~the acquisition and construction of solid waste facilities,~~
7 ~~water facilities, wastewater facilities, sewer systems and~~
8 ~~related facilities. A county may pledge irrevocably any or~~
9 ~~all of the county environmental services gross receipts tax~~
10 ~~revenue for payment of principal and interest due in~~
11 ~~connection with, and other expenses related to, environmental~~
12 ~~revenue bonds. These bonds may be referred to in Chapter 4,~~
13 ~~Article 62 NMSA 1978 as "environmental revenue bonds".~~

14 ~~E.]~~ C. Gasoline tax revenue bonds may be issued
15 for the acquisition of rights of way for and the construction,
16 reconstruction, resurfacing, maintenance, repair or other
17 improvement of county roads and bridges. A county may pledge
18 irrevocably any or all of the county gasoline tax revenue for
19 payment of principal and interest due in connection with, and
20 other expenses related to, county gasoline tax revenue bonds.
21 ~~[These bonds may be referred to in Chapter 4, Article 62 NMSA~~
22 ~~1978 as "gasoline tax revenue bonds".~~

23 ~~F.]~~ D. Utility revenue bonds or joint utility
24 revenue bonds may be issued for acquiring, extending,
25 enlarging, bettering, repairing or otherwise improving water

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[bracketed material] = delete

1 facilities, sewer facilities, gas facilities or electric
2 facilities or for any combination of the foregoing purposes.
3 A county may pledge irrevocably any or all of the net revenues
4 from the operation of the utility or joint utility for which
5 the particular utility or joint utility bonds are issued to
6 the payment of principal and interest due in connection with,
7 and other expenses related to, utility or joint utility
8 revenue bonds. [~~These bonds may be referred to in Chapter 4,~~
9 ~~Article 62 NMSA 1978 as "utility revenue bonds" or "joint~~
10 ~~utility revenue bonds".~~

11 G.] E. Project revenue bonds may be issued for
12 acquiring, extending, enlarging, bettering, repairing,
13 improving, constructing, purchasing, furnishing, equipping or
14 rehabilitating any revenue-producing project, including, as
15 applicable, purchasing, otherwise acquiring or improving the
16 ground therefor and [~~including but not limited to~~] acquiring
17 and improving parking lots, or may be issued for any
18 combination of the foregoing purposes. The county may pledge
19 irrevocably any or all of the net revenues from the operation
20 of the revenue-producing project for which the particular
21 project revenue bonds are issued to the payment of the
22 interest on and principal of the project revenue bonds. The
23 net revenues of any revenue-producing project shall not be
24 pledged to the project revenue bonds issued for any other
25 revenue-producing project that is clearly unrelated in nature;

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[bracketed material] = delete

1 but nothing in this subsection prevents the pledge to any of
2 the project revenue bonds of the revenues received from
3 existing, future or disconnected facilities and equipment that
4 are related to and that may constitute a part of the
5 particular revenue-producing project. A general determination
6 by the governing body that facilities or equipment is
7 reasonably related to and constitutes a part of a specified
8 revenue-producing project shall be conclusive if set forth in
9 the proceedings authorizing the project revenue bonds. [~~As~~
10 ~~used in Chapter 4, Article 62 NMSA 1978:~~

11 ~~(1) "project revenue bonds" means the bonds~~
12 ~~authorized in this subsection; and~~

13 ~~(2) "project revenues" means the net revenues~~
14 ~~of revenue-producing projects that may be pledged to project~~
15 ~~revenue bonds pursuant to this subsection.~~

16 H.] F. Fire district revenue bonds may be issued
17 for acquiring, extending, enlarging, bettering, repairing,
18 improving, constructing, purchasing, furnishing, equipping and
19 rehabilitating any fire district project, including, where
20 applicable, purchasing, otherwise acquiring or improving the
21 ground therefor, or for any combination of the foregoing
22 purposes. The county may pledge irrevocably any or all of the
23 revenues received by the fire district from the fire
24 protection fund as provided in the Fire Protection Fund Law
25 and any or all of the revenues provided for the operation of

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1 the fire district project for which the particular bonds are
2 issued to the payment of the interest on and principal of the
3 bonds. The revenues of a fire district project shall not be
4 pledged to the bonds issued for a fire district project that
5 clearly is unrelated in its purpose; but nothing in this
6 section prevents the pledge to such bonds of revenues received
7 from existing, future or disconnected facilities and equipment
8 that are related to and that may constitute a part of the
9 particular fire district project. A general determination by
10 the governing body of the county that facilities or equipment
11 is reasonably related to and constitutes a part of a specified
12 fire district project shall be conclusive if set forth in the
13 proceedings authorizing the fire district revenue bonds.

14 ~~[I.]~~ G. Law enforcement protection revenue bonds
15 may be issued for the repair and purchase of law enforcement
16 apparatus and equipment that meet nationally recognized
17 standards. The county may pledge irrevocably any or all of
18 the revenues received by the county from the law enforcement
19 protection fund distributions pursuant to the Law Enforcement
20 Protection Fund Act to the payment of the interest on and
21 principal of the law enforcement protection revenue bonds.

22 ~~[J. Hospital emergency gross receipts tax revenue~~
23 ~~bonds may be issued for acquiring, equipping, remodeling or~~
24 ~~improving a county hospital or county health facility. A~~
25 ~~county may pledge irrevocably to the payment of the interest~~

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1 ~~on and principal of the hospital emergency gross receipts tax~~
2 ~~revenue bonds any or all of the revenues received by the~~
3 ~~county from a county hospital emergency gross receipts tax~~
4 ~~imposed pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated~~
5 ~~to payment of bonds or a loan for acquiring, equipping,~~
6 ~~remodeling or improving a county hospital or county health~~
7 ~~facility.~~

8 ~~K. Economic development gross receipts tax revenue~~
9 ~~bonds may be issued for the purpose of furthering economic~~
10 ~~development projects as defined in the Local Economic~~
11 ~~Development Act. A county may pledge irrevocably any or all~~
12 ~~of the county infrastructure gross receipts tax to the payment~~
13 ~~of the interest on and principal of the economic development~~
14 ~~gross receipts tax revenue bonds for the purpose authorized in~~
15 ~~this subsection.~~

16 ~~L. County education gross receipts tax revenue~~
17 ~~bonds may be issued for public school or off-campus~~
18 ~~instruction program capital projects as authorized in Section~~
19 ~~7-20E-20 NMSA 1978. A county may pledge irrevocably any or~~
20 ~~all of the county education gross receipts tax revenue to the~~
21 ~~payment of interest on and principal of the county education~~
22 ~~gross receipts tax revenue bonds for the purpose authorized in~~
23 ~~this section.~~

24 ~~M.] H.~~ PILT revenue bonds may be issued by a
25 county to repay all or part of the principal and interest of

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[bracketed material] = delete

1 an outstanding loan owed by the county to the New Mexico
2 finance authority. A county may pledge irrevocably all or
3 part of PILT revenue to the payment of principal of and
4 interest on new loans or preexisting loans provided by the New
5 Mexico finance authority to finance a public project as
6 "public project" is defined in Subsection E of Section 6-21-3
7 NMSA 1978.

8 ~~[N.]~~ I. Except for the purpose of refunding
9 previous revenue bond issues, no county may sell revenue bonds
10 payable from pledged revenue after the expiration of two years
11 from the date of the ordinance authorizing the issuance of the
12 bonds or, for bonds to be issued and sold to the New Mexico
13 finance authority as authorized in Subsection C of Section
14 4-62-4 NMSA 1978, after the expiration of two years from the
15 date of the resolution authorizing the issuance of the bonds.
16 However, any period of time during which a particular revenue
17 bond issue is in litigation shall not be counted in
18 determining the expiration date of that issue.

19 ~~[O.]~~ J. No bonds may be issued by a county, other
20 than an H class county, a class B county as defined in Section
21 4-36-8 NMSA 1978 or a class A county as described in Section
22 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,
23 repair or construct a utility unless the utility is regulated
24 by the public regulation commission pursuant to the Public
25 Utility Act and the issuance of the bonds is approved by the

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underscored material = new
[bracketed material] = delete

1 commission. For purposes of Chapter 4, Article 62 NMSA 1978,
2 a "utility" includes [~~but is not limited to~~] a water,
3 wastewater, sewer, gas or electric utility or joint utility
4 serving the public. H class counties shall obtain public
5 regulation commission approvals required by Section 3-23-3
6 NMSA 1978.

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

20 [Q. ~~As used in this section:~~

21 (1) ~~"county infrastructure gross receipts tax~~
22 ~~revenue"~~ means the revenue from the county infrastructure
23 ~~gross receipts tax transferred to the county pursuant to~~
24 ~~Section 7-1-6.13 NMSA 1978;~~

25 (2) ~~"county capital outlay gross receipts tax~~

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1 ~~revenue" means the revenue from the county capital outlay~~
2 ~~gross receipts tax transferred to the county pursuant to~~
3 ~~Section 7-1-6.13 NMSA 1978;~~

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

8 ~~(4) "county environmental services gross~~
9 ~~receipts tax revenue" means the revenue from the county~~
10 ~~environmental services gross receipts tax transferred to the~~
11 ~~county pursuant to Section 7-1-6.13 NMSA 1978;~~

12 ~~(5) "county fire protection excise tax~~
13 ~~revenue" means the revenue from the county fire protection~~
14 ~~excise tax transferred to the county pursuant to Section~~
15 ~~7-1-6.13 NMSA 1978;~~

16 ~~(6) "county gross receipts tax revenue" means~~
17 ~~the revenue attributable to the first one-eighth increment,~~
18 ~~the third one-eighth increment and the one-sixteenth increment~~
19 ~~of the county gross receipts tax transferred to the county~~
20 ~~pursuant to Section 7-1-6.13 NMSA 1978 and any distribution~~
21 ~~related to the first one-eighth increment made pursuant to~~
22 ~~Section 7-1-6.16 NMSA 1978;~~

23 ~~(7) "gasoline tax revenue" means the revenue~~
24 ~~from that portion of the gasoline tax distributed to the~~
25 ~~county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;~~

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[bracketed material] = delete

1 ~~(8) "PILT revenue" means revenue received by~~
2 ~~the county from the federal government as payments in lieu of~~
3 ~~taxes; and~~

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

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

17 SECTION 10. A new section of Chapter 4, Article 62 NMSA
18 1978 is enacted to read:

19 "[NEW MATERIAL] DEFINITIONS.--As used in Chapter 4,
20 Article 62 NMSA 1978:

21 A. "bond" means any obligation of a county issued
22 under Chapter 4, Article 62 NMSA 1978, whether designated as a
23 bond, note, loan, warrant, debenture, lease-purchase agreement
24 or other instrument evidencing an obligation of a county to
25 make payments;

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underscoring material = new
~~[bracketed material] = delete~~

1 B. "gasoline tax revenue bonds" means the bonds
2 authorized by Subsection C of Section 4-62-1 NMSA 1978;

3 C. "PILT revenue" means revenue received by the
4 county from the federal government as payments in lieu of
5 taxes;

6 D. "pledged revenue" means the revenue, net income
7 or net revenue authorized to be pledged to the payment of
8 particular revenue bond as specifically provided in Section
9 4-62-1 NMSA 1978;

10 E. "project revenues" means the net revenues of
11 revenue-producing projects that may be pledged to project
12 revenue bonds;

13 F. "sales tax revenue" means the revenue
14 attributable to the county sales tax transferred to the county
15 pursuant to Section 7-1-6.13 NMSA 1978 and any distribution
16 made pursuant to Section 7-1-6.16 NMSA 1978;

17 G. "sales tax revenue bonds" means the bonds
18 authorized by Subsection B of Section 4-62-1 NMSA 1978; and

19 H. "utility revenue bonds" or "joint utility
20 revenue bonds" means the bonds authorized by Subsection D of
21 Section 4-62-1 NMSA 1978."

22 SECTION 11. Section 5-10-3 NMSA 1978 (being Laws 1993,
23 Chapter 297, Section 3, as amended) is amended to read:

24 "5-10-3. DEFINITIONS.--As used in the Local Economic
25 Development Act:

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underscoring material = new
~~[bracketed material] = delete~~

1 A. "arts and cultural district" means a developed
2 district of public and private uses that is created pursuant
3 to the Arts and Cultural District Act;

4 B. "cultural facility" means a facility that is
5 owned by the state, a county, a municipality or a qualifying
6 entity that serves the public through preserving, educating
7 and promoting the arts and culture of a particular locale,
8 including theaters, museums, libraries, galleries, cultural
9 compounds, educational organizations, performing arts venues
10 and organizations, fine arts organizations, studios and media
11 laboratories and live-work housing facilities;

12 C. "department" means the economic development
13 department;

14 D. "economic development project" or "project"
15 means the provision of direct or indirect assistance to a
16 qualifying entity by a local or regional government and
17 includes the purchase, lease, grant, construction,
18 reconstruction, improvement or other acquisition or conveyance
19 of land, buildings or other infrastructure; public works
20 improvements essential to the location or expansion of a
21 qualifying entity; payments for professional services
22 contracts necessary for local or regional governments to
23 implement a plan or project; the provision of direct loans or
24 grants for land, buildings or infrastructure; technical
25 assistance to cultural facilities; loan guarantees securing

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1 the cost of land, buildings or infrastructure in an amount not
2 to exceed the revenue that may be derived from [~~the municipal~~
3 ~~infrastructure gross receipts tax or the county infrastructure~~
4 ~~gross receipts tax~~] an increment of a local option sales tax
5 imposed by a municipality or county that is dedicated for
6 furthering or implementing economic development plans and
7 projects as defined in the Local Economic Development Act or
8 projects as defined in the Statewide Economic Development
9 Finance Act; grants for public works infrastructure
10 improvements essential to the location or expansion of a
11 qualifying entity; grants or subsidies to cultural facilities;
12 purchase of land for a publicly held industrial park or a
13 publicly owned cultural facility; and the construction of a
14 building for use by a qualifying entity;

15 E. "governing body" means the city council, city
16 commission or board of trustees of a municipality or the board
17 of county commissioners of a county;

18 F. "local government" means a municipality or
19 county;

20 G. "municipality" means an incorporated city, town
21 or village;

22 H. "person" means an individual, corporation,
23 association, partnership or other legal entity;

24 I. "qualifying entity" means a corporation,
25 limited liability company, partnership, joint venture,

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underscoring material = new
~~[bracketed material] = delete~~

1 syndicate, association or other person that is one or a
2 combination of two or more of the following:

3 (1) an industry for the manufacturing,
4 processing or assembling of agricultural or manufactured
5 products;

6 (2) a commercial enterprise for storing,
7 warehousing, distributing or selling products of agriculture,
8 mining or industry, but, other than as provided in Paragraph
9 (5), (6) or (9) of this subsection, not including any
10 enterprise for sale of goods or commodities at retail or for
11 distribution to the public of electricity, gas, water or
12 telephone or other services commonly classified as public
13 utilities;

14 (3) a business, including a restaurant or
15 lodging establishment, in which all or part of the activities
16 of the business involves the supplying of services to the
17 general public or to governmental agencies or to a specific
18 industry or customer, but, other than as provided in Paragraph
19 (5) or (9) of this subsection, not including businesses
20 primarily engaged in the sale of goods or commodities at
21 retail;

22 (4) an Indian nation, tribe or pueblo or a
23 federally chartered tribal corporation;

24 (5) a telecommunications sales enterprise
25 that makes the majority of its sales to persons outside

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underscoring material = new
~~[bracketed material] = delete~~

1 New Mexico;

2 (6) a facility for the direct sales by
3 growers of agricultural products, commonly known as farmers'
4 markets;

5 (7) a business that is the developer of a
6 metropolitan redevelopment project;

7 (8) a cultural facility; and

8 (9) a retail business;

9 J. "regional government" means any combination of
10 municipalities and counties that enter into a joint powers
11 agreement to provide for economic development projects
12 pursuant to a plan adopted by all parties to the joint powers
13 agreement; and

14 K. "retail business" means a business that is
15 primarily engaged in the sale of goods or commodities at
16 retail and that is located in a municipality with a
17 population, according to the most recent federal decennial
18 census, of:

19 (1) ten thousand or less; or

20 (2) more than ten thousand but less than
21 thirty-five thousand if:

22 (a) the economic development project is
23 not funded or financed with state government revenues; and

24 (b) the business created through the
25 project will not directly compete with an existing business

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1 that is: 1) in the municipality; and 2) engaged in the sale
2 of the same or similar goods or commodities at retail."

3 SECTION 12. Section 5-10-4 NMSA 1978 (being Laws 1993,
4 Chapter 297, Section 4, as amended) is amended to read:

5 "5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON
6 PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

7 A. No local or regional government shall provide
8 public support for economic development projects as permitted
9 pursuant to Article 9, Section 14 of the constitution of
10 New Mexico except as provided in the Local Economic
11 Development Act or as otherwise permitted by law.

12 B. The total amount of public money expended and
13 the value of credit pledged in the fiscal year in which that
14 money is expended by a local government for economic
15 development projects pursuant to Article 9, Section 14 of the
16 constitution of New Mexico and the Local Economic Development
17 Act shall not exceed ten percent of the annual general fund
18 expenditures of the local government in that fiscal year. The
19 limits of this subsection shall not apply to:

20 (1) the value of any land or building
21 contributed to any project pursuant to a project participation
22 agreement;

23 (2) revenue generated through the imposition
24 of [~~the municipal infrastructure gross receipts tax pursuant~~
25 ~~to the Municipal Local Option Gross Receipts Taxes Act~~] a

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1 municipal sales tax increment for furthering or implementing
2 economic development plans and projects as defined in the
3 Local Economic Development Act or projects as defined in the
4 Statewide Economic Development Finance Act; provided that no
5 more than the greater of fifty thousand dollars (\$50,000) or
6 ten percent of the revenue collected shall be used for
7 promotion and administration of or professional services
8 contracts related to the implementation of any such economic
9 development plan adopted by the governing body;

10 (3) revenue generated through the imposition
11 of a county [~~infrastructure gross receipts tax pursuant to the~~
12 ~~County Local Option Gross Receipts Taxes Act~~] sales tax
13 increment for furthering or implementing economic development
14 plans and projects as defined in the Local Economic
15 Development Act or projects as defined in the Statewide
16 Economic Development Finance Act; provided that no more than
17 the greater of fifty thousand dollars (\$50,000) or ten percent
18 of the revenue collected shall be used for promotion and
19 administration of or professional services contracts related
20 to the implementation of any such economic development plan
21 adopted by the governing body;

22 (4) the proceeds of a revenue bond issue to
23 which municipal [~~infrastructure gross receipts~~] sales tax
24 revenue that is dedicated for furthering or implementing
25 economic development plans and projects as defined in the

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underscored material = new
[bracketed material] = delete

1 Local Economic Development Act or projects as defined in the
2 Statewide Economic Development Finance Act is pledged;

3 (5) the proceeds of a revenue bond issue to
4 which county [~~infrastructure gross receipts~~] sales tax revenue
5 is pledged that is dedicated for furthering or implementing
6 economic development plans and projects as defined in the
7 Local Economic Development Act or projects as defined in the
8 Statewide Economic Development Finance Act; or

9 (6) funds donated by private entities to be
10 used for defraying the cost of a project.

11 C. A regional or local government that generates
12 revenue for economic development projects to which the limits
13 of Subsection B of this section do not apply shall create an
14 economic development fund into which such revenues shall be
15 deposited. The economic development fund and income from the
16 economic development fund shall be deposited as provided by
17 law. Money in the economic development fund may be expended
18 only as provided in the Local Economic Development Act or the
19 Statewide Economic Development Finance Act.

20 ~~[D. In order to expend money from an economic~~
21 ~~development fund for arts and cultural district purposes,~~
22 ~~cultural facilities or retail businesses, the governing body~~
23 ~~of a municipality or county that has imposed a municipal or~~
24 ~~county local option infrastructure gross receipts tax for~~
25 ~~furthering or implementing economic development plans and~~

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[bracketed material] = delete

1 ~~projects, as defined in the Local Economic Development Act, or~~
2 ~~projects, as defined in the Statewide Economic Development~~
3 ~~Finance Act, by referendum of the majority of the voters~~
4 ~~voting on the question approving the ordinance imposing the~~
5 ~~municipal or county infrastructure gross receipts tax before~~
6 ~~July 1, 2013 shall be required to adopt a resolution. The~~
7 ~~resolution shall call for an election to approve arts and~~
8 ~~cultural districts as a qualifying purpose and cultural~~
9 ~~facilities or retail businesses as a qualifying entity before~~
10 ~~any revenue generated by the municipal or county local option~~
11 ~~gross receipts tax for furthering or implementing economic~~
12 ~~development plans and projects, as defined in the Local~~
13 ~~Economic Development Act, or projects, as defined in the~~
14 ~~Statewide Economic Development Finance Act, can be expended~~
15 ~~from the economic development fund for arts and cultural~~
16 ~~district purposes, cultural facilities or retail businesses.~~

17 E. ~~The governing body shall adopt a resolution~~
18 ~~calling for an election within seventy-five days of the date~~
19 ~~the ordinance is adopted on the question of approving arts and~~
20 ~~cultural districts as a qualifying purpose and cultural~~
21 ~~facilities or retail businesses as a qualifying entity~~
22 ~~eligible to utilize revenue generated by the Municipal Local~~
23 ~~Option Gross Receipts Taxes Act or the County Local Option~~
24 ~~Gross Receipts Taxes Act for furthering or implementing~~
25 ~~economic development plans and projects as defined in the~~

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[bracketed material] = delete

1 ~~Local Economic Development Act or projects as defined in the~~
2 ~~Statewide Economic Development Finance Act.~~

3 F. ~~The question shall be submitted to the voters~~
4 ~~of the municipality or county as a separate question at a~~
5 ~~regular municipal or county election or at a special election~~
6 ~~called for that purpose by the governing body. A special~~
7 ~~municipal election shall be called, conducted and canvassed as~~
8 ~~provided in the Municipal Election Code. A special county~~
9 ~~election shall be called, conducted and canvassed in~~
10 ~~substantially the same manner as provided by law for general~~
11 ~~elections.~~

12 G. ~~If a majority of the voters voting on the~~
13 ~~question approves the ordinance adding arts and cultural~~
14 ~~districts and cultural facilities or retail businesses as an~~
15 ~~approved use of the local option municipal or county economic~~
16 ~~development infrastructure gross receipts tax fund, the~~
17 ~~ordinance shall become effective on July 1 or January 1,~~
18 ~~whichever date occurs first after the expiration of three~~
19 ~~months from the date of the adopted ordinance. The ordinance~~
20 ~~shall include the effective date.]"~~

21 SECTION 13. Section 5-15-3 NMSA 1978 (being Laws 2006,
22 Chapter 75, Section 3) is amended to read:

23 "5-15-3. DEFINITIONS.--As used in the Tax Increment for
24 Development Act:

25 A. "base [~~gross receipts~~] sales taxes" means:

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[bracketed material] = delete

1 (1) the total amount of gross receipts or
2 sales taxes collected within a [~~tax increment development~~]
3 district, as estimated by the governing body that adopted a
4 resolution to form that district, in consultation with the
5 taxation and revenue department, in the calendar year
6 preceding the formation of the [~~tax increment development~~]
7 district or, when an area is added to an existing district,
8 the amount of gross receipts or sales taxes collected in the
9 calendar year preceding the effective date of the modification
10 of the tax increment development plan and designated by the
11 governing body to be available as part of the gross receipts
12 or sales tax increment; and

13 (2) any amount of gross receipts or sales
14 taxes that would have been collected in such year if any
15 applicable additional gross receipts or sales taxes imposed
16 after that year had been imposed in that year;

17 B. "base property taxes" means:

18 (1) the portion of property taxes produced by
19 the total of all property tax levied at the rate fixed each
20 year by each governing body levying a property tax on the
21 assessed value of taxable property within the tax increment
22 development area last certified for the year ending
23 immediately prior to the year in which a tax increment
24 development plan is approved for the tax increment development
25 area, or, when an area is added to an existing tax increment

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1 development area, "base property taxes" means that portion of
2 property taxes produced by the total of all property tax
3 levied at the rate fixed each year by each governing body
4 levying a property tax upon the assessed value of taxable
5 property within the tax increment development area on the date
6 of the modification of the tax increment development plan and
7 designated by the governing body to be available as part of
8 the property tax increment; and

9 (2) any amount of property taxes that would
10 have been collected in such year if any applicable additional
11 property taxes imposed after that year had been imposed in
12 that year;

13 C. "county [~~option gross receipts~~] sales taxes"
14 means gross receipts or sales taxes imposed by counties
15 [~~pursuant to the County Local Option Gross Receipts Taxes Act~~]
16 and designated by the governing body of the county to be
17 available as part of the [~~gross receipts~~] sales tax increment;

18 D. "district" means a tax increment development
19 district;

20 E. "district board" means a board formed in
21 accordance with the provisions of the Tax Increment for
22 Development Act to govern a [~~tax increment development~~]
23 district;

24 F. "enhanced services" means public services
25 provided by a municipality or county within the district at a

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underscored material = new
[bracketed material] = delete

1 higher level or to a greater degree than otherwise available
2 to the land located in the district from the municipality or
3 county, including such services as public safety, fire
4 protection, street or sidewalk cleaning or landscape
5 maintenance in public areas; provided that "enhanced services"
6 does not include the basic operation and maintenance related
7 to infrastructure improvements financed by the district
8 pursuant to the Tax Increment for Development Act;

9 G. "governing body" means the city council or city
10 commission of a city, the board of trustees or council of a
11 town or village or the board of county commissioners of a
12 county;

13 ~~[H. "gross receipts tax increment" means the gross~~
14 ~~receipts taxes collected within a tax increment development~~
15 ~~district in excess of the base gross receipts taxes collected~~
16 ~~for the duration of the existence of a tax increment~~
17 ~~development district and distributed to the district in the~~
18 ~~same manner as distributions are made under the provisions of~~
19 ~~the Tax Administration Act;~~

20 ~~I. "gross receipts tax increment bonds" means~~
21 ~~bonds issued by a district in accordance with the Tax~~
22 ~~Increment for Development Act, the pledged revenue for which~~
23 ~~is a gross receipts tax increment;~~

24 J.] H. "local government" means a municipality or
25 county;

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underscored material = new
[bracketed material] = delete

1 ~~[K.]~~ I. "municipal ~~[option gross receipts]~~ sales
2 taxes" means ~~[those]~~ gross receipts or sales taxes imposed by
3 municipalities ~~[pursuant to the Municipal Local Option Gross~~
4 ~~Receipts Taxes Act]~~ and designated by the governing body of
5 the municipality to be available as part of the ~~[gross~~
6 ~~receipts]~~ sales tax increment;

7 ~~[L.]~~ J. "municipality" means an incorporated city,
8 town or village;

9 ~~[M.]~~ K. "owner" means a person owning real
10 property within the boundaries of a district;

11 ~~[N.]~~ L. "person" means an individual, corporation,
12 association, partnership, limited liability company or other
13 legal entity;

14 ~~[O.]~~ M. "project" means a tax increment
15 development project;

16 ~~[P.]~~ N. "property tax increment" means all
17 property tax collected on real property within the designated
18 tax increment development area that is in excess of the base
19 property tax until termination of the district and distributed
20 to the district in the same manner as distributions are made
21 under the provisions of the Tax Administration Act;

22 ~~[Q.]~~ O. "property tax increment ~~[bonds]~~ bond"
23 means ~~[bonds]~~ a bond issued by a district in accordance with
24 the Tax Increment for Development Act, the pledged revenue for
25 which is a property tax increment;

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underscored material = new
[bracketed material] = delete

1 [R.] P. "public improvements" means on-site
2 improvements and off-site improvements that directly or
3 indirectly benefit a [~~tax increment development~~] district or
4 facilitate development within a tax increment development area
5 and that are dedicated to the governing body in which the
6 district lies. "Public improvements" [~~include~~] includes:

7 (1) sanitary sewage systems, including
8 collection, transport, treatment, dispersal, effluent use and
9 discharge;

10 (2) drainage and flood control systems,
11 including collection, transport, storage, treatment,
12 dispersal, effluent use and discharge;

13 (3) water systems for domestic, commercial,
14 office, hotel or motel, industrial, irrigation, municipal or
15 fire protection purposes, including production, collection,
16 storage, treatment, transport, delivery, connection and
17 dispersal;

18 (4) highways, streets, roadways, bridges,
19 crossing structures and parking facilities, including all
20 areas for vehicular use for travel, ingress, egress and
21 parking;

22 (5) trails and areas for pedestrian,
23 equestrian, bicycle or other non-motor vehicle use for travel,
24 ingress, egress and parking;

25 (6) pedestrian and transit facilities, parks,

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underscored material = new
~~[bracketed material] = delete~~

1 recreational facilities and open space areas for the use of
2 members of the public for entertainment, assembly and
3 recreation;

4 (7) landscaping, including earthworks,
5 structures, plants, trees and related water delivery systems;

6 (8) public buildings, public safety
7 facilities and fire protection and police facilities;

8 (9) electrical generation, transmission and
9 distribution facilities;

10 (10) natural gas distribution facilities;

11 (11) lighting systems;

12 (12) cable or other telecommunications lines
13 and related equipment;

14 (13) traffic control systems and devices,
15 including signals, controls, markings and signage;

16 (14) school sites and facilities with the
17 consent of the governing board of the public school district
18 for which the facility is to be acquired, constructed or
19 renovated;

20 (15) library and other public educational or
21 cultural facilities;

22 (16) equipment, vehicles, furnishings and
23 other personal property related to the items listed in this
24 subsection;

25 (17) inspection, construction management,

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underscored material = new
[bracketed material] = delete

1 planning and program management and other professional
2 services costs incidental to the project;

3 (18) workforce housing; and

4 (19) any other improvement that the governing
5 body determines to be for the use or benefit of the public;

6 [S.] Q. "resident qualified elector" means a
7 person who resides within the boundaries of a [~~tax increment~~
8 ~~development~~] district or proposed [~~tax increment development~~]
9 district and who is qualified to vote in the general elections
10 held in the state pursuant to Section 1-1-4 NMSA 1978;

11 R. "sales tax increment" means the sales taxes
12 collected within a district in excess of the base sales taxes
13 collected for the duration of the existence of a district and
14 distributed to the district in the same manner as
15 distributions are made under the provisions of the Tax
16 Administration Act;

17 S. "sales tax increment bonds" means bonds issued
18 by a district in accordance with the Tax Increment for
19 Development Act, the pledged revenue for which is a sales tax
20 increment;

21 T. "state [~~gross receipts~~] sales tax" means [~~the~~]
22 gross receipts or state sales tax imposed pursuant to the
23 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act [~~but~~
24 ~~does not include that portion distributed to municipalities~~
25 ~~pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978 or to~~

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underscored material = new
[bracketed material] = delete

1 ~~counties pursuant to Section 7-1-6.47 NMSA 1978~~];

2 U. "sustainable development" means land
3 development that achieves sustainable economic and social
4 goals in ways that can be supported for the long term by
5 conserving resources, protecting the environment and ensuring
6 human health and welfare using mixed-use, pedestrian-oriented,
7 multimodal land use planning;

8 V. "tax increment development area" means the land
9 included within the boundaries of a [~~tax increment~~
10 ~~development~~] district;

11 W. "tax increment development district" means a
12 district formed for the purposes of carrying out [~~tax~~
13 ~~increment development~~] projects;

14 X. "tax increment development plan" means a plan
15 for the undertaking of a [~~tax increment development~~] project;

16 Y. "tax increment development project" means
17 activities undertaken within a tax increment development area
18 to enhance the sustainability of the local, regional or
19 statewide economy; to support the creation of jobs, schools
20 and workforce housing; and to generate tax revenue for the
21 provision of public improvements and may include:

22 (1) acquisition of land within a designated
23 tax increment development area or a portion of that tax
24 increment development area;

25 (2) demolition and removal of buildings and

underscored material = new
[bracketed material] = delete

1 improvements and installation, construction or reconstruction
2 of streets, utilities, parks, playgrounds and improvements
3 necessary to carry out the objectives of the Tax Increment for
4 Development Act;

5 (3) installation, construction or
6 reconstruction of streets, water utilities, sewer utilities,
7 parks, playgrounds and other public improvements necessary to
8 carry out the objectives of the Tax Increment for Development
9 Act;

10 (4) disposition of property acquired or held
11 by a [~~tax increment development~~] district as part of the
12 undertaking of a [~~tax increment development~~] project at the
13 fair market value of such property for uses in accordance with
14 the Tax Increment for Development Act;

15 (5) payments for professional services
16 contracts necessary to implement a tax increment development
17 plan or project;

18 (6) borrowing to purchase land, buildings or
19 infrastructure in an amount not to exceed the revenue stream
20 that may be derived from the [~~gross receipts~~] sales tax
21 increment or the property tax increment estimated to be
22 received by a [~~tax increment development~~] district; and

23 (7) grants for public improvements essential
24 to the location or expansion of a business;

25 Z. "taxing entity" means the governing body of a

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1 political subdivision of the state, the [~~gross receipts~~] sales
2 tax increment or property tax increment of which may be used
3 for a [~~tax increment development~~] project; and

4 AA. "workforce housing" means decent, safe and
5 sanitary dwellings, apartments, single-family dwellings or
6 other living accommodations that are affordable for persons or
7 families earning less than eighty percent of the median income
8 within the county in which the [~~tax increment development~~]
9 project is located; provided that an owner-occupied housing
10 unit is affordable to a household if the expected sales price
11 is reasonably anticipated to result in monthly housing costs
12 that do not exceed thirty-three percent of the household's
13 gross monthly income; provided that:

14 (1) determination of mortgage amounts and
15 payments are to be based on down payment rates and interest
16 rates generally available to lower- and moderate-income
17 households; and

18 (2) a renter-occupied housing unit is
19 affordable to a household if the unit's monthly housing costs,
20 including rent and basic utility and energy costs, do not
21 exceed thirty-three percent of the household's gross monthly
22 income."

23 SECTION 14. Section 5-15-15 NMSA 1978 (being Laws 2006,
24 Chapter 75, Section 15, as amended) is amended to read:

25 "5-15-15. TAX INCREMENT FINANCING-- [~~GROSS RECEIPTS~~]

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1 SALES TAX INCREMENT.--

2 A. Notwithstanding any law to the contrary, but in
3 accordance with the provisions of the Tax Increment for
4 Development Act, a tax increment development plan, as
5 originally approved or as later modified, may contain a
6 provision that a portion of certain [~~gross receipts~~] sales tax
7 increments collected within the tax increment development area
8 after the effective date of approval of the tax increment
9 development plan may be dedicated for the purpose of securing
10 [~~gross receipts~~] sales tax increment bonds pursuant to the Tax
11 Increment for Development Act.

12 B. As to a district formed by a municipality, a
13 portion of any of the following [~~gross receipts~~] sales tax
14 increments may be paid by the state directly into a special
15 fund of the district to pay the principal of, the interest on
16 and any premium due in connection with the bonds of, loans or
17 advances to, or any indebtedness incurred by, whether funded,
18 refunded, assumed or otherwise, the authority for financing or
19 refinancing, in whole or in part, a [~~tax increment~~
20 ~~development~~] project within the tax increment development
21 area:

22 (1) municipal [~~gross receipts~~] sales tax
23 authorized pursuant to the Municipal Local Option [~~Gross~~
24 ~~Receipts Taxes~~] Sales and Use Tax Act;

25 [~~(2) municipal environmental services gross~~

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1 ~~receipts tax authorized pursuant to the Municipal Local Option~~
2 ~~Gross Receipts Taxes Act;~~

3 ~~(3) municipal infrastructure gross receipts~~
4 ~~tax authorized pursuant to the Municipal Local Option Gross~~
5 ~~Receipts Taxes Act;~~

6 ~~(4) municipal capital outlay gross receipts~~
7 ~~tax authorized pursuant to the Municipal Local Option Gross~~
8 ~~Receipts Taxes Act;~~

9 ~~(5) municipal regional transit gross receipts~~
10 ~~tax authorized pursuant to the Municipal Local Option Gross~~
11 ~~Receipts Taxes Act;~~

12 ~~(6) an amount distributed to municipalities~~
13 ~~pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978] and~~

14 ~~[(7)]~~ (2) the state [~~gross receipts~~] sales
15 tax.

16 C. As to a district formed by a county, all or a
17 portion of any of the following [~~gross receipts~~] sales tax
18 increments may be paid by the state directly into a special
19 fund of the district to pay the principal of, the interest on
20 and any premium due in connection with the bonds of, loans or
21 advances to or any indebtedness incurred by, whether funded,
22 refunded, assumed or otherwise, the district for financing or
23 refinancing, in whole or in part, a [~~tax increment~~
24 ~~development~~] project within the tax increment development
25 area:

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1 (1) county [~~gross receipts~~] sales tax
2 authorized pursuant to the County Local Option [~~Gross Receipts~~
3 ~~Taxes~~] Sales and Use Tax Act; and

4 ~~(2) county environmental services gross~~
5 ~~receipts tax authorized pursuant to the County Local Option~~
6 ~~Gross Receipts Taxes Act;~~

7 ~~(3) county infrastructure gross receipts tax~~
8 ~~authorized pursuant to the County Local Option Gross Receipts~~
9 ~~Taxes Act;~~

10 ~~(4) county capital outlay gross receipts tax~~
11 ~~authorized pursuant to the County Local Option Gross Receipts~~
12 ~~Taxes Act;~~

13 ~~(5) county regional transit gross receipts~~
14 ~~tax authorized pursuant to the County Local Option Gross~~
15 ~~Receipts Taxes Act;~~

16 ~~(6) the amount distributed to counties~~
17 ~~pursuant to Section 7-1-6.47 NMSA 1978; and~~

18 ~~(7)]~~ (2) the state [~~gross receipts~~] sales
19 tax.

20 ~~[D. The gross receipts tax increment generated by~~
21 ~~the imposition of municipal or county local option gross~~
22 ~~receipts taxes specified by statute for particular purposes~~
23 ~~may nonetheless be dedicated for the purposes of the Tax~~
24 ~~Increment for Development Act if intent to do so is set forth~~
25 ~~in the tax increment development plan approved by the~~

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1 ~~governing body, if the purpose for which the increment is~~
2 ~~intended to be used is consistent with the purposes set forth~~
3 ~~in the statute authorizing the municipal or county local~~
4 ~~option gross receipts tax.~~

5 E.] D. An imposition of a [~~gross receipts~~] sales
6 tax increment attributable to the imposition of a [~~gross~~
7 ~~receipts~~] sales tax by a taxing entity may be dedicated for
8 the purpose of securing [~~gross receipts~~] sales tax increment
9 bonds with the agreement of the taxing entity, evidenced by a
10 resolution adopted by a majority vote of that taxing entity.
11 A taxing entity shall not agree to dedicate for the purposes
12 of securing [~~gross receipts~~] sales tax increment bonds more
13 than seventy-five percent of its [~~gross receipts~~] sales tax
14 increment attributable to the imposition of [~~gross receipts~~]
15 sales taxes by the taxing entity. A resolution of the taxing
16 entity to dedicate a [~~gross receipts~~] sales tax increment or
17 to increase the dedication of a [~~gross receipts~~] sales tax
18 increment shall become effective only on January 1 or July 1
19 of the calendar year.

20 [F.] E. An imposition of a [~~gross receipts~~] sales
21 tax increment attributable to the imposition of the state
22 [~~gross receipts~~] sales tax within a district [~~less the~~
23 ~~distributions made pursuant to Section 7-1-6.4 NMSA 1978~~] may
24 be dedicated for the purpose of securing [~~gross receipts~~]
25 sales tax increment bonds with the agreement of the state

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1 board of finance, evidenced by a resolution adopted by a
2 majority vote of the state board of finance. The state board
3 of finance shall not agree to dedicate more than seventy-five
4 percent of the [~~gross receipts~~] sales tax increment
5 attributable to the imposition of the state [~~gross receipts~~]
6 sales tax within the district. The resolution of the state
7 board of finance shall become effective only on January 1 or
8 July 1 of the calendar year and shall find that:

9 (1) the state board of finance has reviewed
10 the request for the use of the state [~~gross receipts~~] sales
11 tax;

12 (2) based upon review by the state board of
13 finance of the applicable tax increment development plan, the
14 dedication by the state board of finance of a portion of the
15 [~~gross receipts~~] sales tax increment attributable to the
16 imposition of the state [~~gross receipts~~] sales tax within the
17 district for use in meeting the required goals of the tax
18 increment plan is reasonable and in the best interest of the
19 state; and

20 (3) the use of the state [~~gross receipts~~]
21 sales tax is likely to stimulate the creation of jobs,
22 economic opportunities and general revenue for the state
23 through the addition of new businesses to the state and the
24 expansion of existing businesses within the state.

25 [~~G.~~] F. The governing body of the jurisdiction in

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1 which a [~~tax increment development~~] district has been
2 established shall timely notify the assessor of the county in
3 which the district has been established, the taxation and
4 revenue department and the local government division of the
5 department of finance and administration when:

6 (1) a tax increment development plan has been
7 approved that contains a provision for the allocation of a
8 [~~gross receipts~~] sales tax increment;

9 (2) any outstanding bonds of the district
10 have been paid off; and

11 (3) the purposes of the district have
12 otherwise been achieved."

13 SECTION 15. Section 5-16-3 NMSA 1978 (being Laws 2006,
14 Chapter 15, Section 3) is amended to read:

15 "5-16-3. DEFINITIONS.--As used in the Regional Spaceport
16 District Act:

17 A. "authority" means the spaceport authority
18 created pursuant to the Spaceport Development Act;

19 B. "board" means the board of directors of a
20 district;

21 [~~C. "bond" means a revenue bond issued by the~~
22 ~~authority on behalf of a district;~~

23 ~~D.]~~ C. "combination" means two or more
24 governmental units that exercise joint authority;

25 [~~E.]~~ D. "district" means a regional spaceport

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1 district that is a political subdivision of the state created
2 pursuant to the Regional Spaceport District Act;

3 [F.] E. "governmental unit" means the state, a
4 county or a municipality of the state or an Indian nation,
5 tribe or pueblo located within the boundaries of the state;

6 [G.] F. "project" means any land, building or
7 other improvements acquired as part of a spaceport or
8 associated with a spaceport or to aid commerce in connection
9 with a spaceport and all real and personal property deemed
10 necessary in connection with the spaceport;

11 [H.] G. "revenues" means municipal [~~regional~~
12 ~~spaceport gross receipts tax revenues~~] and county [~~regional~~
13 ~~spaceport gross receipts~~] sales tax revenues dedicated to a
14 district for the financing, planning, designing, engineering
15 and construction of a regional spaceport pursuant to the
16 Regional Spaceport District Act; and

17 [I.] H. "spaceport" means any facility in New
18 Mexico at which space vehicles may be launched or landed,
19 including all facilities and support infrastructure related to
20 launch, landing or payload processing."

21 **SECTION 16.** Section 5-16-13 NMSA 1978 (being Laws 2006,
22 Chapter 15, Section 13) is amended to read:

23 "5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.--Each
24 governmental unit that is a county or municipality and is a
25 member of a combination shall have enacted a municipal

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1 ~~[regional spaceport gross receipts tax]~~ or [a] county
2 ~~[regional spaceport gross receipts]~~ sales tax prior to
3 December 31, 2008 that is dedicated to a district for the
4 financing, planning, designing, engineering and construction
5 of a regional spaceport pursuant to the Regional Spaceport
6 District Act. At least seventy-five percent of the dedicated
7 municipal ~~[regional spaceport gross receipts tax]~~ or county
8 ~~[regional spaceport gross receipts]~~ sales tax revenues
9 received by each governmental unit must be used by the
10 district for the financing, planning, designing, engineering
11 and construction of a regional spaceport. No more than
12 twenty-five percent of the dedicated municipal ~~[regional~~
13 ~~spaceport gross receipts tax]~~ or county ~~[regional spaceport~~
14 ~~gross receipts]~~ sales tax revenues may be used by the
15 governmental unit enacting the tax for spaceport-related
16 projects as approved by resolution of the governmental unit."

17 SECTION 17. Section 6-6A-3 NMSA 1978 (being Laws 1985,
18 Chapter 214, Section 3) is amended to read:

19 "6-6A-3. LEASEHOLD COMMUNITY ASSISTANCE FUND--
20 CREATION--~~[DISPOSITON]~~ DISPOSITION.--

21 A. There is created in the state treasury the
22 "leasehold community assistance fund". The purpose of the
23 fund is to provide leasehold communities with assistance in
24 meeting their operating budgets.

25 B. The leasehold community assistance fund shall

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1 be administered by the local government division of the
2 department of finance and administration. The division shall
3 determine the funds the leasehold community is eligible to
4 receive from the fund by calculating the amount of money a
5 municipality of similar size receives under all appropriate
6 state laws. Such sources shall include [~~but not be limited~~
7 ~~to~~]:

- 8 (1) property tax levies;
- 9 (2) the law enforcement protection fund;
- 10 (3) the small cities assistance fund;
- 11 (4) the fire protection fund;
- 12 (5) [~~gross receipts~~] sales tax distribution;
- 13 (6) gasoline tax distributions;
- 14 (7) cigarette tax distributions; and
- 15 (8) motor vehicle fees distributions.

16 C. Prior to receiving any assistance from the
17 leasehold community assistance fund, the governing body of the
18 community shall agree to be bound by such rules and
19 regulations promulgated by the local government division of
20 the department of finance and administration. That division
21 has the power and duty in relation to leasehold communities
22 to:

- 23 (1) require each leasehold community to
24 furnish and file with the division, on or before June 1 of
25 each year, a proposed budget for the next fiscal year;

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1 (2) examine each proposed budget and, on or
2 before July 1 of each year, approve and certify to each
3 leasehold community an operating budget for use pending
4 approval of a final budget;

5 (3) hold public hearings on proposed budgets;

6 (4) make corrections, revisions and
7 amendments to the proposed budgets as may be necessary to meet
8 the requirements of law;

9 (5) certify a final budget for each leasehold
10 community to the appropriate governing body prior to the first
11 Monday in September of each year. The budgets, when approved,
12 are binding upon all tax officials of the state;

13 (6) require periodic financial reports of
14 leasehold communities. The reports shall contain the
15 pertinent details regarding applications for federal money or
16 federal grants-in-aid or regarding federal money or federal
17 grants-in-aid received, including [~~but not limited to~~] details
18 of programs, matching funds, personnel requirements, salary
19 provisions and program numbers, as indicated in the catalog of
20 federal domestic assistance, of the federal funds applied for
21 and of those received;

22 (7) with written approval of the secretary of
23 finance and administration and the attorney general, increase
24 the total budget of any leasehold community in the event the
25 leasehold community undertakes an activity, service, project

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1 or construction program [~~which~~] that was not contemplated at
2 the time the final budget was adopted and approved and which
3 activity, service, project or construction program will
4 produce sufficient revenue to cover the increase in the budget
5 or the leasehold community has surplus funds on hand not
6 necessary to meet the expenditures provided for in the budget
7 with which to cover the increase in the budget;

8 (8) supervise the disbursement of funds to
9 the end that expenditures will not be made in excess of
10 budgeted items or for items not budgeted and that there will
11 not be illegal expenditures;

12 (9) prescribe the form for all budgets,
13 books, records and accounts for leasehold communities; and

14 (10) with the approval of the secretary of
15 finance and administration, make rules and regulations
16 relating to budgets, records, reports, handling and
17 disbursement of public funds or in any manner relating to the
18 financial affairs of the leasehold communities."

19 **SECTION 18.** Section 6-14-2 NMSA 1978 (being Laws 1970,
20 Chapter 10, Section 2, as amended) is amended to read:

21 "6-14-2. DEFINITIONS.--As used in the Public Securities
22 Act:

23 A. "net effective interest rate" means the
24 interest rate of public securities, compounded semiannually,
25 necessary to discount the scheduled debt service payments of

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1 principal and interest to the date of the public securities
2 and to the price paid to the public body for the public
3 securities, excluding any interest accrued to the date of
4 delivery and based upon a year with the same number of days as
5 the number of days for which interest is computed on the
6 public securities;

7 B. "public body" means this state or any
8 department, board, agency or instrumentality of the state, any
9 county, city, town, village, school district, other district,
10 educational institution or any other governmental agency or
11 political subdivision of the state; and

12 C. "public securities" means any bonds, notes,
13 warrants or other obligations now or hereafter authorized to
14 be issued by any public body pursuant to the provisions of any
15 general or special law enacted by the legislature, but does
16 not include bonds, notes, warrants or other obligations issued
17 pursuant to:

- 18 (1) the Industrial Revenue Bond Act;
- 19 (2) the County Improvement District Act;
- 20 (3) Sections 3-33-1 through 3-33-43 NMSA
21 1978;
- 22 (4) the Pollution Control Revenue Bond Act;
- 23 (5) the County Pollution Control Revenue Bond
24 Act;
- 25 (6) the County Industrial Revenue Bond Act;

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1 (7) the Metropolitan Redevelopment Code;
2 [~~(8)~~] ~~the Supplemental Municipal Gross~~
3 ~~Receipts Tax Act;~~
4 ~~(9)~~ (8) the Hospital Equipment Loan Act; or
5 [~~(10)~~] (9) the New Mexico Finance Authority
6 Act."

7 SECTION 19. Section 6-22-2 NMSA 1978 (being Laws 1992,
8 Chapter 105, Section 2) is amended to read:

9 "6-22-2. DEFINITIONS.--As used in the State Aid
10 Intercept Act:

11 A. "default" means the actual nonpayment of
12 principal or interest on a local revenue bond when payment is
13 scheduled by the indenture relating to the local revenue bond;

14 B. "local government" means a municipality or
15 county;

16 C. "local revenue bond" means a bond issued after
17 July 1, 1992 pursuant to Sections 3-33-1 through 3-33-43 NMSA
18 1978 or Chapter 4, Article 62 NMSA 1978;

19 D. "qualified local revenue bond" means a local
20 revenue bond for which a state distributions intercept
21 authorization has been granted pursuant to this section;

22 E. "secretary" means the secretary of finance and
23 administration; and

24 F. "state distributions" means any or all of the
25 funds distributed to local governments pursuant to Section

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1 ~~[7-1-6.4]~~ 7-1-6.9 ~~[and Subsection B of Section 7-1-6.11]~~ NMSA
2 1978."

3 SECTION 20. Section 6-25-7 NMSA 1978 (being Laws 2003,
4 Chapter 349, Section 7, as amended) is amended to read:

5 "6-25-7. PROJECT REVENUE BONDS.--

6 A. The authority may issue project revenue bonds
7 on behalf of an eligible entity to provide funds for a
8 project. Project revenue bonds issued pursuant to the
9 Statewide Economic Development Finance Act shall not be a
10 general obligation of the authority or the state within the
11 meaning of any provision of the constitution of New Mexico and
12 shall never give rise to a pecuniary liability of the
13 authority or the state or a charge against the general credit
14 or taxing powers of the state. Project revenue bonds shall be
15 payable from the revenue derived from a project being financed
16 by the bonds and from other revenues pledged by an eligible
17 entity and may be secured in such manner as provided in the
18 Statewide Economic Development Finance Act and as determined
19 by the authority. Project revenue bonds may be executed and
20 delivered at any time, may be in such form and denominations,
21 may be payable in installments and at times not exceeding
22 thirty years from their date of delivery, may bear or accrete
23 interest at a rate or rates and may contain such provisions
24 not inconsistent with the Statewide Economic Development
25 Finance Act, all as provided in the resolution and proceedings

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1 of the authority authorizing issuance of the bonds. Project
2 revenue bonds issued by the authority pursuant to the
3 Statewide Economic Development Finance Act may be sold at
4 public or private sale in such manner and from time to time as
5 may be determined by the authority, and the authority may pay
6 all expenses that the authority may determine necessary in
7 connection with the authorization, sale and issuance of the
8 bonds. All project revenue bonds issued pursuant to the
9 Statewide Economic Development Finance Act shall be
10 negotiable.

11 B. The principal of and interest on project
12 revenue bonds issued pursuant to the Statewide Economic
13 Development Finance Act shall be secured by a pledge of the
14 revenues of the project being financed with the proceeds of
15 the bonds, may be secured by a mortgage of all or a part of
16 the project being financed or other collateral pledged by an
17 eligible entity and may be secured by the lease of such
18 project, which collateral and lease may be assigned, in whole
19 or in part, by the department to the authority or to third
20 parties to carry out the purposes of the Statewide Economic
21 Development Finance Act. The resolution of the authority
22 pursuant to which the project revenue bonds are authorized to
23 be issued or any such mortgage may contain any agreement and
24 provisions customarily contained in instruments securing
25 bonds, including provisions respecting the fixing and

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1 collection of all revenues from any project to which the
2 resolution or mortgage pertains, the terms to be incorporated
3 in the lease of the project, the maintenance and insurance of
4 the project, the creation and maintenance of special funds
5 from the revenues of the project and the rights and remedies
6 available in event of default to the bondholders or to the
7 trustee under a mortgage, all as determined by the authority
8 or the department and as shall not be in conflict with the
9 Statewide Economic Development Finance Act; provided, however,
10 that, in making any such agreements or provisions, the
11 authority and the department may not obligate themselves
12 except with respect to the project and application of the
13 revenues from the project, and except as expressly permitted
14 by the Statewide Economic Development Finance Act, and shall
15 not have the power to incur a pecuniary liability or a charge
16 or to pledge the general credit or taxing power of the state.
17 The resolution authorizing the issuance of project revenue
18 bonds may provide procedures and remedies in the event of
19 default in payment of the principal of or interest on the
20 bonds or in the performance of any agreement. No breach of
21 any such agreement shall impose any pecuniary liability upon
22 the authority, the department or the state or any charge
23 against the general credit or taxing powers of the state.

24 C. The authority may arrange for such other
25 guarantees, insurance or other credit enhancements or

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1 additional security provided by an eligible entity as
2 determined by the authority for the project revenue bonds and
3 may provide for the payment of the costs from the proceeds of
4 the bonds or may require payment of the costs by the eligible
5 entity on whose behalf the bonds are issued.

6 D. Project revenue bonds issued to finance a
7 project may also be secured by pledging a portion of the
8 qualifying municipal or county [~~infrastructure gross receipts~~]
9 sales tax revenues by the municipality or county in which the
10 project is located, as permitted by the Local Economic
11 Development Act.

12 E. The project revenue bonds and the income from
13 the bonds, all mortgages or other instruments executed as
14 security for the bonds, all lease agreements made pursuant to
15 the provisions of the Statewide Economic Development Finance
16 Act and revenue derived from any sale or lease of a project
17 shall be exempt from all taxation by the state or any
18 political subdivision of the state. The authority may issue
19 project revenue bonds the interest on which is exempt from
20 taxation under federal law.

21 F. In any calendar year, no more than fifteen
22 percent of the state ceiling allocated pursuant to the Private
23 Activity Bond Act may be used for projects financed pursuant
24 to the Statewide Economic Development Finance Act."

25 SECTION 21. Section 7-1-2 NMSA 1978 (being Laws 1965,

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1 Chapter 248, Section 2, as amended) is amended to read:

2 "7-1-2. APPLICABILITY.--The Tax Administration Act
3 applies to and governs:

4 A. the administration and enforcement of the
5 following taxes or tax acts as they now exist or may hereafter
6 be amended:

- 7 (1) Income Tax Act;
- 8 (2) Withholding Tax Act;
- 9 (3) Venture Capital Investment Act;
- 10 (4) [~~Gross Receipts and Compensating~~] Sales
11 and Use Tax Act, [and any state gross receipts tax] Interstate
12 Telecommunications Sales Tax Act and Leased Vehicle Sales Tax
13 Act;
- 14 (5) Liquor Excise Tax Act;
- 15 (6) Local Liquor Excise Tax Act;
- 16 (7) any municipal local option [~~gross~~
17 ~~receipts~~] sales or use tax;
- 18 (8) any county local option [~~gross receipts~~]
19 sales or use tax;
- 20 (9) Special Fuels Supplier Tax Act;
- 21 (10) Gasoline Tax Act;
- 22 (11) petroleum products loading fee, which
23 fee shall be considered a tax for the purpose of the Tax
24 Administration Act;
- 25 (12) Alternative Fuel Tax Act;

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- 1 (13) Cigarette Tax Act;
- 2 (14) Estate Tax Act;
- 3 (15) Railroad Car Company Tax Act;
- 4 (16) [~~Investment Credit Act~~] rural job tax
- 5 credit, Laboratory Partnership with Small Business Tax Credit
- 6 Act, Technology Jobs and Research and Development Tax Credit
- 7 Act, Film Production Tax Credit Act and Affordable Housing Tax
- 8 Credit Act [~~and high wage jobs tax credit~~];
- 9 (17) Corporate Income and Franchise Tax Act;
- 10 (18) Uniform Division of Income for Tax
- 11 Purposes Act;
- 12 (19) Multistate Tax Compact;
- 13 (20) Tobacco Products Tax Act; and
- 14 (21) the telecommunications relay service
- 15 surcharge imposed by Section 63-9F-11 NMSA 1978, which
- 16 surcharge shall be considered a tax for the purposes of the
- 17 Tax Administration Act;
- 18 B. the administration and enforcement of the
- 19 following taxes, surtaxes, advanced payments or tax acts as
- 20 they now exist or may hereafter be amended:
- 21 (1) Resources Excise Tax Act;
- 22 (2) Severance Tax Act;
- 23 (3) any severance surtax;
- 24 (4) Oil and Gas Severance Tax Act;
- 25 (5) Oil and Gas Conservation Tax Act;

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- 1 (6) Oil and Gas Emergency School Tax Act;
2 (7) Oil and Gas Ad Valorem Production Tax
3 Act;
4 (8) Natural Gas Processors Tax Act;
5 (9) Oil and Gas Production Equipment Ad
6 Valorem Tax Act;
7 (10) Copper Production Ad Valorem Tax Act;
8 (11) any advance payment required to be made
9 by any act specified in this subsection, which advance payment
10 shall be considered a tax for the purposes of the Tax
11 Administration Act;
12 (12) Enhanced Oil Recovery Act;
13 (13) Natural Gas and Crude Oil Production
14 Incentive Act; and
15 (14) intergovernmental production tax credit
16 and intergovernmental production equipment tax credit;
17 C. the administration and enforcement of the
18 following taxes, surcharges, fees or acts as they now exist or
19 may hereafter be amended:
20 (1) Weight Distance Tax Act;
21 (2) the workers' compensation fee authorized
22 by Section 52-5-19 NMSA 1978, which fee shall be considered a
23 tax for purposes of the Tax Administration Act;
24 (3) Uniform Unclaimed Property Act (1995);
25 (4) 911 emergency surcharge and the network

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1 and database surcharge, which surcharges shall be considered
2 taxes for purposes of the Tax Administration Act;

3 (5) the solid waste assessment fee authorized
4 by the Solid Waste Act, which fee shall be considered a tax
5 for purposes of the Tax Administration Act;

6 (6) the water conservation fee imposed by
7 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
8 for the purposes of the Tax Administration Act; and

9 (7) the gaming tax imposed pursuant to the
10 Gaming Control Act; and

11 D. the administration and enforcement of all other
12 laws, with respect to which the department is charged with
13 responsibilities pursuant to the Tax Administration Act, but
14 only to the extent that the other laws do not conflict with
15 the Tax Administration Act."

16 SECTION 22. Section 7-1-3 NMSA 1978 (being Laws 1965,
17 Chapter 248, Section 3, as amended) is amended to read:

18 "7-1-3. DEFINITIONS.--Unless the context clearly
19 indicates a different meaning, the definitions of words and
20 phrases as they are stated in this section are to be used, and
21 whenever in the Tax Administration Act these words and phrases
22 appear, the singular includes the plural and the plural
23 includes the singular:

24 A. "automated clearinghouse transaction" means an
25 electronic credit or debit transmitted through an automated

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1 clearinghouse payable to the state treasurer and deposited
2 with the fiscal agent of New Mexico;

3 B. "department" means the taxation and revenue
4 department, the secretary or any employee of the department
5 exercising authority lawfully delegated to that employee by
6 the secretary;

7 C. "electronic payment" means a payment made by
8 automated clearinghouse deposit, any funds wire transfer
9 system or a credit card, debit card or electronic cash
10 transaction through the internet;

11 D. "employee of the department" means any employee
12 of the department, including the secretary, or any person
13 acting as agent or authorized to represent or perform services
14 for the department in any capacity with respect to any law
15 made subject to administration and enforcement under the
16 provisions of the Tax Administration Act;

17 E. "financial institution" means any state or
18 federally chartered, federally insured depository institution;

19 F. "hearing officer" means a person who has been
20 designated by the chief hearing officer to serve as a hearing
21 officer and who is:

- 22 (1) the chief hearing officer;
23 (2) an employee of the administrative
24 hearings office; or
25 (3) a contractor of the administrative

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1 hearings office;

2 G. "Internal Revenue Code" means the Internal
3 Revenue Code of 1986, as that code may be amended or its
4 sections renumbered;

5 H. "levy" means the lawful power, hereby invested
6 in the secretary, to take into possession or to require the
7 present or future surrender to the secretary or the
8 secretary's delegate of any property or rights to property
9 belonging to a delinquent taxpayer;

10 I. "local option [~~gross receipts~~] sales tax" means
11 a tax authorized to be imposed by a county or municipality
12 upon the taxpayer's gross receipts, as that term is defined in
13 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act,
14 and required to be collected by the department at the same
15 time and in the same manner as the [~~gross receipts~~] state
16 sales tax; "local option [~~gross receipts~~] sales tax" includes
17 the taxes imposed pursuant to the Municipal Local Option
18 [~~Gross Receipts Taxes~~] Sales and Use Tax Act [~~Supplemental~~
19 ~~Municipal Gross Receipts Tax Act~~] and the County Local Option
20 [~~Gross Receipts Taxes~~] Sales and Use Tax Act [~~Local Hospital~~
21 ~~Gross Receipts Tax Act, County Correctional Facility Gross~~
22 ~~Receipts Tax Act~~] and such other acts as may be enacted
23 authorizing counties or municipalities to impose taxes on
24 gross receipts, which taxes are to be collected by the
25 department in the same time and in the same manner as it

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1 collects the [~~gross receipts~~] sales tax;

2 J. "local option use tax" means a municipal use
3 tax imposed pursuant to the Municipal Local Option Sales and
4 Use Tax Act or a county use tax imposed pursuant to the County
5 Local Option Sales and Use Tax Act;

6 [~~J.~~] K. "managed audit" means a review and
7 analysis conducted by a taxpayer under an agreement with the
8 department to determine the taxpayer's compliance with a tax
9 administered pursuant to the Tax Administration Act and the
10 presentation of the results to the department for assessment
11 of tax found to be due;

12 [~~K.~~] L. "net receipts" means the total amount of
13 money paid by taxpayers to the department in a month pursuant
14 to a tax or tax act less any refunds disbursed in that month
15 with respect to that tax or tax act;

16 [~~L.~~] M. "overpayment" means an amount paid,
17 pursuant to any law subject to administration and enforcement
18 under the provisions of the Tax Administration Act, by a
19 person to the department or withheld from the person in excess
20 of tax due from the person to the state at the time of the
21 payment or at the time the amount withheld is credited against
22 tax due;

23 [~~M.~~] N. "paid" includes the term "paid over";

24 [~~N.~~] O. "pay" includes the term "pay over";

25 [~~O.~~] P. "payment" includes the term "payment"

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1 over";

2 ~~[P.]~~ Q. "person" means any individual, estate,
3 trust, receiver, cooperative association, club, corporation,
4 company, firm, partnership, limited liability company, limited
5 liability partnership, joint venture, syndicate, other
6 association or gas, water or electric utility owned or
7 operated by a county or municipality; "person" also means, to
8 the extent permitted by law, a federal, state or other
9 governmental unit or subdivision, or an agency, department or
10 instrumentality thereof; and "person", as used in Sections
11 7-1-72 through 7-1-74 NMSA 1978, also includes an officer or
12 employee of a corporation, a member or employee of a
13 partnership or any individual who, as such, is under a duty to
14 perform any act in respect of which a violation occurs;

15 ~~[Q.]~~ R. "property" means property or rights to
16 property;

17 ~~[R.]~~ S. "property or rights to property" means any
18 tangible property, real or personal, or any intangible
19 property of a taxpayer;

20 ~~[S.]~~ T. "return" means any tax or information
21 return, declaration of estimated tax or claim for refund,
22 including any amendments or supplements to the return,
23 required or permitted pursuant to a law subject to
24 administration and enforcement pursuant to the Tax
25 Administration Act and filed with the secretary or the

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1 secretary's delegate by or on behalf of any person;

2 ~~[T.]~~ U. "return information" means a taxpayer's
3 name, address, government-issued identification number and
4 other identifying information; any information contained in or
5 derived from a taxpayer's return; any information with respect
6 to any actual or possible administrative or legal action by an
7 employee of the department concerning a taxpayer's return,
8 such as audits, managed audits, denial of credits or refunds,
9 assessments of tax, penalty or interest, protests of
10 assessments or denial of refunds or credits, levies or liens;
11 or any other information with respect to a taxpayer's return
12 or tax liability that was not obtained from public sources or
13 that was created by an employee of the department; but "return
14 information" does not include statistical data or other
15 information that cannot be associated with or directly or
16 indirectly identify a particular taxpayer;

17 ~~[U.]~~ V. "secretary" means the secretary of
18 taxation and revenue and, except for purposes of Subsection B
19 of Section 7-1-4 NMSA 1978, also includes the deputy secretary
20 or a division director or deputy division director delegated
21 by the secretary;

22 ~~[V.]~~ W. "secretary or the secretary's delegate"
23 means the secretary or any employee of the department
24 exercising authority lawfully delegated to that employee by
25 the secretary;

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1 ~~[W.]~~ X. "security" means money, property or rights
2 to property or a surety bond;

3 ~~[X.]~~ Y. "state" means any state of the United
4 States, the District of Columbia, the commonwealth of Puerto
5 Rico and any territory or possession of the United States;

6 ~~[Y.]~~ Z. "tax" means the total amount of each tax
7 imposed and required to be paid, withheld and paid or
8 collected and paid under provision of any law made subject to
9 administration and enforcement according to the provisions of
10 the Tax Administration Act and, unless the context otherwise
11 requires, includes the amount of any interest or civil penalty
12 relating thereto; "tax" also means any amount of any abatement
13 of tax made or any credit, rebate or refund paid or credited
14 by the department under any law subject to administration and
15 enforcement under the provisions of the Tax Administration Act
16 to any person contrary to law and includes, unless the context
17 requires otherwise, the amount of any interest or civil
18 penalty relating thereto;

19 ~~[Z.]~~ AA. "tax return preparer" means a person who
20 prepares for others for compensation or who employs one or
21 more persons to prepare for others for compensation any return
22 of income tax, a substantial portion of any return of income
23 tax, any claim for refund with respect to income tax or a
24 substantial portion of any claim for refund with respect to
25 income tax; provided that a person shall not be a "tax return

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1 preparer" merely because such person:

2 (1) furnishes typing, reproducing or other
3 mechanical assistance;

4 (2) is an employee who prepares an income tax
5 return or claim for refund with respect to an income tax
6 return of the employer, or of an officer or employee of the
7 employer, by whom the person is regularly and continuously
8 employed; or

9 (3) prepares as a trustee or other fiduciary
10 an income tax return or claim for refund with respect to
11 income tax for any person; and

12 [~~AA.~~] BB. "taxpayer" means a person liable for
13 payment of any tax; a person responsible for withholding and
14 payment or for collection and payment of any tax; a person to
15 whom an assessment has been made, if the assessment remains
16 unabated or the amount thereof has not been paid; or a person
17 who entered into a special agreement to assume the liability
18 of [~~gross receipts~~] sales tax or governmental [~~gross receipts~~]
19 sales tax of another person and the special agreement was
20 approved by the secretary pursuant to the Tax Administration
21 Act."

22 SECTION 23. Section 7-1-6.2 NMSA 1978 (being Laws 1983,
23 Chapter 211, Section 7, as amended) is amended to read:

24 "7-1-6.2. DISTRIBUTION--SMALL CITIES ASSISTANCE FUND.--A
25 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be

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1 made to the small cities assistance fund in an amount equal to
2 fifteen percent of the net receipts attributable to that
3 portion of the [compensating] use tax pursuant to Section
4 7-9-7 NMSA 1978."

5 SECTION 24. Section 7-1-6.5 NMSA 1978 (being Laws 1983,
6 Chapter 211, Section 10 and Laws 1983, Chapter 214, Section 6,
7 as amended) is amended to read:

8 "7-1-6.5. DISTRIBUTION--SMALL COUNTIES ASSISTANCE
9 FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978
10 shall be made to the small counties assistance fund in an
11 amount equal to ten percent of the net receipts attributable
12 to that portion of the [compensating] use tax pursuant to
13 Section 7-9-7 NMSA 1978."

14 SECTION 25. Section 7-1-6.7 NMSA 1978 (being Laws 1994,
15 Chapter 5, Section 2, as amended) is amended to read:

16 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

17 A. A distribution pursuant to Section 7-1-6.1 NMSA
18 1978 shall be made to the state aviation fund in an amount
19 equal to four and seventy-nine hundredths percent of the
20 taxable gross receipts attributable to the sale of fuel
21 specially prepared and sold for use in turboprop or jet-type
22 engines as determined by the department.

23 B. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 shall be made to the state aviation fund in an amount
25 equal to twenty-six hundredths percent of gasoline taxes,

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1 exclusive of penalties and interest, collected pursuant to the
2 Gasoline Tax Act.

3 C. From July 1, 2013 through June 30, 2021, a
4 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
5 made to the state aviation fund in an amount equal to [~~forty-~~
6 ~~six thousandths percent of~~] the rate determined pursuant to
7 Subsection F of Section 7-1-84 NMSA 1978 multiplied by the net
8 receipts attributable to the [~~gross receipts~~] state sales tax
9 distributable to the general fund.

10 D. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 shall be made to the state aviation fund from the net
12 receipts attributable to the [~~gross receipts~~] state sales tax
13 distributable to the general fund in an amount equal to

14 [~~(1) eighty thousand dollars (\$80,000)~~
15 ~~monthly from July 1, 2007 through June 30, 2008;~~

16 [~~(2) one hundred sixty seven thousand dollars~~
17 ~~(\$167,000) monthly from July 1, 2008 through June 30, 2009;~~
18 ~~and~~

19 [~~(3)~~] two hundred fifty thousand dollars
20 (\$250,000) [~~monthly after July 1, 2009~~]."

21 SECTION 26. Section 7-1-6.12 NMSA 1978 (being Laws 1983,
22 Chapter 211, Section 17, as amended) is amended to read:

23 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL
24 OPTION [~~GROSS RECEIPTS~~] SALES AND USE TAXES.--

25 A. A transfer pursuant to Section 7-1-6.1 NMSA

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1 1978 shall be made to each municipality for which the
2 department is collecting a local option [~~gross receipts~~] sales
3 or use tax imposed by that municipality in an amount, subject
4 to any increase or decrease made pursuant to Section 7-1-6.15
5 NMSA 1978, equal to the net receipts attributable to the local
6 option [~~gross receipts~~] sales or use tax imposed by that
7 municipality, less any deduction for administrative cost
8 determined and made by the department pursuant to the
9 provisions of the act authorizing imposition by that
10 municipality of the local option [~~gross receipts~~] sales or use
11 tax and any additional administrative fee withheld pursuant to
12 Subsection C of Section 7-1-6.41 NMSA 1978.

13 B. A transfer pursuant to this section may be
14 adjusted for a distribution made to a tax increment
15 development district with respect to a portion of a [~~gross~~
16 ~~receipts~~] sales tax increment dedicated by a municipality
17 pursuant to the Tax Increment for Development Act."

18 SECTION 27. Section 7-1-6.13 NMSA 1978 (being Laws 1983,
19 Chapter 211, Section 18, as amended) is amended to read:

20 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
21 [~~GROSS RECEIPTS~~] SALES AND USE TAXES.--

22 A. Except as provided in Subsection B of this
23 section, a transfer pursuant to Section 7-1-6.1 NMSA 1978
24 shall be made to each county for which the department is
25 collecting a local option [~~gross receipts~~] sales or use tax

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1 imposed by that county in an amount, subject to any increase
2 or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal
3 to the net receipts attributable to the local option [~~gross~~
4 ~~receipts~~] sales or use tax imposed by that county, less any
5 deduction for administrative cost determined and made by the
6 department pursuant to the provisions of the act authorizing
7 imposition by that county of the local option [~~gross receipts~~]
8 sales or use tax and any additional administrative fee
9 withheld pursuant to Subsection C of Section 7-1-6.41 NMSA
10 1978.

11 B. A transfer pursuant to this section may be
12 adjusted for a distribution made to a tax increment
13 development district with respect to a portion of a [~~gross~~
14 ~~receipts~~] sales tax increment dedicated by a county pursuant
15 to the Tax Increment for Development Act."

16 SECTION 28. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
17 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,
18 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended
19 to read:

20 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
21 MUNICIPALITIES OR COUNTIES.--

22 A. The provisions of this section apply to:

23 (1) any distribution to a municipality
24 pursuant to Section [~~7-1-6.4~~] 7-1-6.36 [~~or 7-1-6.46~~] NMSA
25 1978;

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1 (2) any transfer to a municipality with
2 respect to any local option [~~gross receipts~~] sales or use tax
3 imposed by that municipality;

4 (3) any transfer to a county with respect to
5 any local option [~~gross receipts~~] sales or use tax imposed by
6 that county;

7 (4) any distribution to a county pursuant to
8 Section 7-1-6.16 [~~or 7-1-6.47~~] NMSA 1978;

9 (5) any distribution to a municipality or a
10 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA
11 1978;

12 (6) any transfer to a county with respect to
13 any tax imposed in accordance with the Local Liquor Excise Tax
14 Act;

15 (7) any distribution to a county from the
16 county government road fund pursuant to Section 7-1-6.26 NMSA
17 1978; and

18 (8) any distribution to a municipality of
19 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978 [~~and~~

20 ~~(9) any distribution to a municipality of~~
21 ~~compensating taxes pursuant to Section 7-1-6.55 NMSA 1978].~~

22 B. Before making a distribution or transfer
23 specified in Subsection A of this section to a municipality or
24 county for the month, amounts comprising the net receipts
25 shall be segregated into two mutually exclusive categories.

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1 One category shall be for amounts relating to the current
2 month, and the other category shall be for amounts relating to
3 prior periods. The total of each category for a municipality
4 or county shall be reported each month to that municipality or
5 county. If the total of the amounts relating to prior periods
6 is less than zero and its absolute value exceeds the greater
7 of one hundred dollars (\$100) or an amount equal to twenty
8 percent of the average distribution or transfer amount for
9 that municipality or county, then the following procedures
10 shall be carried out:

11 (1) all negative amounts relating to any
12 period prior to the three calendar years preceding the year of
13 the current month, net of any positive amounts in that same
14 time period for the same taxpayers to which the negative
15 amounts pertain, shall be excluded from the total relating to
16 prior periods. Except as provided in Paragraph (2) of this
17 subsection, the net receipts to be distributed or transferred
18 to the municipality or county shall be adjusted to equal the
19 amount for the current month plus the revised total for prior
20 periods; and

21 (2) if the revised total for prior periods
22 determined pursuant to Paragraph (1) of this subsection is
23 negative and its absolute value exceeds the greater of one
24 hundred dollars (\$100) or an amount equal to twenty percent of
25 the average distribution or transfer amount for that

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1 municipality or county, the revised total for prior periods
2 shall be excluded from the distribution or transfers and the
3 net receipts to be distributed or transferred to the
4 municipality or county shall be equal to the amount for the
5 current month.

6 C. The department shall recover from a
7 municipality or county the amount excluded by Paragraph (2) of
8 Subsection B of this section. This amount may be referred to
9 as the "recoverable amount".

10 D. Prior to or concurrently with the distribution
11 or transfer to the municipality or county of the adjusted net
12 receipts, the department shall notify the municipality or
13 county whose distribution or transfer has been adjusted
14 pursuant to Paragraph (2) of Subsection B of this section:

15 (1) that the department has made such an
16 adjustment, that the department has determined that a
17 specified amount is recoverable from the municipality or
18 county and that the department intends to recover that amount
19 from future distributions or transfers to the municipality or
20 county;

21 (2) that the municipality or county has
22 ninety days from the date notice is made to enter into a
23 mutually agreeable repayment agreement with the department;

24 (3) that if the municipality or county takes
25 no action within the ninety-day period, the department will

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1 recover the amount from the next six distributions or
2 transfers following the expiration of the ninety days; and

3 (4) that the municipality or county may
4 inspect, pursuant to Section 7-1-8.9 NMSA 1978, an application
5 for a claim for refund that gave rise to the recoverable
6 amount, exclusive of any amended returns that may be attached
7 to the application.

8 E. No earlier than ninety days from the date
9 notice pursuant to Subsection D of this section is given, the
10 department shall begin recovering the recoverable amount from
11 a municipality or county as follows:

12 (1) the department may collect the
13 recoverable amount by:

14 (a) decreasing distributions or
15 transfers to the municipality or county in accordance with a
16 repayment agreement entered into with the municipality or
17 county; or

18 (b) except as provided in Paragraphs
19 (2) and (3) of this subsection, if the municipality or county
20 fails to act within the ninety days, decreasing the amount of
21 the next six distributions or transfers to the municipality or
22 county following expiration of the ninety-day period in
23 increments as nearly equal as practicable and sufficient to
24 recover the amount;

25 (2) if, pursuant to Subsection B of this

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1 section, the secretary determines that the recoverable amount
2 is more than fifty percent of the average distribution or
3 transfer of net receipts for that municipality or county, the
4 secretary:

5 (a) shall recover only up to fifty
6 percent of the average distribution or transfer of net
7 receipts for that municipality or county; and

8 (b) may, in the secretary's discretion,
9 waive recovery of any portion of the recoverable amount,
10 subject to approval by the state board of finance; and

11 (3) if, after application of a refund claim,
12 audit adjustment, correction of a mistake by the department or
13 other adjustment of a prior period, but prior to any recovery
14 of the department pursuant to this section, the total net
15 receipts of a municipality or county for the twelve-month
16 period beginning with the current month are reduced or are
17 projected to be reduced to less than fifty percent of the
18 average distribution or transfer of net receipts, the
19 secretary may waive recovery of any portion of the recoverable
20 amount, subject to approval by the state board of finance.

21 F. No later than ninety days from the date notice
22 pursuant to Subsection D of this section is given, the
23 department shall provide the municipality or county adequate
24 opportunity to review an application for a claim for refund
25 that gave rise to the recoverable amount, exclusive of any

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1 amended returns that may be attached to the application,
2 pursuant to Section 7-1-8.9 NMSA 1978.

3 G. On or before September 1 of each year beginning
4 in 2016, the secretary shall report to the state board of
5 finance and the legislative finance committee the total
6 recoverable amount waived pursuant to Subparagraph (b) of
7 Paragraph (2) and Paragraph (3) of Subsection E of this
8 section for each municipality and county in the prior fiscal
9 year.

10 H. The secretary is authorized to decrease a
11 distribution or transfer to a municipality or county upon
12 being directed to do so by the secretary of finance and
13 administration pursuant to the State Aid Intercept Act or to
14 redirect a distribution or transfer to the New Mexico finance
15 authority pursuant to an ordinance or a resolution passed by
16 the county or municipality and a written agreement of the
17 municipality or county and the New Mexico finance authority.
18 Upon direction to decrease a distribution or transfer or
19 notice to redirect a distribution or transfer to a
20 municipality or county, the secretary shall decrease or
21 redirect the next designated distribution or transfer, and
22 succeeding distributions or transfers as necessary, by the
23 amount of the state distributions intercept authorized by the
24 secretary of finance and administration pursuant to the State
25 Aid Intercept Act or by the amount of the state distribution

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1 intercept authorized pursuant to an ordinance or a resolution
2 passed by the county or municipality and a written agreement
3 with the New Mexico finance authority. The secretary shall
4 transfer the state distributions intercept amount to the
5 municipal or county treasurer or other person designated by
6 the secretary of finance and administration or to the New
7 Mexico finance authority pursuant to written agreement to pay
8 the debt service to avoid default on qualified local revenue
9 bonds or meet other local revenue bond, loan or other debt
10 obligations of the municipality or county to the New Mexico
11 finance authority. A decrease to or redirection of a
12 distribution or transfer pursuant to this subsection that
13 arose:

14 (1) prior to an adjustment of a distribution
15 or transfer of net receipts creating a recoverable amount owed
16 to the department takes precedence over any collection of any
17 recoverable amount pursuant to Paragraph (2) of Subsection B
18 of this section, which may be made only from the net amount of
19 the distribution or transfer remaining after application of
20 the decrease or redirection pursuant to this subsection; and

21 (2) after an adjustment of a distribution or
22 transfer of net receipts creating a recoverable amount owed to
23 the department shall be subordinate to any collection of any
24 recoverable amount pursuant to Paragraph (2) of Subsection B
25 of this section.

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1 I. Upon the direction of the secretary of finance
2 and administration pursuant to Section 9-6-5.2 NMSA 1978, the
3 secretary shall temporarily withhold the balance of a
4 distribution to a municipality or county, net of any decrease
5 or redirected amount pursuant to Subsection H of this section
6 and any recoverable amount pursuant to Paragraph (2) of
7 Subsection B of this section, that has failed to submit an
8 audit report required by the Audit Act or a financial report
9 required by Subsection F of Section 6-6-2 NMSA 1978. The
10 amount to be withheld, the source of the withheld distribution
11 and the number of months that the distribution is to be
12 withheld shall be as directed by the secretary of finance and
13 administration. A distribution withheld pursuant to this
14 subsection shall remain in the tax administration suspense
15 fund until distributed to the municipality or county and shall
16 not be distributed to the general fund. An amount withheld
17 pursuant to this subsection shall be distributed to the
18 municipality or county upon direction of the secretary of
19 finance and administration.

20 J. As used in this section:

21 (1) "amounts relating to the current month"
22 means any amounts included in the net receipts of the current
23 month that represent payment of tax due for the current month,
24 correction of amounts processed in the current month that
25 relate to the current month or that otherwise relate to

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1 obligations due for the current month;

2 (2) "amounts relating to prior periods" means
3 any amounts processed during the current month that adjust
4 amounts processed in a period or periods prior to the current
5 month regardless of whether the adjustment is a correction of
6 a department error or due to the filing of amended returns,
7 payment of department-issued assessments, filing or approval
8 of claims for refund, audit adjustments or other cause;

9 (3) "average distribution or transfer amount"
10 means the following amounts; provided that a distribution or
11 transfer that is negative shall not be used in calculating the
12 amounts:

13 (a) the annual average of the total
14 amount distributed or transferred to a municipality or county
15 in each of the three twelve-month periods preceding the
16 current month;

17 (b) if a distribution or transfer to a
18 municipality or county has been made for less than three
19 years, the total amount distributed or transferred in the year
20 preceding the current month; or

21 (c) if a municipality or county has not
22 received distributions or transfers of net receipts for twelve
23 or more months, the monthly average of net receipts
24 distributed or transferred to the municipality or county
25 preceding the current month multiplied by twelve;

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1 (4) "current month" means the month for which
2 the distribution or transfer is being prepared; and

3 (5) "repayment agreement" means an agreement
4 between the department and a municipality or county under
5 which the municipality or county agrees to allow the
6 department to recover an amount determined pursuant to
7 Paragraph (2) of Subsection B of this section by decreasing
8 distributions or transfers to the municipality or county for
9 one or more months beginning with the distribution or transfer
10 to be made with respect to a designated month. No interest
11 shall be charged."

12 SECTION 29. Section 7-1-6.16 NMSA 1978 (being Laws 1983,
13 Chapter 213, Section 27, as amended) is amended to read:

14 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

15 A. [~~Beginning on September 15, 1989 and~~] On
16 September 15 of each year [~~thereafter~~], the department shall
17 distribute to any county that has imposed or continued in
18 effect during the [~~state's~~] preceding fiscal year a county
19 [~~gross receipts~~] sales tax pursuant to Section 7-20E-9 NMSA
20 1978 an amount equal to:

21 (1) the product of a fraction, the numerator
22 of which is the county's population and the denominator of
23 which is the state's population, multiplied by the annual sum
24 for the county; less

25 (2) the net receipts received by the

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1 department during the report year, including any increase or
2 decrease made pursuant to Section 7-1-6.15 NMSA 1978,
3 attributable to the county [~~gross receipts~~] sales tax at [~~a~~
4 ~~rate of one-eighth percent~~] the rate determined pursuant to
5 Subsection G of Section 7-1-84 NMSA 1978; provided that for
6 any month in the report year, if no county [~~gross receipts~~]
7 sales tax was in effect in the county in the previous month,
8 the net receipts, for the purposes of this section, for that
9 county for that month shall be zero.

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

13 C. As used in this section:

14 (1) "annual sum" means for each county the
15 sum of the monthly amounts for those months in the report year
16 that follow a month in which the county had in effect a county
17 [~~gross receipts~~] sales tax;

18 (2) "monthly amount" means an amount equal to
19 [~~the product of:~~

20 ~~(a)]~~ two and forty-four hundredths
21 percent of the net receipts received by the department in the
22 month attributable to the state [~~gross receipts tax plus five~~
23 ~~percent of the total amount of deductions claimed pursuant to~~
24 ~~Section 7-9-92 NMSA 1978 for the month plus five percent of~~
25 ~~the total amount of deductions claimed pursuant to Section~~

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1 ~~7-9-93 NMSA 1978 for the month; and~~

2 ~~(b) a fraction, the numerator of which~~
3 ~~is one-eighth percent and the denominator of which is the tax~~
4 ~~rate imposed by Section 7-9-4 NMSA 1978 in effect on the last~~
5 ~~day of the previous month] sales tax;~~

6 (3) "population" means the most recent
7 official census or estimate determined by the United States
8 census bureau for the unit or, if neither is available, the
9 most current estimated population for the unit provided in
10 writing by the bureau of business and economic research at the
11 university of New Mexico; and

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

16 SECTION 30. Section 7-1-6.36 NMSA 1978 (being Laws 1992,
17 Chapter 50, Section 13 and also Laws 1992, Chapter 67, Section
18 12) is amended to read:

19 "7-1-6.36. DISTRIBUTION--INTERSTATE TELECOMMUNICATIONS
20 [~~GROSS RECEIPTS~~] SALES TAX.--A distribution pursuant to
21 Section 7-1-6.1 NMSA 1978 shall be made to each municipality
22 in an amount, subject to any increase or decrease made
23 pursuant to Section 7-1-6.15 NMSA 1978, equal to [~~the product~~
24 ~~of the quotient of one and thirty-five hundredths percent~~
25 ~~divided by the tax rate imposed by the Interstate~~

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1 ~~Telecommunications Gross Receipts Tax Act times~~ thirty-one
2 and seventy-seven hundredths percent of the net receipts for
3 the month attributable to the interstate telecommunications
4 [~~gross receipts~~] sales tax from business locations:

5 A. within that municipality;

6 B. on land owned by the state, commonly known as
7 the "state fairgrounds", within the exterior boundaries of
8 that municipality;

9 C. outside the boundaries of any municipality on
10 land owned by that municipality; and

11 D. on an Indian reservation or pueblo grant in an
12 area that is contiguous to that municipality and in which the
13 municipality performs services pursuant to a contract between
14 the municipality and the Indian tribe or Indian pueblo if:

15 (1) the contract describes an area in which
16 the municipality is required to perform services and requires
17 the municipality to perform services that are substantially
18 the same as the services the municipality performs for itself;
19 and

20 (2) the governing body of the municipality
21 has submitted a copy of the contract to the secretary."

22 SECTION 31. Section 7-1-6.38 NMSA 1978 (being Laws 1994,
23 Chapter 145, Section 1, as amended) is amended to read:

24 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL [~~GROSS RECEIPTS~~]
25 SALES TAX.--

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1 A. A distribution pursuant to Section 7-1-6.1 NMSA
2 1978 shall be made to the public project revolving fund
3 administered by the New Mexico finance authority in an amount
4 equal to seventy-five percent of the net receipts attributable
5 to the governmental [~~gross receipts~~] sales tax.

6 B. A distribution pursuant to Section 7-1-6.1 NMSA
7 1978 shall be made to the energy, minerals and natural
8 resources department in an amount equal to twenty-four percent
9 of the net receipts attributable to the governmental [~~gross~~
10 ~~receipts~~] sales tax. Forty-one and two-thirds percent of the
11 distribution is appropriated to the energy, minerals and
12 natural resources department to implement the provisions of
13 the New Mexico Youth Conservation Corps Act and fifty-eight
14 and one-third percent of the distribution is appropriated to
15 the energy, minerals and natural resources department for
16 state [~~park and recreation area~~] parks capital improvements,
17 including the costs of planning, engineering, design,
18 construction, renovation, repair, equipment and furnishings.

19 C. A distribution pursuant to Section 7-1-6.1 NMSA
20 1978 shall be made to the [~~office of~~] cultural affairs
21 department in an amount equal to one percent of the net
22 receipts attributable to the governmental [~~gross receipts~~]
23 sales tax for capital improvements at state museums and
24 monuments administered by the [~~office of~~] cultural affairs
25 department.

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1 D. The state pledges to and agrees with the
2 holders of any bonds or notes issued by the New Mexico finance
3 authority or by the energy, minerals and natural resources
4 department and payable from the net receipts attributable to
5 the governmental [~~gross receipts~~] sales tax distributed to the
6 New Mexico finance authority or the energy, minerals and
7 natural resources department pursuant to this section that the
8 state will not limit, reduce or alter the distribution of the
9 net receipts attributable to the governmental [~~gross receipts~~]
10 sales tax to the New Mexico finance authority or the energy,
11 minerals and natural resources department or limit, reduce or
12 alter the rate of imposition of the governmental [~~gross~~
13 ~~receipts~~] sales tax until the bonds or notes together with the
14 interest thereon are fully met and discharged. The New Mexico
15 finance authority and the energy, minerals and natural
16 resources department are authorized to include this pledge and
17 agreement of the state in any agreement with the holders of
18 the bonds or notes."

19 **SECTION 32.** Section 7-1-6.40 NMSA 1978 (being Laws 1997,
20 Chapter 182, Section 1, as amended) is amended to read:

21 "7-1-6.40. DISTRIBUTION OF LIQUOR EXCISE TAX--LOCAL DWI
22 GRANT FUND--CERTAIN MUNICIPALITIES-- [~~LOTTERY TUITION FUND~~]
23 MAGISTRATE DRUG COURTS--COUNTY-SUPPORTED MEDICAID FUND.--

24 A. A distribution pursuant to Section 7-1-6.1
25 NMSA 1978 shall be made to the local DWI grant fund in an

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1 amount equal to ~~[the following percentages]~~ sixty percent of
2 the net receipts attributable to the liquor excise tax
3 ~~[(1) prior to July 1, 2015, forty-one and~~
4 ~~one-half percent;~~
5 ~~(2) from July 1, 2015 through June 30, 2018,~~
6 ~~forty-six percent; and~~
7 ~~(3) on and after July 1, 2018, forty-one and~~
8 ~~one-half percent].~~

9 B. A distribution pursuant to Section 7-1-6.1
10 NMSA 1978 of twenty thousand seven hundred fifty dollars
11 (\$20,750) monthly from the net receipts attributable to the
12 liquor excise tax shall be made to a municipality that is
13 located in a class A county and that has a population
14 according to the most recent federal decennial census of more
15 than thirty thousand but less than sixty thousand. The
16 distribution pursuant to this subsection shall be used by the
17 municipality only for the provision of alcohol treatment and
18 rehabilitation services for street inebriates.

19 C. ~~[From July 1, 2015 through June 30, 2017]~~ A
20 distribution pursuant to Section 7-1-6.1 NMSA 1978 ~~[of thirty-~~
21 ~~nine percent of the net receipts attributable to the liquor~~
22 ~~excise tax]~~ shall be made to the ~~[lottery tuition fund]~~
23 administrative office of the courts in an amount equal to ten
24 percent of the net receipts attributable to the liquor excise
25 tax to support drug court programs.

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1 D. A distribution pursuant to Section 7-1-6.1 NMSA
2 1978 shall be made to the county-supported medicaid fund, for
3 the purpose of matching federal funds for the state medicaid
4 program, of the net receipts attributable to the liquor excise
5 tax remaining after the distributions pursuant to Subsections
6 A through C of this section are made."

7 SECTION 33. Section 7-1-6.53 NMSA 1978 (being Laws 2005,
8 Chapter 176, Section 11) is amended to read:

9 "7-1-6.53. DISTRIBUTION--ENERGY EFFICIENCY AND RENEWABLE
10 ENERGY BONDING FUND--~~[GROSS RECEIPTS]~~ STATE SALES TAX--A
11 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
12 made to the energy efficiency and renewable energy bonding
13 fund from the net receipts attributable to the [~~gross~~
14 ~~receipts~~] state sales tax imposed by the [~~Gross Receipts and~~
15 ~~Compensating~~] Sales and Use Tax Act in an amount necessary to
16 make the required bond debt service payments pursuant to the
17 Energy Efficiency and Renewable Energy Bonding Act as
18 determined by the New Mexico finance authority. The
19 distribution shall be made:

20 ~~[A. after the required distribution pursuant to~~
21 ~~Section 7-1-6.4 NMSA 1978;~~

22 ~~B.]~~ A. contemporaneously with other distributions
23 of net receipts attributable to the [~~gross receipts~~] state
24 sales tax for payment of debt service on outstanding bonds or
25 to a fund dedicated for that purpose; and

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1 [~~G.~~] B. prior to any other distribution of net
2 receipts attributable to the [~~gross receipts~~] state sales
3 tax."

4 **SECTION 34.** Section 7-1-6.54 NMSA 1978 (being Laws 2006,
5 Chapter 75, Section 29) is amended to read:

6 "7-1-6.54. DISTRIBUTIONS--TAX INCREMENT DEVELOPMENT
7 DISTRICTS.--A distribution to a tax increment development
8 district shall be made by the department in accordance with a
9 notice that is filed pursuant to the Tax Increment for
10 Development Act with respect to a taxing entity's dedication
11 of a portion of a [~~gross receipts~~] sales tax increment to the
12 tax increment development district."

13 **SECTION 35.** Section 7-1-8.8 NMSA 1978 (being Laws 2009,
14 Chapter 243, Section 10, as amended) is amended to read:

15 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER
16 STATE AGENCIES.--An employee of the department may reveal to:

17 A. a committee of the legislature for a valid
18 legislative purpose, return information concerning any tax or
19 fee imposed pursuant to the Cigarette Tax Act;

20 B. the attorney general, return information
21 acquired pursuant to the Cigarette Tax Act for purposes of
22 Section 6-4-13 NMSA 1978 and the master settlement agreement
23 defined in Section 6-4-12 NMSA 1978;

24 C. the commissioner of public lands, return
25 information for use in auditing that pertains to rentals,

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1 royalties, fees and other payments due the state under land
2 sale, land lease or other land use contracts;

3 D. the secretary of human services or the
4 secretary's delegate:

5 (1) under a written agreement with the
6 department, the last known address with date of all names
7 certified to the department as being absent parents of
8 children receiving public financial assistance, but only for
9 the purpose of enforcing the support liability of the absent
10 parents by the child support enforcement division or any
11 successor organizational unit; and

12 (2) the following; provided that a person who
13 receives the confidential information on behalf of the human
14 services department shall not reveal the information and shall
15 be subject to the penalties in Section 7-1-76 NMSA 1978 if the
16 person fails to maintain the confidentiality required:

17 (a) information needed for reports
18 required to be made to the federal government concerning the
19 use of federal funds for low-income working families; and

20 (b) the names and addresses of
21 low-income taxpayers for the limited purpose of outreach to
22 those taxpayers; provided that the human services department
23 shall pay the department for expenses incurred by the taxation
24 and revenue department to derive the information requested by
25 the human services department if the information requested is

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1 not readily available in reports for which the taxation and
2 revenue department's information systems are programmed;

3 E. the department of information technology, by
4 electronic media, a database updated quarterly that contains
5 the names, addresses, county of address and taxpayer
6 identification numbers of New Mexico personal income tax
7 filers, but only for the purpose of producing the random jury
8 list for the selection of petit or grand jurors for the state
9 courts pursuant to Section 38-5-3 NMSA 1978;

10 F. the state courts, the random jury lists
11 produced by the department of information technology [~~under~~]
12 pursuant to Subsection E of this section;

13 G. the director of the New Mexico department of
14 agriculture or the director's authorized representative, upon
15 request of the director or representative, the names and
16 addresses of all gasoline or special fuel distributors,
17 wholesalers and retailers;

18 H. the public regulation commission, return
19 information with respect to the Corporate Income and Franchise
20 Tax Act required to enable the commission to carry out its
21 duties;

22 [~~I. the state racing commission, return~~
23 ~~information with respect to the state municipal and county~~
24 ~~gross receipts taxes paid by racetracks;~~

25 J.] I. the gaming control board, tax returns of

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1 license applicants and their affiliates as provided in
2 Subsection E of Section 60-2E-14 NMSA 1978;

3 ~~[K.]~~ J. the director of the workers' compensation
4 administration or to the director's representatives authorized
5 for this purpose, return information to facilitate the
6 identification of taxpayers that are delinquent or
7 noncompliant in payment of fees required by Section 52-1-9.1
8 or 52-5-19 NMSA 1978;

9 ~~[L.]~~ K. the secretary of workforce solutions or
10 the secretary's delegate, return information for use in
11 enforcement of unemployment insurance collections pursuant to
12 the terms of a written reciprocal agreement entered into by
13 the taxation and revenue department with the secretary of
14 workforce solutions for exchange of information; and

15 ~~[M.]~~ L. the New Mexico finance authority,
16 information with respect to the amount of [~~municipal and~~
17 ~~county gross receipts~~] local option sales taxes collected by
18 municipalities and counties pursuant to any local option
19 [~~municipal or county gross receipts~~] sales taxes imposed, and
20 information with respect to the amount of governmental [~~gross~~
21 ~~receipts~~] sales taxes paid by every agency, institution,
22 instrumentality or political subdivision of the state pursuant
23 to Section 7-9-4.3 NMSA 1978."

24 **SECTION 36.** Section 7-1-8.9 NMSA 1978 (being Laws 2009,
25 Chapter 243, Section 11, as amended by Laws 2015, Chapter 89,

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1 Section 2 and by Laws 2015, Chapter 100, Section 2) is amended
2 to read:

3 "7-1-8.9. INFORMATION THAT MAY BE REVEALED TO LOCAL
4 GOVERNMENTS AND THEIR AGENCIES.--

5 A. An employee of the department may reveal to:

6 (1) the officials or employees of a
7 municipality of this state authorized in a written request by
8 the municipality for a period specified in the request within
9 the twelve months preceding the request; provided that the
10 municipality receiving the information has entered into a
11 written agreement with the department that the information
12 shall be used for tax purposes only and specifying that the
13 municipality is subject to the confidentiality provisions of
14 Section 7-1-8 NMSA 1978 and the penalty provisions of Section
15 7-1-76 NMSA 1978:

16 (a) the names, taxpayer identification
17 numbers and addresses of registered [~~gross receipts~~] taxpayers
18 reporting gross receipts for that municipality under the
19 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act or a
20 local option [~~gross receipts~~] sales tax imposed by that
21 municipality. The department may also reveal the information
22 described in this subparagraph quarterly or upon such other
23 periodic basis as the secretary and the municipality may agree
24 in writing;

25 (b) a range of taxable gross receipts

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1 of registered gross receipts paid by taxpayers from business
2 locations attributable to that municipality under the [~~Gross~~
3 ~~Receipts and Compensating~~] Sales and Use Tax Act or a local
4 option [~~gross receipts~~] sales tax imposed by that
5 municipality; provided that authorization from the federal
6 internal revenue service to reveal such information has been
7 received. The department may also reveal the information
8 described in this subparagraph quarterly or upon such other
9 periodic basis as the secretary and the municipality may agree
10 in writing; and

11 (c) information indicating whether
12 persons shown on a list of businesses located within that
13 municipality furnished by the municipality have reported gross
14 receipts to the department but have not reported gross
15 receipts for that municipality under the [~~Gross Receipts and~~
16 ~~Compensating~~] Sales and Use Tax Act or a local option [~~gross~~
17 ~~receipts~~] sales tax imposed by that municipality;

18 (2) the officials or employees of a county of
19 this state authorized in a written request by the county for a
20 period specified in the request within the twelve months
21 preceding the request; provided that the county receiving the
22 information has entered into a written agreement with the
23 department that the information shall be used for tax purposes
24 only and specifying that the county is subject to the
25 confidentiality provisions of Section 7-1-8 NMSA 1978 and the

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1 penalty provisions of Section 7-1-76 NMSA 1978:

2 (a) the names, taxpayer identification
3 numbers and addresses of registered [~~gross receipts~~] taxpayers
4 reporting gross receipts either for that county in the case of
5 a local option [~~gross receipts~~] sales tax imposed on a
6 countywide basis or only for the areas of that county outside
7 of any incorporated municipalities within that county in the
8 case of a [~~county~~] local option [~~gross receipts~~] sales tax
9 imposed only in areas of the county outside of any
10 incorporated municipalities. The department may also reveal
11 the information described in this subparagraph quarterly or
12 upon such other periodic basis as the secretary and the county
13 may agree in writing;

14 (b) a range of taxable gross receipts
15 of registered gross receipts paid by taxpayers from business
16 locations attributable either to that county in the case of a
17 local option [~~gross receipts~~] sales tax imposed on a
18 countywide basis or only to the areas of that county outside
19 of any incorporated municipalities within that county in the
20 case of a [~~county~~] local option [~~gross receipts~~] sales tax
21 imposed only in areas of the county outside of any
22 incorporated municipalities; provided that authorization from
23 the federal internal revenue service to reveal such
24 information has been received. The department may also reveal
25 the information described in this subparagraph quarterly or

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1 upon such other periodic basis as the secretary and the county
2 may agree in writing;

3 (c) in the case of a local option
4 [~~gross receipts~~] sales tax imposed by a county on a countywide
5 basis, information indicating whether persons shown on a list
6 of businesses located within the county furnished by the
7 county have reported gross receipts to the department but have
8 not reported gross receipts for that county under the [~~Gross~~
9 ~~Receipts and Compensating~~] Sales and Use Tax Act or a local
10 option [~~gross receipts~~] sales tax imposed by that county on a
11 countywide basis; and

12 (d) in the case of a local option
13 [~~gross receipts~~] sales tax imposed by a county only on persons
14 engaging in business in that area of the county outside of
15 incorporated municipalities, information indicating whether
16 persons on a list of businesses located in that county outside
17 of the incorporated municipalities but within that county
18 furnished by the county have reported gross receipts to the
19 department but have not reported gross receipts for that
20 county outside of the incorporated municipalities within that
21 county under the [~~Gross Receipts and Compensating~~] Sales and
22 Use Tax Act or a local option [~~gross receipts~~] sales tax
23 imposed by the county only on persons engaging in business in
24 that county outside of the incorporated municipalities; and

25 (3) officials or employees of a municipality

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1 or county of this state, authorized in a written request of
2 the municipality or county, for purposes of inspection, the
3 records of the department pertaining to an increase or
4 decrease to a distribution or transfer made pursuant to
5 Section 7-1-6.15 NMSA 1978 for the purpose of reviewing the
6 basis for the increase or decrease; provided that the
7 municipality or county receiving the information has entered
8 into a written agreement with the department that the
9 information shall be used for tax purposes only and specifying
10 that the municipality or county is subject to the
11 confidentiality provisions of Section 7-1-8 NMSA 1978 and the
12 penalty provisions of Section 7-1-76 NMSA 1978. The
13 authorized officials or employees may only reveal the
14 information provided in this paragraph to another authorized
15 official or employee, to an employee of the department, or to
16 a district court, an appellate court or a federal court in a
17 proceeding relating to a disputed distribution and in which
18 both the state and the municipality or county are parties.

19 B. The department may require that a municipal or
20 county official or employee satisfactorily complete
21 appropriate training on protecting confidential information
22 prior to receiving the information pursuant to Subsection A of
23 this section.

24 C. An employee of the department may reveal to a
25 water and sanitation district of a county that has in effect

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1 an ordinance that, prior to July 1, 2018, imposed a water and
2 sanitation gross receipts tax for a period specified by that
3 district within the twelve months preceding the request for
4 the information by that water and sanitation district:

5 (1) the names, taxpayer identification
6 numbers and addresses of registered gross receipts taxpayers
7 reporting gross receipts for that water and sanitation
8 district; the department may also release the information
9 described in this paragraph quarterly or upon any other
10 periodic basis to which the secretary and the district agree;
11 and

12 (2) information indicating whether the
13 persons shown on a list of businesses within the water and
14 sanitation district have reported gross receipts to the
15 department but have not reported gross receipts for that water
16 and sanitation district."

17 SECTION 37. Section 7-1-10 NMSA 1978 (being Laws 1965,
18 Chapter 248, Section 15, as amended) is amended to read:

19 "7-1-10. RECORDS REQUIRED BY STATUTE--TAXPAYER
20 RECORDS--ACCOUNTING METHODS--REPORTING METHODS--INFORMATION
21 RETURNS.--

22 A. Every person required by the provisions of any
23 statute administered by the department to keep records and
24 documents and every taxpayer shall maintain books of account
25 or other records in a manner that will permit the accurate

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1 computation of state taxes or provide information required by
2 the statute under which the person is required to keep
3 records.

4 B. Methods of accounting shall be consistent for
5 the same business. A taxpayer engaged in more than one
6 business may use a different method of accounting for each
7 business.

8 C. Prior to changing the method of accounting in
9 keeping books and records for tax purposes, a taxpayer shall
10 first secure the consent of the secretary or the secretary's
11 delegate. If consent is not secured, the department upon
12 audit may require the taxpayer to compute the amount of tax
13 due on the basis of the accounting method earlier used.

14 D. Prior to changing the method of reporting
15 taxes, other than for changes required by law, a taxpayer
16 shall first secure the consent of the secretary or the
17 secretary's delegate. Consent shall be granted or withheld
18 pursuant to the provisions of Section 7-4-19 NMSA 1978. If
19 consent is not secured, the secretary or the secretary's
20 delegate upon audit may require the taxpayer to compute the
21 amount of tax due on the basis of the reporting method earlier
22 used.

23 E. Upon the written application of a taxpayer and
24 at the sole discretion of the secretary or the secretary's
25 delegate, the secretary or the secretary's delegate may enter

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1 into an agreement with a taxpayer allowing the taxpayer to
2 report values, gross receipts, deductions or the value of
3 property on an estimated basis for [~~gross receipts and~~
4 ~~compensating~~] sales and use tax, oil and gas severance tax,
5 oil and gas conservation tax, oil and gas emergency school tax
6 and oil and gas ad valorem production tax purposes for a
7 limited period of time not to exceed four years. As used in
8 this section, "estimated basis" means a methodology that is
9 reasonably expected to approximate the tax that will be due
10 over the period of the agreement using summary rather than
11 detail data or alternate valuation applications or methods,
12 provided that:

13 (1) nothing in this section shall be
14 construed to require the secretary or the secretary's delegate
15 to enter into such an agreement; and

16 (2) the agreement [~~must~~] shall:

17 (a) specify the receipts, deductions or
18 values to be reported on an estimated basis and the
19 methodology to be followed by the taxpayer in making the
20 estimates;

21 (b) state the term of the agreement and
22 the procedures for terminating the agreement prior to its
23 expiration;

24 (c) be signed by the taxpayer or the
25 taxpayer's representative and the secretary or the secretary's

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1 delegate; and

2 (d) contain a declaration by the
3 taxpayer or the taxpayer's representative that all statements
4 of fact made by the taxpayer or the taxpayer's representative
5 in the taxpayer's application and the agreement are true and
6 correct as to every material matter.

7 F. The secretary may, by regulation, require any
8 person doing business in the state to submit to the department
9 information reports that are considered reasonable and
10 necessary for the administration of any provision of law to
11 which the Tax Administration Act applies."

12 SECTION 38. Section 7-1-13.1 NMSA 1978 (being Laws 1988,
13 Chapter 99, Section 3, as amended) is amended to read:

14 "7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

15 A. Payment of the taxes, including any applicable
16 penalties and interest, described in Paragraph (1), (2), (3)
17 or (4) of this subsection shall be made on or before the date
18 due in accordance with Subsection [B] C of this section if the
19 taxpayer's average tax payment for the group of taxes during
20 the preceding calendar year equaled or exceeded twenty-five
21 thousand dollars (\$25,000):

22 (1) Group 1: all taxes due under the
23 Withholding Tax Act, the [~~Gross Receipts and Compensating~~]
24 Sales and Use Tax Act, the Municipal Local Option [gross
25 receipts] Sales and Use Tax [acts] Act, the County Local

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1 Option Sales and Use Tax Act, the Interstate
2 Telecommunications [~~Gross Receipts~~] Sales Tax Act and the
3 Leased Vehicle [~~Gross Receipts~~] Sales Tax Act;

4 (2) Group 2: all taxes due under the Oil and
5 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,
6 the Oil and Gas Emergency School Tax Act and the Oil and Gas
7 Ad Valorem Production Tax Act;

8 (3) Group 3: the tax due under the Natural
9 Gas Processors Tax Act; or

10 (4) Group 4: all taxes and fees due under
11 the Gasoline Tax Act, the Special Fuels Supplier Tax Act and
12 the Petroleum Products Loading Fee Act.

13 B. For taxpayers who have more than one
14 identification number issued by the department, the average
15 tax payment shall be computed by combining the amounts paid
16 under the several identification numbers.

17 [~~B.~~] C. Taxpayers who are required to make payment
18 in accordance with the provisions of this section shall make
19 payment by one or more of the following means on or before the
20 due date so that funds are immediately available to the state
21 on or before the due date:

22 (1) electronic payment; provided that a
23 result of the payment is that funds are immediately available
24 to the state of New Mexico on or before the due date;

25 (2) currency of the United States;

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1 (3) check drawn on and payable at any New
2 Mexico financial institution; provided that the check is
3 received by the department at the place and time required by
4 the department at least one banking day prior to the due date;
5 or

6 (4) check drawn on and payable at any
7 domestic non-New Mexico financial institution; provided that
8 the check is received by the department at the time and place
9 required by the department at least two banking days prior to
10 the due date.

11 [~~C.~~] D. If the taxes required to be paid under
12 this section are not paid in accordance with Subsection [~~B~~] C
13 of this section, the payment is not timely and is subject to
14 the provisions of Sections 7-1-67 and 7-1-69 NMSA 1978.

15 [~~D.~~] E. For the purposes of this section, "average
16 tax payment" means the total amount of taxes paid with respect
17 to a group of taxes listed under Subsection A of this section
18 during a calendar year divided by the number of months in that
19 calendar year containing a due date on which the taxpayer was
20 required to pay one or more taxes in the group."

21 SECTION 39. Section 7-1-14 NMSA 1978 (being Laws 1969,
22 Chapter 145, Section 1, as amended) is amended to read:

23 "7-1-14. SECRETARY MAY DETERMINE WHERE CERTAIN GROSS
24 RECEIPTS ARE TO BE REPORTED--PLACE OF BUSINESS FOR
25 CONSTRUCTION PROJECTS, [~~AND~~] CERTAIN REAL PROPERTY SALES AND

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1 SALES BY OUT-OF-STATE VENDORS.--

2 A. By regulation, the secretary may require any
3 person maintaining one or more places of business to report
4 the person's taxable gross receipts and deductions for each
5 municipality or county or area within an Indian reservation or
6 pueblo grant in which the person maintains a place of
7 business.

8 B. For persons engaged in the construction
9 business, the place where the construction project is
10 performed is a "place of business", and all receipts from that
11 project are to be reported from that place of business.

12 C. The secretary may, by regulation, also require
13 any person maintaining a business outside the boundaries of a
14 municipality on land owned by that municipality to report the
15 person's taxable gross receipts for that municipality.

16 D. For a person engaged in the business of selling
17 real estate, the location of the real property sold is the
18 "place of business", and all receipts from that sale are to be
19 reported from that place of business.

20 E. For a person engaging in business but without
21 physical presence in this state, "place of business" is the
22 location where the property or the product of a service being
23 sold by the person is delivered. For transactions involving
24 intangible property or leases, "place of business" is the
25 location where the intangible property or lease is employed."

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1 SECTION 40. Section 7-1-15 NMSA 1978 (being Laws 1969,
2 Chapter 31, Section 1, as amended) is amended to read:

3 "7-1-15. SECRETARY MAY SET TAX REPORTING AND PAYMENT
4 INTERVALS.--The secretary may, pursuant to regulation, allow
5 taxpayers with an anticipated tax liability of less than two
6 hundred dollars (\$200) a month to report and pay taxes at
7 intervals [~~which~~] that the secretary may specify. However,
8 unless specifically permitted by law, an interval shall not
9 exceed six months. The secretary may also allow direct
10 marketers who have entered into an agreement with the
11 department to collect and remit [~~compensating~~] use tax to
12 report and pay on a quarterly or [~~semi-annual~~] semiannual
13 basis."

14 SECTION 41. Section 7-1-15.2 NMSA 1978 (being Laws 1998,
15 Chapter 105, Section 1) is amended to read:

16 "7-1-15.2. AGREEMENTS--COLLECTION OF [~~COMPENSATING~~] USE
17 TAX.--The department may enter into agreements with direct
18 marketers for purposes of enforcing collection of the
19 [~~compensating~~] use tax."

20 SECTION 42. Section 7-1-21.1 NMSA 1978 (being Laws 2013,
21 Chapter 87, Section 1) is amended to read:

22 "7-1-21.1. SPECIAL AGREEMENTS--ALTERNATIVE [~~GROSS~~
23 ~~RECEIPTS~~] SALES TAXPAYER.--

24 A. To allow the payment of [~~gross receipts~~] sales
25 tax by a person who is not the liable taxpayer, the secretary

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1 may approve a request by a person to assume the liability for
2 [~~gross receipts~~] sales tax or governmental [~~gross receipts~~]
3 sales tax owed by another; provided that the person requesting
4 approval agrees to assume the rights and responsibilities as
5 taxpayer pursuant to the Tax Administration Act for:

6 (1) an agreement to collect and pay over
7 taxes for persons in a business relationship, which is an
8 agreement that may be entered into by persons who wish to
9 remit [~~gross receipts~~] sales tax on behalf of another person
10 with whom the taxpayer has a business relationship; and

11 (2) an agreement to collect and pay over
12 taxes for a direct sales company:

13 (a) which agreement may be entered into
14 by a direct sales company that has distributors of tangible
15 personal property in New Mexico; and

16 (b) in which the direct sales company
17 agrees to pay the [~~gross receipts~~] sales tax liability of the
18 distributor at the same time the company remits its own [~~gross~~
19 ~~receipts~~] sales tax [~~and~~

20 ~~(3) a manufacturer's agreement to pay gross~~
21 ~~receipts tax or governmental gross receipts tax on behalf of a~~
22 ~~utility company, which agreement:~~

23 ~~(a) allows a person engaged in~~
24 ~~manufacturing in New Mexico to pay gross receipts tax or~~
25 ~~governmental gross receipts tax on behalf of a utility company~~

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1 ~~on receipts from sales of utilities that are: 1) not consumed~~
2 ~~in the manufacturing process; or 2) not otherwise deductible;~~
3 ~~and~~

4 ~~(b) is only applicable to transactions~~
5 ~~between a manufacturer and a utility company that are~~
6 ~~associated with the gross receipts tax deduction pursuant to~~
7 ~~Subsection B of Section 7-9-46 NMSA 1978].~~

8 B. To enter into the agreements authorized in this
9 section, a person shall complete a form prescribed by the
10 secretary and provide any additional information or
11 documentation required by department rules or instructions
12 that will assist in the approval of agreements listed in
13 Subsection A of this section.

14 C. Once approved, an agreement shall be effective
15 only for the period of time specified in each agreement. Any
16 person entering into an agreement to pay tax on behalf of
17 another person shall fulfill all of the requirements set out
18 in the agreement. Failure to fulfill all of the requirements
19 set out in the agreement may result in the revocation of the
20 agreement by the department. An approved agreement may only
21 be revoked prior to expiration by written notification to all
22 persons who are party to the agreement and shall be applied
23 beginning on the first day of a month that occurs at least one
24 month following the date on which the agreement is revoked.

25 D. A person approved by the secretary to pay the

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1 ~~[gross receipts]~~ sales tax or governmental ~~[gross receipts]~~
2 sales tax pursuant to Subsection A of this section shall be
3 deemed to be the taxpayer with respect to that tax pursuant to
4 the Tax Administration Act with respect to all rights and
5 responsibilities related to that tax, except that the person
6 shall not:

7 (1) ~~[the person shall not]~~ be entitled to
8 take any credit against the tax for which the person has
9 assumed liability pursuant to this section; and

10 (2) ~~[the person shall not]~~ claim a refund of
11 tax on the basis that the person is not statutorily liable to
12 pay the tax.

13 E. The department shall relieve from liability and
14 hold harmless from the payment of a tax assumed by another
15 person pursuant to an agreement approved pursuant to this
16 section a taxpayer that would otherwise be liable for that
17 tax."

18 SECTION 43. Section 7-1-26 NMSA 1978 (being Laws 1965,
19 Chapter 248, Section 28, as amended) is amended to read:

20 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT, REBATE
21 OR REFUND.--

22 A. A person who believes that an amount of tax has
23 been paid by or withheld from that person in excess of that
24 for which the person was liable, who has been denied any
25 credit or rebate claimed or who claims a prior right to

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1 property in the possession of the department pursuant to a
2 levy made under authority of Sections 7-1-31 through 7-1-34
3 NMSA 1978 may claim a refund by directing to the secretary,
4 within the time limited by the provisions of Subsections D and
5 E of this section, a written claim for refund. Except as
6 provided in Subsection I of this section, a refund claim shall
7 include:

8 (1) the [~~taxpayer's~~] person's name, address
9 and identification number;

10 (2) the type of tax for which a refund is
11 being claimed, the credit or rebate denied or the property
12 levied upon;

13 (3) the sum of money or other property being
14 claimed;

15 (4) with respect to refund, the period for
16 which overpayment was made; and

17 (5) a brief statement of the facts and the
18 law on which the claim is based, which may be referred to as
19 the "basis for the refund".

20 B. The secretary or the secretary's delegate may
21 allow the claim in whole or in part or may deny the claim.

22 (1) If the claim is denied in whole or in
23 part in writing, no claim may be refiled with respect to that
24 which was denied, but the person, within ninety days after
25 either the mailing or delivery of the denial of all or any

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1 part of the claim, may elect to pursue one, but not more than
2 one, of the remedies in Subsection C of this section.

3 (2) If the department has neither granted nor
4 denied any portion of a claim for refund within one hundred
5 twenty days of the date the claim was mailed or delivered to
6 the department, the person may refile it within the time
7 limits set forth in Subsection D of this section or may within
8 ninety days elect to pursue one, but only one, of the remedies
9 in Subsection C of this section. After the expiration of the
10 two hundred ten days from the date the claim was mailed or
11 delivered to the department, the department may not approve or
12 disapprove the claim unless the person has pursued one of the
13 remedies under Subsection C of this section.

14 C. A person may elect to pursue no more than one
15 of the remedies in Paragraphs (1) and (2) of this subsection.
16 A person who timely pursues more than one remedy shall be
17 deemed to have elected the first remedy invoked. The person
18 may:

19 (1) direct to the secretary, pursuant to the
20 provisions of Section 7-1-24 NMSA 1978, a written protest that
21 shall set forth:

22 (a) the circumstances of: 1) an
23 alleged overpayment; 2) a denied credit; 3) a denied rebate;
24 or 4) a denial of a prior right to property levied upon by the
25 department;

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1 (b) an allegation that, because of that
2 overpayment or denial, the state is indebted to the [~~taxpayer~~
3 person for a specified amount, including any allowed interest,
4 or for the property;

5 (c) demanding the refund to the
6 [~~taxpayer~~] person of that amount or that property; and

7 (d) reciting the facts of the claim for
8 refund; or

9 (2) commence a civil action in the district
10 court for Santa Fe county by filing a complaint setting forth
11 the circumstance of the claimed overpayment, denied credit or
12 rebate or denial of a prior right to property levied upon by
13 the department alleging that on account thereof the state is
14 indebted to the plaintiff in the amount or property stated,
15 together with any interest allowable, demanding the refund to
16 the plaintiff of that amount or property and reciting the
17 facts of the claim for refund. The plaintiff or the secretary
18 may appeal from any final decision or order of the district
19 court to the court of appeals.

20 D. Except as otherwise provided in Subsection E of
21 this section, no credit or refund of any amount may be allowed
22 or made to any person unless as the result of a claim made by
23 that person as provided in this section:

24 (1) within three years of the end of the
25 calendar year in which:

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1 (a) the payment was originally due or
2 the overpayment resulted from an assessment by the department
3 pursuant to Section 7-1-17 NMSA 1978, whichever is later;

4 (b) the final determination of value
5 occurs with respect to any overpayment that resulted from a
6 disapproval by any agency of the United States or the state of
7 New Mexico or any court of increase in value of a product
8 subject to taxation under the Oil and Gas Severance Tax Act,
9 the Oil and Gas Conservation Tax Act, the Oil and Gas
10 Emergency School Tax Act, the Oil and Gas Ad Valorem
11 Production Tax Act or the Natural Gas Processors Tax Act;

12 (c) property was levied upon pursuant
13 to the provisions of the Tax Administration Act; or

14 (d) an overpayment of New Mexico tax
15 resulted from: 1) an internal revenue service audit
16 adjustment or a federal refund paid due to an adjustment of an
17 audit by the internal revenue service or an amended federal
18 return; or 2) making a change to a federal return for which
19 federal approval is required by the Internal Revenue Code;

20 (2) when an amount of a claim for [~~credit~~
21 ~~under the provisions of the Investment Credit Act]~~ a
22 laboratory partnership with small business tax credit [~~Act~~
23 ~~or~~], a technology jobs and research and development tax credit
24 [~~Act or for the~~], a rural job tax credit [~~pursuant to Section~~
25 ~~7-2E-1.1 NMSA 1978]~~ or similar credit has been denied, the

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1 taxpayer may claim a refund of the credit no later than one
2 year after the date of the denial;

3 (3) when a taxpayer under audit by the
4 department has signed a waiver of the limitation on
5 assessments on or after July 1, 1993 pursuant to Subsection F
6 of Section 7-1-18 NMSA 1978, the taxpayer may file a claim for
7 refund of the same tax paid for the same period for which the
8 waiver was given, until a date one year after the later of the
9 date of the mailing of an assessment issued pursuant to the
10 audit, the date of the mailing of final audit findings to the
11 taxpayer or the date a proceeding is begun in court by the
12 department with respect to the same tax and the same period;

13 (4) if the payment of an amount of tax was
14 not made within three years of the end of the calendar year in
15 which the original due date of the tax or date of the
16 assessment of the department occurred, a claim for refund of
17 that amount of tax can be made within one year of the date on
18 which the tax was paid; or

19 (5) when a taxpayer has been assessed a
20 tax on or after July 1, 1993 under Subsection B, C or D of
21 Section 7-1-18 NMSA 1978 and when the assessment applies to a
22 period ending at least three years prior to the beginning of
23 the year in which the assessment was made, the taxpayer may
24 claim a refund for the same tax for the period of the
25 assessment or for any period following that period within one

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1 year of the date of the assessment unless a longer period for
2 claiming a refund is provided in this section.

3 E. No credit or refund shall be allowed or made to
4 any person claiming a refund of gasoline tax under Section
5 7-13-11 NMSA 1978 unless notice of the destruction of the
6 gasoline was given the department within thirty days of the
7 actual destruction and the claim for refund is made within six
8 months of the date of destruction. No credit or refund shall
9 be allowed or made to any person claiming a refund of gasoline
10 tax under Section 7-13-17 NMSA 1978 unless the refund is
11 claimed within six months of the date of purchase of the
12 gasoline and the gasoline has been used at the time the claim
13 for refund is made.

14 F. If as a result of an audit by the department or
15 a managed audit covering multiple periods an overpayment of
16 tax is found in any period under the audit, that overpayment
17 may be credited against an underpayment of the same tax found
18 in another period under audit pursuant to Section 7-1-29 NMSA
19 1978, provided that the taxpayer files a claim for refund for
20 the overpayments identified in the audit.

21 G. Any refund of tax paid under any tax or tax act
22 administered under Subsection B of Section 7-1-2 NMSA 1978 may
23 be made, at the discretion of the department, in the form of
24 credit against future tax payments if future tax liabilities
25 in an amount at least equal to the credit amount reasonably

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1 may be expected to become due.

2 H. For the purposes of this section, "oil and gas
3 tax return" means a return reporting tax due with respect to
4 oil, natural gas, liquid hydrocarbons, carbon dioxide, helium
5 or nonhydrocarbon gas pursuant to the Oil and Gas Severance
6 Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
7 Emergency School Tax Act, the Oil and Gas Ad Valorem
8 Production Tax Act, the Natural Gas Processors Tax Act or the
9 Oil and Gas Production Equipment Ad Valorem Tax Act.

10 I. The filing of a fully completed original income
11 tax return, corporate income tax return, corporate income and
12 franchise tax return, estate tax return or special fuel excise
13 tax return that shows a balance due the taxpayer or a fully
14 completed amended income tax return, an amended corporate
15 income tax return, an amended corporate income and franchise
16 tax return, an amended estate tax return, an amended special
17 fuel excise tax return or an amended oil and gas tax return
18 that shows a lesser tax liability than the original return
19 constitutes the filing of a claim for refund for the
20 difference in tax due shown on the original and amended
21 returns."

22 SECTION 44. Section 7-1-29 NMSA 1978 (being Laws 1965,
23 Chapter 248, Section 31, as amended) is amended to read:

24 "7-1-29. AUTHORITY TO MAKE REFUNDS OR CREDITS.--

25 A. In response to a claim for refund, credit or

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1 rebate made as provided in Section 7-1-26 NMSA 1978, but
2 before a court acquires jurisdiction of the matter, the
3 secretary or the secretary's delegate may authorize payment to
4 a person in the amount of the [~~creditor~~] credit or rebate
5 claimed or refund an overpayment of tax determined by the
6 secretary or the secretary's delegate to have been erroneously
7 made by the person, together with allowable interest. A
8 payment of a credit rebate claimed or a refund of tax and
9 interest erroneously paid amounting to twenty thousand dollars
10 (\$20,000) or more shall be made with the prior approval of the
11 attorney general, except that the secretary or the secretary's
12 delegate may make refunds with respect to the Oil and Gas
13 Severance Tax Act, the Oil and Gas Conservation Tax Act, the
14 Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
15 Valorem Production Tax Act, the Natural Gas Processors Tax Act
16 or the Oil and Gas Production Equipment Ad Valorem Tax Act,
17 Section 7-13-17 NMSA 1978 and the Cigarette Tax Act without
18 the prior approval of the attorney general regardless of the
19 amount.

20 B. Pursuant to the final order of the district
21 court, the court of appeals, the supreme court of New Mexico
22 or a federal court, from which order, appeal or review is not
23 successfully taken, adjudging that a person has properly
24 claimed a credit or rebate or made an overpayment of tax, the
25 secretary shall authorize the payment to the person of the

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1 amount thereof.

2 C. In the discretion of the secretary, any amount
3 of credit or rebate to be paid or tax to be refunded may be
4 offset against any amount of tax for which the person due to
5 receive the credit, rebate payment or refund is liable, or in
6 the case of a refund of gross receipts or sales tax, any
7 compensating or use tax owed by that person's customer as a
8 result of transactions with that person. The secretary or the
9 secretary's delegate shall give notice to the taxpayer that
10 the credit, rebate payment or refund will be made in this
11 manner, and the taxpayer shall be entitled to interest
12 pursuant to Section 7-1-68 NMSA 1978 until the tax liability
13 is credited with the credit, rebate or refund amount.

14 D. In an audit by the department or a managed
15 audit covering multiple reporting periods in which both
16 underpayments and overpayments of a tax have been made in
17 different reporting periods, the department shall credit the
18 tax overpayments against the underpayments; provided that the
19 taxpayer files a claim for refund of the overpayments. An
20 overpayment shall be applied as a credit first to the earliest
21 underpayment and then to succeeding underpayments. An
22 underpayment of tax to which an overpayment is credited
23 pursuant to this section shall be deemed paid in the period in
24 which the overpayment was made or the period to which the
25 overpayment was credited against an underpayment, whichever is

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1 later. If the overpayments credited pursuant to this section
2 exceed the underpayments of a tax, the amount of the net
3 overpayment for the periods covered in the audit shall be
4 refunded to the taxpayer.

5 E. When a taxpayer makes a payment identified to a
6 particular return or assessment, and the department determines
7 that the payment exceeds the amount due pursuant to that
8 return or assessment, the secretary may apply the excess to
9 the taxpayer's other liabilities pursuant to the tax acts to
10 which the return or assessment applies, without requiring the
11 taxpayer to file a claim for a refund. The liability to which
12 an overpayment is applied pursuant to this section shall be
13 deemed paid in the period in which the overpayment was made or
14 the period to which the overpayment was applied, whichever is
15 later.

16 F. If the department determines, upon review of an
17 original or amended income tax return, corporate income and
18 franchise tax return, estate tax return, special fuels excise
19 tax return or oil and gas tax return, that there has been an
20 overpayment of tax for the taxable period to which the return
21 or amended return relates in excess of the amount due to be
22 refunded to the taxpayer pursuant to the provisions of
23 Subsection I of Section 7-1-26 NMSA 1978, the department may
24 refund that excess amount to the taxpayer without requiring
25 the taxpayer to file a refund claim.

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1 G. Records of refunds and credits made in excess
2 of ten thousand dollars (\$10,000) shall be available for
3 inspection by the public. The department shall keep such
4 records for a minimum of three years from the date of the
5 refund or credit.

6 H. In response to a timely refund claim pursuant
7 to Section 7-1-26 NMSA 1978 and notwithstanding any other
8 provision of the Tax Administration Act, the secretary or the
9 secretary's delegate may refund or credit a portion of an
10 assessment of tax paid, including applicable penalties and
11 interest representing the amount of tax previously paid by
12 another person on behalf of the taxpayer on the same
13 transaction; provided that the requirements of equitable
14 recoupment are met. For purposes of this subsection, the
15 refund claim may be filed by the taxpayer to whom the
16 assessment was issued or by another person who claims to have
17 previously paid the tax on behalf of the taxpayer. Prior to
18 granting the refund or credit, the secretary may require a
19 waiver of all rights to claim a refund or credit of the tax
20 previously paid by another person paying a tax on behalf of
21 the taxpayer."

22 SECTION 45. Section 7-1-55 NMSA 1978 (being Laws 1975,
23 Chapter 251, Section 3, as amended) is amended to read:

24 "7-1-55. CONTRACTOR'S BOND FOR GROSS RECEIPTS--TAX--
25 PENALTY.--

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1 A. A person engaged in the construction business
2 who does not have a principal place of business in New Mexico
3 and who enters into a prime construction contract to be
4 performed in this state shall, at the time such contract is
5 entered into, furnish the secretary or the secretary's
6 delegate with a surety bond, or other acceptable security, in
7 a sum equivalent to the gross receipts to be paid under the
8 contract multiplied by the sum of the applicable rate of the
9 [~~gross receipts~~] state sales tax imposed by Section 7-9-4 NMSA
10 1978 plus the applicable rate or rates of tax imposed pursuant
11 to local option [~~gross receipts~~] sales taxes to secure payment
12 of the tax imposed on the gross receipts from the contract and
13 shall obtain a certificate from the secretary or the
14 secretary's delegate that the requirements of this subsection
15 have been met.

16 B. If the total sum to be paid under the contract
17 is changed by ten percent or more subsequent to the date the
18 surety bond or other acceptable security is furnished to the
19 secretary or the secretary's delegate, such person shall
20 increase or decrease, as the case may be, the amount of the
21 bond or security within fourteen days after the change.

22 C. If a person fails to comply with Subsection A
23 or B of this section, the secretary or the secretary's
24 delegate may:

25 (1) [~~may~~] demand of the person by certified

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1 mail or in person that the person comply. Upon the failure of
2 the person to comply within ten days of the date of the
3 mailing of such demand, the secretary may institute a
4 proceeding to enjoin the person from doing business as
5 provided in Section 7-1-53 NMSA 1978; or

6 (2) ~~may~~ when a serious and immediate risk
7 exists that an amount of tax due or reasonably expected to
8 become due from the person on gross receipts from a prime
9 construction contract will not be paid, request the person to
10 comply with Subsections A and B of this section, and, upon
11 failure immediately to comply, the secretary may, without
12 further notice of any kind, apply to any district court of the
13 state for an injunction as provided in Section 7-1-53 NMSA
14 1978.

15 D. Subsections A, B and C of this section shall
16 not apply if the total gross receipts to be paid under the
17 construction contract, including any change in such amount,
18 are less than fifty thousand dollars (\$50,000).

19 E. As used in this section, "construction" shall
20 have the meaning set forth in Section 7-9-3.4 NMSA 1978 and
21 "engaging in business" shall have the meaning set forth in
22 Section 7-9-3.3 NMSA 1978.

23 F. A municipality or other political subdivision
24 of the state or any agency of the state shall not issue a
25 building or other construction permit to any person subject to

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1 the requirements of Subsection A of this section without first
2 having been furnished by the construction contractor with the
3 certificate from the secretary or the secretary's delegate
4 specified in Subsection A of this section. Any person who
5 issues any such permit before receiving the certificate shall
6 be deemed guilty of a misdemeanor and, upon conviction, be
7 fined not less than fifty dollars (\$50.00) nor more than one
8 hundred dollars (\$100) for each offense."

9 SECTION 46. A new section of the Tax Administration Act,
10 Section 7-1-69.3 NMSA 1978, is enacted to read:

11 "7-1-69.3. [NEW MATERIAL] CIVIL PENALTY--VIOLATION OF
12 CONDITIONS OF NONTAXABLE TRANSACTION CERTIFICATE.--A buyer or
13 lessee delivering a nontaxable transaction certificate whose
14 subsequent use of the property or service violates the
15 conditions of the certificate shall pay as a penalty the
16 greater of six percent of the value of the property or service
17 or twenty-five dollars (\$25.00)."

18 SECTION 47. A new section of the Tax Administration Act
19 is enacted to read:

20 "[NEW MATERIAL] DISTRIBUTION--STATE SALES TAX TO LOCAL
21 GOVERNMENT TAX STABILIZATION FUND.--

22 A. Prior to July 1, 2021, a distribution pursuant
23 to Section 7-1-6.1 NMSA 1978 shall be made to the local
24 government tax stabilization fund in an amount equal to one-
25 twelfth of the excess state sales tax revenue.

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1 B. As used in this section, "excess state sales
2 tax revenue" means that amount of revenue above:

3 (1) for fiscal year 2018, the fiscal year
4 2018 baseline revenue, as that term is defined in Section
5 7-9-4 NMSA 1978, multiplied by one hundred three percent; and

6 (2) for fiscal year 2019, the fiscal year
7 2019 baseline revenue, as that term is defined in Section
8 7-9-4 NMSA 1978, multiplied by one hundred three percent."

9 **SECTION 48.** A new section of the Tax Administration Act
10 is enacted to read:

11 "[NEW MATERIAL] LOCAL GOVERNMENT TAX STABILIZATION
12 FUND--DISTRIBUTION TO MUNICIPALITIES AND COUNTIES.--

13 A. There is created in the state treasury the
14 "local government tax stabilization fund". The department
15 shall administer the fund, and money in the fund is
16 appropriated to the department for the purposes of making up
17 for any losses in local option sales tax revenue that a
18 municipality or county experiences due to the changes made by
19 this 2017 act.

20 B. A semiannual distribution from the local
21 government tax stabilization fund shall be made to each
22 municipality and county in January 2019, July 2019 and January
23 2020 in an amount equal to the municipality's or county's
24 monthly baseline revenue multiplied by the number of months
25 that have passed since July 1, 2018, less the transfers made

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1 pursuant to Section 7-1-6.12 or 7-1-6.13 NMSA 1978, as
2 appropriate, since July 1, 2018, less all prior distributions
3 made pursuant to this section. The department shall adjust
4 the amount of distributions made pursuant to this section in
5 proportion to the actual money available in the fund.

6 C. Immediately after all distributions pursuant to
7 this section have been made, money in the local government tax
8 stabilization fund shall revert to the general fund.

9 D. As used in this section, "monthly baseline
10 revenue" means the baseline revenue, as that term is used in
11 Sections 7-19D-9 and 7-20E-9 NMSA 1978, of each municipality,
12 county or county area, divided by twelve."

13 SECTION 49. A new section of the Tax Administration Act,
14 Section 7-1-84 NMSA 1978, is enacted to read:

15 "7-1-84. [NEW MATERIAL] DEPARTMENT TO DETERMINE SALES
16 TAX RATES EQUIVALENT TO GROSS RECEIPTS TAX RATES.--

17 A. For the purpose of determining the municipal
18 share pursuant to Subsection B of Section 3-37A-2 NMSA 1978,
19 the department shall estimate the municipal sales tax rates
20 that will, in fiscal years 2019 and 2020, produce an amount
21 equivalent to what would have been produced by a municipal
22 gross receipts tax rate of one and thirty-five hundredths
23 percent, if that tax was still in effect in those fiscal
24 years. The department shall use data from fiscal year 2017 to
25 estimate the rate for fiscal year 2019 and data from fiscal

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1 year 2018 to estimate the rate for fiscal year 2020. The
2 estimated municipal sales tax rates shall be used to determine
3 the municipal share pursuant to Subsection B of Section
4 3-37A-2 NMSA 1978 as follows:

5 (1) the rate estimated for fiscal year 2019
6 shall be used beginning July 1, 2018 and prior to July 1,
7 2019; and

8 (2) the rate estimated for fiscal year 2020
9 shall be used on and after July 1, 2019.

10 B. For the purpose of determining the local tax
11 effort and a qualifying municipality pursuant to Subsections G
12 and H of Section 3-37A-2 NMSA 1978, the department shall
13 estimate the municipal sales tax rates that will, in fiscal
14 years 2019 and 2020, produce an amount equivalent to what
15 would have been produced by a municipal gross receipts tax
16 rate of one and one-fourth percent if that tax was still in
17 effect in those fiscal years. The department shall use data
18 from fiscal year 2017 to estimate the rate for fiscal year
19 2019 and data from fiscal year 2018 to estimate the rate for
20 fiscal year 2020. The estimated municipal sales tax rates
21 shall be used to determine the local tax effort and a
22 qualifying municipality pursuant to Subsections G and H of
23 Section 3-37A-2 NMSA 1978 as follows:

24 (1) the rate estimated for fiscal year 2019
25 shall be used beginning July 1, 2018 and prior to July 1,

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1 2019; and

2 (2) the rate estimated for fiscal year 2020
3 shall be used on and after July 1, 2019.

4 C. For the purpose of determining the limitation
5 on the amount that may be transferred pursuant to Subsection D
6 of Section 4-48B-12 NMSA 1978, the department shall estimate
7 the county sales tax rates that will, in fiscal years 2019 and
8 2020, produce an amount equivalent to what would have been
9 produced by a county health care gross receipts tax if that
10 tax was still in effect in those fiscal years. The department
11 shall use data from fiscal year 2017 to estimate the rate for
12 fiscal year 2019 and data from fiscal year 2018 to estimate
13 the rate for fiscal year 2020. The estimated county sales tax
14 rates shall be used to determine the limitation on the amount
15 that may be transferred pursuant to Subsection D of Section
16 4-48B-12 NMSA 1978 as follows:

17 (1) the rate estimated for fiscal year 2019
18 shall be used beginning July 1, 2018 and prior to July 1,
19 2019; and

20 (2) the rate estimated for fiscal year 2020
21 shall be used on and after July 1, 2019.

22 D. For the purpose of determining a qualifying
23 county pursuant to Paragraph (4) of Subsection F of Section
24 4-61-2 NMSA 1978, the department shall estimate the county
25 sales tax rates that will, in fiscal years 2019 and 2020,

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1 produce an amount equivalent to what would have been produced
2 by a county gross receipts tax rate of three-eighths percent
3 if that tax was still in effect in those fiscal years. The
4 department shall use data from fiscal year 2017 to estimate
5 the rate for fiscal year 2019 and data from fiscal year 2018
6 to estimate the rate for fiscal year 2020. The estimated
7 county sales tax rates shall be used to determine a qualifying
8 county pursuant to Paragraph (4) of Subsection F of Section
9 4-61-2 NMSA as follows:

10 (1) the rate estimated for fiscal year 2019
11 shall be used beginning July 1, 2018 and prior to July 1,
12 2019; and

13 (2) the rate estimated for fiscal year 2020
14 shall be used on and after July 1, 2019.

15 E. For the purpose of determining the distribution
16 pursuant to Paragraphs (1) and (2) of Subsection E of Section
17 4-61-3 NMSA 1978, the department shall estimate the county
18 sales tax rates that will, in fiscal years 2019 and 2020,
19 produce an amount equivalent to what would have been produced
20 by a county gross receipts tax rate of one-eighth percent and
21 a rate of one-sixteenth percent if the county gross receipts
22 tax was still in effect in those fiscal years. The department
23 shall use data from fiscal year 2017 to estimate the rate for
24 fiscal year 2019 and data from fiscal year 2018 to estimate
25 the rate for fiscal year 2020. The estimated county sales tax

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1 rates shall be used to determine the distribution pursuant to
2 Paragraphs (1) and (2) of Subsection E of Section 4-61-3 NMSA
3 1978 as follows:

4 (1) the rates estimated for fiscal year 2019
5 shall be used beginning July 1, 2018 and prior to July 1,
6 2019; and

7 (2) the rates estimated for fiscal year 2020
8 shall be used on and after July 1, 2019.

9 F. For the purpose of determining the distribution
10 pursuant to Subsection C of Section 7-1-6.7 NMSA 1978, the
11 department shall estimate the state sales tax rates that will,
12 in fiscal years 2019 and 2020, produce an amount equivalent to
13 what would have been produced by a gross receipts tax rate of
14 forty-six thousandths percent, if that tax was still in effect
15 in those fiscal years. The department shall use data from
16 fiscal year 2017 to estimate the rate for fiscal year 2019 and
17 data from fiscal year 2018 to estimate the rate for fiscal
18 year 2020. The estimated state sales tax rates shall be used
19 to determine the distribution pursuant to Subsection C of
20 Section 7-1-6.7 NMSA 1978 as follows:

21 (1) the rate estimated for fiscal year 2019
22 shall be used beginning July 1, 2018 and prior to July 1,
23 2019; and

24 (2) the rate estimated for fiscal year 2020
25 shall be used on and after July 1, 2019.

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1 G. For the purpose of determining the distribution
2 pursuant to Paragraph (2) of Subsection A of Section 7-1-6.16
3 NMSA 1978, the department shall estimate the county sales tax
4 rates that will, in fiscal years 2019 and 2020, produce an
5 amount equivalent to what would have been produced by a county
6 gross receipts tax rate of one-eighth percent if that tax was
7 still in effect in those fiscal years. The department shall
8 use data from fiscal year 2017 to estimate the rate for fiscal
9 year 2019 and data from fiscal year 2018 to estimate the rate
10 for fiscal year 2020. The estimated county sales tax rates
11 shall be used to determine the distribution pursuant to
12 Paragraph (2) of Subsection A of Section 7-1-6.16 NMSA 1978 as
13 follows:

14 (1) the rate estimated for fiscal year 2019
15 shall be used beginning July 1, 2018 and prior to July 1,
16 2019; and

17 (2) the rate estimated for fiscal year 2020
18 shall be used on and after July 1, 2019.

19 H. For the purpose of determining the dedication
20 pursuant to Subsection A of Section 27-5-6.2 NMSA 1978, the
21 department shall estimate the county sales tax rates that
22 will, in fiscal years 2019 and 2020, produce an amount
23 equivalent to what would have been produced by a county gross
24 receipts tax rate of one-twelfth percent if that tax was still
25 in effect in those fiscal years. The department shall use

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1 data from fiscal year 2017 to estimate the rate for fiscal
2 year 2019 and data from fiscal year 2018 to estimate the rate
3 for fiscal year 2020. The estimated county sales tax rates
4 shall be used to determine the dedication pursuant to
5 Subsection A of Section 27-5-6.2 NMSA 1978 as follows:

6 (1) the rate estimated for fiscal year 2019
7 shall be used beginning July 1, 2018 and prior to July 1,
8 2019; and

9 (2) the rate estimated for fiscal year 2020
10 shall be used on and after July 1, 2019.

11 I. For the purpose of determining the dedication
12 pursuant to Subsection A of Section 27-10-4 NMSA 1978, the
13 department shall estimate the county sales tax rates that
14 will, in fiscal years 2019 and 2020, produce an amount
15 equivalent to what would have been produced by a county gross
16 receipts tax rate of one-sixteenth percent if that tax was
17 still in effect in those fiscal years. The department shall
18 use data from fiscal year 2017 to estimate the rate for fiscal
19 year 2019 and data from fiscal year 2018 to estimate the rate
20 for fiscal year 2020. The estimated county sales tax rates
21 shall be used to determine the dedication pursuant to
22 Subsection A of Section 27-10-4 NMSA 1978, as follows:

23 (1) the rate estimated for fiscal year 2019
24 shall be used beginning July 1, 2018 and prior to July 1,
25 2019; and

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1 (2) the rate estimated for fiscal year 2020
2 shall be used on and after July 1, 2019.

3 J. The rates established pursuant to Subsections A
4 through I of this section shall be rounded up to the nearest
5 one-hundredth percent."

6 SECTION 50. Section 7-2-7 NMSA 1978 (being Laws 2005,
7 Chapter 104, Section 4) is amended to read:

8 "7-2-7. INDIVIDUAL INCOME TAX [RATES] RATE.--For a
9 taxable year that begins on or after January 1, 2018, the tax
10 imposed by Section 7-2-3 NMSA 1978 shall be [~~at the following~~
11 ~~rates for any taxable year beginning on or after January 1,~~
12 ~~2008:~~

13 A. ~~For married individuals filing separate~~
14 ~~returns:~~

15 If the taxable income is:	The tax shall be:
16 Not over \$4,000	1.7% of taxable income
17 Over \$4,000 but not over \$8,000	\$68.00 plus 3.2% of
18	excess over \$4,000
19 Over \$8,000 but not over \$12,000	\$196 plus 4.7% of
20	excess over \$8,000
21 Over \$12,000	\$384 plus 4.9% of
22	excess over \$12,000.

23 B. ~~For heads of household, surviving spouses and~~
24 ~~married individuals filing joint returns:~~

25 If the taxable income is: The tax shall be:

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1 ~~Not over \$8,000~~ ~~1.7% of taxable income~~
2 ~~Over \$8,000 but not over \$16,000~~ ~~\$136 plus 3.2% of~~
3 ~~excess over \$8,000~~
4 ~~Over \$16,000 but not over \$24,000~~ ~~\$392 plus 4.7% of~~
5 ~~excess over \$16,000~~
6 ~~Over \$24,000~~ ~~\$768 plus 4.9% of~~
7 ~~excess over \$24,000.~~

8 ~~C. For single individuals and for estates and~~
9 ~~trusts:~~

10 ~~If the taxable income is:~~ ~~The tax shall be:~~
11 ~~Not over \$5,500~~ ~~1.7% of taxable income~~
12 ~~Over \$5,500 but not over \$11,000~~ ~~\$93.50 plus 3.2% of~~
13 ~~excess over \$5,500~~
14 ~~Over \$11,000 but not over \$16,000~~ ~~\$269.50 plus 4.7% of~~
15 ~~excess over \$11,000~~
16 ~~Over \$16,000~~ ~~\$504.50 plus 4.9% of~~
17 ~~excess over \$16,000.~~

18 ~~D. The tax on the sum of any lump-sum amounts~~
19 ~~included in net income is an amount equal to five multiplied~~
20 ~~by the difference between:~~

21 ~~(1) the amount of tax due on the taxpayer's~~
22 ~~taxable income; and~~

23 ~~(2) the amount of tax that would be due on an~~
24 ~~amount equal to the taxpayer's taxable income and twenty~~
25 ~~percent of the taxpayer's lump-sum amounts included in net~~

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1 ~~income]~~ five percent of taxable income."

2 SECTION 51. Section 7-2-14 NMSA 1978 (being Laws 1972,
3 Chapter 20, Section 2, as amended) is amended to read:

4 "7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE.--

5 A. Except as otherwise provided in Subsection B of
6 this section, any resident who files an individual New Mexico
7 income tax return and who is not a dependent of another
8 individual may claim a tax rebate for a portion of state and
9 local taxes to which the resident has been subject during the
10 taxable year for which the return is filed. The tax rebate
11 may be claimed even though the resident has no income taxable
12 under the Income Tax Act. [~~A husband and wife~~] Married
13 individuals who file separate returns for a taxable year in
14 which they could have filed a joint return may each claim only
15 one-half of the tax rebate that would have been allowed on a
16 joint return.

17 B. No claim for the tax rebate provided in this
18 section shall be filed by a resident who was an inmate of a
19 public institution for more than six months during the taxable
20 year for which the tax rebate could be claimed or who was not
21 physically present in New Mexico for at least six months
22 during the taxable year for which the tax rebate could be
23 claimed.

24 C. For the purposes of this section, the total
25 number of exemptions for which a tax rebate may be claimed or

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1 allowed is determined by adding the number of federal
 2 exemptions allowable for federal income tax purposes for each
 3 individual included in the return who is domiciled in New
 4 Mexico plus two additional exemptions for each individual
 5 domiciled in New Mexico included in the return who is sixty-
 6 five years of age or older plus one additional exemption for
 7 each individual domiciled in New Mexico included in the return
 8 who, for federal income tax purposes, is blind plus one
 9 exemption for each minor child or stepchild of the resident
 10 who would be a dependent for federal income tax purposes if
 11 the public assistance contributing to the support of the child
 12 or stepchild was considered to have been contributed by the
 13 resident.

14 ~~[D. The tax rebate provided for in this section~~
 15 ~~may be claimed in the amount shown in the following table:~~

Modified gross		And the total number						
income is:		of exemptions is:						
But Not								
Over	Over	1	2	3	4	5	6 or	
		More						
\$ 0	\$ 500	\$ 120	\$ 160	\$ 200	\$ 240	\$ 280	\$ 320	
500	1,000	135	195	250	310	350	415	
1,000	1,500	135	195	250	310	350	435	
1,500	2,000	135	195	250	310	350	450	
2,000	2,500	135	195	250	310	350	450	

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1	2,500	3,000	135	195	250	310	350	450
2	3,000	3,500	135	195	250	310	350	450
3	3,500	4,000	135	195	250	310	355	450
4	4,000	4,500	135	195	250	310	355	450
5	4,500	5,000	125	190	240	305	355	450
6	5,000	5,500	115	175	230	295	355	430
7	5,500	6,000	105	155	210	260	315	410
8	6,000	7,000	90	130	170	220	275	370
9	7,000	8,000	80	115	145	180	225	295
10	8,000	9,000	70	105	135	170	195	240
11	9,000	10,000	65	95	115	145	175	205
12	10,000	11,000	60	80	100	130	155	185
13	11,000	12,000	55	70	90	110	135	160
14	12,000	13,000	50	65	85	100	115	140
15	13,000	14,000	50	65	85	100	115	140
16	14,000	15,000	45	60	75	90	105	120
17	15,000	16,000	40	55	70	85	95	110
18	16,000	17,000	35	50	65	80	85	105
19	17,000	18,000	30	45	60	70	80	95
20	18,000	19,000	25	35	50	60	70	80
21	19,000	20,000	20	30	40	50	60	65
22	20,000	21,000	15	25	30	40	50	55
23	21,000	22,000	10	20	25	35	40	45.

24 ~~E. If a taxpayer's modified gross income is zero,~~
25 ~~the taxpayer may claim a credit in the amount shown in the~~

1 ~~first row of the table appropriate for the taxpayer's number~~
2 ~~of exemptions.]~~

3 D. The tax rebate provided in this section may be
4 claimed in an amount determined by the percentage of federal
5 poverty guidelines of a taxpayer's household income, as
6 follows:

<u>Percentage:</u>	<u>Exemptions:</u>							
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>up to 110%</u>	<u>\$157</u>	<u>\$211</u>	<u>\$266</u>	<u>\$321</u>	<u>\$375</u>	<u>\$430</u>	<u>\$485</u>	<u>\$540</u>
<u>110% up to 120%</u>	<u>69</u>	<u>96</u>	<u>117</u>	<u>141</u>	<u>165</u>	<u>189</u>	<u>213</u>	<u>237</u>
<u>120% up to 130%</u>	<u>56</u>	<u>76</u>	<u>96</u>	<u>115</u>	<u>135</u>	<u>155</u>	<u>175</u>	<u>194</u>
<u>130% up to 140%</u>	<u>41</u>	<u>55</u>	<u>69</u>	<u>83</u>	<u>98</u>	<u>112</u>	<u>126</u>	<u>140</u>
<u>140% up to 150%</u>	<u>22</u>	<u>30</u>	<u>37</u>	<u>45</u>	<u>53</u>	<u>60</u>	<u>68</u>	<u>76.</u>

14 ~~[F.]~~ E. The tax ~~[rebates]~~ rebate provided ~~[for]~~ in
15 this section may be deducted from the taxpayer's New Mexico
16 income tax liability for the taxable year. If the tax
17 ~~[rebates exceed]~~ rebate exceeds the taxpayer's income tax
18 liability, the excess shall be refunded to the taxpayer.

19 ~~[G. For purposes of this section, "dependent"~~
20 ~~means "dependent" as defined by Section 152 of the Internal~~
21 ~~Revenue Code of 1986, as that section may be amended or~~
22 ~~renumbered, but also includes any minor child or stepchild of~~
23 ~~the resident who would be a dependent for federal income tax~~
24 ~~purposes if the public assistance contributing to the support~~
25 ~~of the child or stepchild was considered to have been~~

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1 ~~contributed by the resident.]~~

2 F. As used in this section, "federal poverty
3 guidelines" means the level of income defining poverty by
4 family size published annually in the federal register by the
5 United States department of health and human services."

6 SECTION 52. Section 7-2-18.4 NMSA 1978 (being Laws 1994,
7 Chapter 115, Section 1) is amended to read:

8 "7-2-18.4. QUALIFIED BUSINESS FACILITY REHABILITATION
9 CREDIT--INCOME TAX CREDIT.--

10 A. To stimulate the creation of new jobs and
11 revitalize economically depressed areas within New Mexico
12 enterprise zones, any taxpayer who files an individual New
13 Mexico income tax return, who is not a dependent of another
14 individual and who is the owner of a qualified business
15 facility may claim a credit in an amount equal to one-half of
16 the cost, not to exceed fifty thousand dollars (\$50,000),
17 incurred to restore, rehabilitate or renovate a qualified
18 business facility.

19 B. A taxpayer may claim the credit provided in
20 this section for each taxable year in which restoration,
21 rehabilitation or renovation is carried out. Except as
22 provided in Subsection E of this section, claims for the
23 credit provided in this section shall be limited to three
24 consecutive years, and the maximum aggregate credit allowable
25 shall not exceed fifty thousand dollars (\$50,000) for any

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1 single restoration, rehabilitation or renovation project for
2 any qualified business facility. Each claim for a qualified
3 business facility rehabilitation credit shall be accompanied
4 by documentation and certification as the department may
5 require by regulation or instruction.

6 C. No credit may be claimed or allowed pursuant to
7 the provisions of this section for any costs incurred for a
8 restoration, rehabilitation or renovation project for which a
9 credit may be claimed pursuant to the provisions of Section
10 7-2-18.2 [~~or Section 7-9A-1~~] NMSA 1978.

11 D. [~~A husband and wife~~] Married individuals who
12 file separate returns for a taxable year in which they could
13 have filed a joint return may each claim only one-half of the
14 credit that would have been allowed on a joint return.

15 E. A taxpayer who otherwise qualifies and claims a
16 credit on a restoration, rehabilitation or renovation project
17 on a building owned by a partnership or other business
18 association of which the taxpayer is a member may claim a
19 credit only in proportion to [~~his~~] the taxpayer's interest in
20 the partnership or association. The total credit claimed by
21 all members of the partnership or association shall not exceed
22 fifty thousand dollars (\$50,000) in the aggregate for any
23 single restoration, rehabilitation or renovation project for a
24 qualified business facility.

25 F. The credit provided in this section may only be

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1 deducted from the taxpayer's income tax liability. Any
2 portion of the maximum tax credit provided by this section
3 that remains unused at the end of the taxpayer's taxable year
4 may be carried forward for four consecutive taxable years;
5 provided the total tax credits claimed under this section
6 shall not exceed fifty thousand dollars (\$50,000) for any
7 single restoration, rehabilitation or renovation project for a
8 qualified business facility.

9 G. As used in this section:

10 (1) "qualified business facility" means a
11 building located in a New Mexico enterprise zone that is
12 suitable for use and is put into service by a person in the
13 manufacturing, distribution or service industry immediately
14 following the restoration, rehabilitation or renovation
15 project; provided the building [~~must~~] shall have been vacant
16 for the twenty-four-month period immediately preceding the
17 commencement of the restoration, rehabilitation or renovation
18 project; and

19 (2) "restoration, rehabilitation or
20 renovation" includes:

21 (a) the construction services necessary
22 to ensure that a building is in compliance with applicable
23 zoning codes, is safe for occupancy and meets the operating
24 needs of a person in the manufacturing, distribution or
25 service industry; and

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1 (b) expansion of or an addition to a
2 building if the expansion or addition does not increase the
3 usable square footage of the building by more than ten percent
4 of the usable square footage of the building prior to the
5 restoration, rehabilitation or renovation project."

6 SECTION 53. Section 7-2-18.25 NMSA 1978 (being Laws
7 2009, Chapter 279, Section 1) is amended to read:

8 "7-2-18.25. ADVANCED ENERGY INCOME TAX CREDIT.--

9 A. The tax credit that may be claimed pursuant to
10 this section may be referred to as the "advanced energy income
11 tax credit".

12 B. A taxpayer who holds an interest in a qualified
13 generating facility located in New Mexico and who files an
14 individual New Mexico income tax return may claim an advanced
15 energy income tax credit in an amount equal to six percent of
16 the eligible generation plant costs of a qualified generating
17 facility, subject to the limitations imposed in this section.
18 The tax credit claimed shall be verified and approved by the
19 department.

20 C. An entity that holds an interest in a qualified
21 generating facility may request a certificate of eligibility
22 from the department of environment to enable the requester to
23 apply for an advanced energy income tax credit. The
24 department of environment:

25 (1) shall determine if the facility is a

1 qualified generating facility;

2 (2) shall require that the requester provide
3 the department of environment with the information necessary
4 to assess whether the requester's facility meets the criteria
5 to be a qualified generating facility;

6 (3) shall issue a certificate to the
7 requester stating that the facility is or is not a qualified
8 generating facility within one hundred eighty days after
9 receiving all information necessary to make a determination;

10 (4) shall:

11 (a) issue a schedule of fees in which
12 no fee exceeds one hundred fifty thousand dollars (\$150,000);
13 and

14 (b) deposit fees collected pursuant to
15 this paragraph in the state air quality permit fund created
16 pursuant to Section 74-2-15 NMSA 1978; and

17 (5) shall report annually to the appropriate
18 interim legislative committee information that will allow the
19 legislative committee to analyze the effectiveness of the
20 advanced energy tax credits, including the identity of
21 qualified generating facilities, the energy production means
22 used, the amount of emissions identified in this section
23 reduced and removed by those qualified generating facilities
24 and whether any requests for certificates of eligibility could
25 not be approved due to program limits.

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1 D. A taxpayer who holds an interest in a qualified
2 generating facility may be allocated the right to claim the
3 advanced energy income tax credit without regard to the
4 taxpayer's relative interest in the qualified generating
5 facility if:

6 (1) the business entity making the allocation
7 provides notice of the allocation and the taxpayer's interest
8 in the qualified generating facility to the department on
9 forms prescribed by the department;

10 (2) allocations to the taxpayer and all other
11 taxpayers allocated a right to claim the advanced energy tax
12 credit shall not exceed one hundred percent of the advanced
13 energy tax credit allowed for the qualified generating
14 facility; and

15 (3) the taxpayer and all other taxpayers
16 allocated a right to claim the advanced energy tax credits
17 collectively own at least a five percent interest in the
18 qualified generating facility.

19 E. To claim the advanced energy income tax credit,
20 a taxpayer shall submit with the taxpayer's New Mexico income
21 tax return a certificate of eligibility from the department of
22 environment stating that the taxpayer may be eligible for
23 advanced energy tax credits. The taxation and revenue
24 department shall provide credit claims forms. A credit claim
25 form shall accompany any return in which the taxpayer wishes

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1 to apply for an approved credit, and the claim shall specify
2 the amount of credit intended to apply to each return. The
3 taxation and revenue department shall determine the amount of
4 advanced energy income tax credit for which the taxpayer may
5 apply.

6 F. Upon receipt of the notice of an allocation of
7 the right to claim all or a portion of the advanced energy
8 income tax credit, the department shall verify the allocation
9 due to the recipient.

10 G. ~~[A husband and wife]~~ Married individuals who
11 file separate returns for a taxable year in which they could
12 have filed a joint return may each claim only one-half of the
13 advanced energy income tax credit that would have been allowed
14 on a joint return.

15 H. The total amount of all advanced energy tax
16 credits claimed shall not exceed the total amount determined
17 by the department to be allowable pursuant to this section and
18 the Corporate Income and Franchise Tax Act ~~[and Section 7-9G-2~~
19 ~~NMSA 1978]~~.

20 I. ~~[Any balance of the advanced energy income tax~~
21 ~~credit that the taxpayer is approved to claim may be claimed~~
22 ~~by the taxpayer as an advanced energy combined reporting tax~~
23 ~~credit allowed pursuant to Section 7-9G-2 NMSA 1978.]~~ If the
24 advanced energy income tax credit exceeds the amount of the
25 taxpayer's tax liabilities pursuant to the Income Tax Act ~~[and~~

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1 ~~Section 7-9G-2 NMSA 1978~~ in the taxable year in which it is
2 claimed, the balance of the unpaid credit may be carried
3 forward for ten years [~~and claimed as an advanced energy~~
4 ~~income tax credit or an advanced energy combined reporting tax~~
5 ~~credit~~]. The advanced energy income tax credit is not
6 refundable.

7 J. A taxpayer claiming the advanced energy income
8 tax credit pursuant to this section is ineligible for credits
9 pursuant to [~~the Investment Credit Act or~~] any other credit
10 that may be taken pursuant to the Income Tax Act [~~or credits~~
11 ~~that may be taken against the gross receipts tax, compensating~~
12 ~~tax or withholding tax~~] for the same expenditures.

13 K. The aggregate amount of all advanced energy tax
14 credits that may be claimed with respect to a qualified
15 generating facility shall not exceed sixty million dollars
16 (\$60,000,000).

17 L. As used in this section:

18 (1) "advanced energy tax credit" means the
19 advanced energy income tax credit and the advanced energy
20 corporate income tax credit [~~and the advanced energy combined~~
21 ~~reporting tax credit~~];

22 (2) "coal-based electric generating facility"
23 means a new or repowered generating facility and an associated
24 coal gasification facility, if any, that uses coal to generate
25 electricity and that meets the following specifications:

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1 (a) emits the lesser of: 1) what is
2 achievable with the best available control technology; or 2)
3 thirty-five thousandths pound per million British thermal
4 units of sulfur dioxide, twenty-five thousandths pound per
5 million British thermal units of oxides of nitrogen and one
6 hundredth pound per million British thermal units of total
7 particulates in the flue gas;

8 (b) removes the greater of: 1) what is
9 achievable with the best available control technology; or 2)
10 ninety percent of the mercury from the input fuel;

11 (c) captures and sequesters or controls
12 carbon dioxide emissions so that by the later of January 1,
13 2017 or eighteen months after the commercial operation date of
14 the coal-based electric generating facility, no more than one
15 thousand one hundred pounds per megawatt-hour of carbon
16 dioxide is emitted into the atmosphere;

17 (d) all infrastructure required for
18 sequestration is in place by the later of January 1, 2017 or
19 eighteen months after the commercial operation date of the
20 coal-based electric generating facility;

21 (e) includes methods and procedures to
22 monitor the disposition of the carbon dioxide captured and
23 sequestered from the coal-based electric generating facility;
24 and

25 (f) does not exceed a name-plate

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1 capacity of seven hundred net megawatts;

2 (3) "eligible generation plant costs" means
3 expenditures for the development and construction of a
4 qualified generating facility, including permitting; site
5 characterization and assessment; engineering; design; carbon
6 dioxide capture, treatment, compression, transportation and
7 sequestration; site and equipment acquisition; and fuel supply
8 development used directly and exclusively in a qualified
9 generating facility;

10 (4) "entity" means an individual, estate,
11 trust, receiver, cooperative association, club, corporation,
12 company, firm, partnership, limited liability company, limited
13 liability partnership, joint venture, syndicate or other
14 association or a gas, water or electric utility owned or
15 operated by a county or municipality;

16 (5) "geothermal electric generating facility"
17 means a facility with a name-plate capacity of one megawatt or
18 more that uses geothermal energy to generate electricity,
19 including a facility that captures and provides geothermal
20 energy to a preexisting electric generating facility using
21 other fuels in part;

22 (6) "interest in a qualified generating
23 facility" means title to a qualified generating facility; a
24 leasehold interest in a qualified generating facility; an
25 ownership interest in a business or entity that is taxed for

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1 federal income tax purposes as a partnership that holds title
2 to or a leasehold interest in a qualified generating facility;
3 or an ownership interest, through one or more intermediate
4 entities that are each taxed for federal income tax purposes
5 as a partnership, in a business that holds title to or a
6 leasehold interest in a qualified generating facility;

7 (7) "name-plate capacity" means the maximum
8 rated output of the facility measured as alternating current
9 or the equivalent direct current measurement;

10 (8) "qualified generating facility" means a
11 facility that begins construction not later than December 31,
12 2015 and is:

13 (a) a solar thermal electric generating
14 facility that begins construction on or after July 1, 2007 and
15 that may include an associated renewable energy storage
16 facility;

17 (b) a solar photovoltaic electric
18 generating facility that begins construction on or after July
19 1, 2009 and that may include an associated renewable energy
20 storage facility;

21 (c) a geothermal electric generating
22 facility that begins construction on or after July 1, 2009;

23 (d) a recycled energy project if that
24 facility begins construction on or after July 1, 2007; or

25 (e) a new or repowered coal-based

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1 electric generating facility and an associated coal
2 gasification facility;

3 (9) "recycled energy" means energy produced
4 by a generation unit with a name-plate capacity of not more
5 than fifteen megawatts that converts the otherwise lost energy
6 from the exhaust stacks or pipes to electricity without
7 combustion of additional fossil fuel;

8 (10) "sequester" means to store, or
9 chemically convert, carbon dioxide in a manner that prevents
10 its release into the atmosphere and may include the use of
11 geologic formations and enhanced oil, coalbed methane or
12 natural gas recovery techniques; and

13 (11) "solar photovoltaic electric generating
14 facility" means an electric generating facility with a
15 name-plate capacity of one megawatt or more that uses solar
16 photovoltaic energy to generate electricity [~~and~~

17 ~~(12) "solar thermal generating facility"~~
18 ~~means an electric generating facility with a name-plate~~
19 ~~capacity of one megawatt or more that uses solar thermal~~
20 ~~energy to generate electricity, including a facility that~~
21 ~~captures and provides solar energy to a preexisting electric~~
22 ~~generating facility using other fuels in part]."~~

23 SECTION 54. Section 7-2A-2 NMSA 1978 (being Laws 1986,
24 Chapter 20, Section 33, as amended) is amended to read:

25 "7-2A-2. DEFINITIONS.--For the purpose of the Corporate

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1 Income and Franchise Tax Act and unless the context requires
2 otherwise:

3 A. "affiliated group" means that term as it is
4 used in the Internal Revenue Code;

5 B. "bank" means any national bank, national
6 banking association, state bank or bank holding company;

7 C. "base income" means that part of the taxpayer's
8 income defined as taxable income and upon which the federal
9 income tax is calculated in the Internal Revenue Code for
10 income tax purposes plus, for taxable years beginning on or
11 after January 1, 1991, the amount of the net operating loss
12 deduction allowed by Section 172(a) of the Internal Revenue
13 Code, as that section may be amended or renumbered, and
14 claimed by the taxpayer for that year; "base income" also
15 includes interest received on a state or local bond;

16 D. "corporation" means corporations, joint stock
17 companies, real estate trusts organized and operated under the
18 Real Estate Trust Act, financial corporations and banks, other
19 business associations and, for corporate income tax purposes,
20 partnerships and limited liability companies taxed as
21 corporations under the Internal Revenue Code;

22 E. "department" means the taxation and revenue
23 department, the secretary of taxation and revenue or any
24 employee of the department exercising authority lawfully
25 delegated to that employee by the secretary;

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1 F. "fiscal year" means any accounting period of
2 twelve months ending on the last day of any month other than
3 December;

4 G. "Internal Revenue Code" means the United States
5 Internal Revenue Code of 1986, as amended;

6 H. "net income" means base income adjusted to
7 exclude:

8 (1) income from obligations of the
9 United States less expenses incurred to earn that income;

10 (2) other amounts that the state is
11 prohibited from taxing because of the laws or constitution of
12 this state or the United States;

13 (3) for taxable years that began prior to
14 January 1, 1991, an amount equal to the sum of:

15 (a) net operating loss carryback
16 deductions to that year from taxable years beginning prior to
17 January 1, 1991 claimed and allowed, as provided by the
18 Internal Revenue Code; and

19 (b) net operating loss carryover
20 deductions to that year claimed and allowed;

21 (4) for taxable years beginning on or after
22 January 1, 1991 and prior to January 1, 2013, an amount equal
23 to the sum of any net operating loss carryover deductions to
24 that year claimed and allowed; provided that the amount of any
25 net operating loss carryover from a taxable year beginning on

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1 or after January 1, 1991 and prior to January 1, 2013 may be
2 excluded only as follows:

3 (a) in the case of a timely filed
4 return, in the taxable year immediately following the taxable
5 year for which the return is filed; or

6 (b) in the case of amended returns or
7 original returns not timely filed, in the first taxable year
8 beginning after the date on which the return or amended return
9 establishing the net operating loss is filed; and

10 (c) in either case, if the net
11 operating loss carryover exceeds the amount of net income
12 exclusive of the net operating loss carryover for the taxable
13 year to which the exclusion first applies, in the next four
14 succeeding taxable years in turn until the net operating loss
15 carryover is exhausted for any net operating loss carryover
16 from a taxable year prior to January 1, 2013; in no event may
17 a net operating loss carryover from a taxable year beginning
18 prior to January 1, 2013 be excluded in any taxable year after
19 the fourth taxable year beginning after the taxable year to
20 which the exclusion first applies; ~~and~~

21 (5) for taxable years beginning on or after
22 January 1, 2013, an amount equal to the sum of any net
23 operating loss carryover deductions to that year claimed and
24 allowed; provided that the amount of any net operating loss
25 carryover may be excluded only as follows:

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1 (a) in the case of a timely filed
2 return, in the taxable year immediately following the taxable
3 year for which the return is filed; or

4 (b) in the case of amended returns or
5 original returns not timely filed, in the first taxable year
6 beginning after the date on which the return or amended return
7 establishing the net operating loss is filed; and

8 (c) in either case, if the net
9 operating loss carryover exceeds the amount of net income
10 exclusive of the net operating loss carryover for the taxable
11 year to which the exclusion first applies, in the next
12 nineteen succeeding taxable years in turn until the net
13 operating loss carryover is exhausted for any net operating
14 loss carryover from a taxable year beginning on or after
15 January 1, 2013; in no event shall a net operating loss
16 carryover from a taxable year beginning: 1) prior to January
17 1, 2013 be excluded in any taxable year after the fourth
18 taxable year beginning after the taxable year to which the
19 exclusion first applies; and 2) on or after
20 January 1, 2013 be excluded in any taxable year after the
21 nineteenth taxable year beginning after the taxable year to
22 which the exclusion first applies; and

23 (6) income on which the premium tax pursuant
24 to Section 59A-6-2 NMSA 1978 is assessed;

25 I. "net operating loss" means any net operating

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1 loss, as defined by Section 172(c) of the Internal Revenue
2 Code, as that section may be amended or renumbered, for a
3 taxable year as further increased by the income, if any, from
4 obligations of the United States for that year less related
5 expenses;

6 J. "net operating loss carryover" means the
7 amount, or any portion of the amount, of a net operating loss
8 for any taxable year that, pursuant to Paragraph (3), (4) or
9 (5) of Subsection H of this section, may be excluded from base
10 income;

11 K. "person" means any individual, estate, trust,
12 receiver, cooperative association, club, corporation, company,
13 firm, partnership, limited liability company, joint venture,
14 syndicate or other association; "person" also means, to the
15 extent permitted by law, any federal, state or other
16 governmental unit or subdivision or agency, department or
17 instrumentality thereof;

18 L. "secretary" means the secretary of taxation and
19 revenue or the secretary's delegate;

20 M. "state" means any state of the United States,
21 the District of Columbia, the commonwealth of Puerto Rico, any
22 territory or possession of the United States or political
23 subdivision thereof or any political subdivision of a foreign
24 country;

25 N. "state or local bond" means a bond issued by a

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1 state other than New Mexico or by a local government other
2 than one of New Mexico's political subdivisions, the interest
3 from which is excluded from income for federal income tax
4 purposes under Section 103 of the Internal Revenue Code, as
5 that section may be amended or renumbered;

6 O. "taxable year" means the calendar year or
7 fiscal year upon the basis of which the net income is computed
8 under the Corporate Income and Franchise Tax Act and includes,
9 in the case of the return made for a fractional part of a year
10 under the provisions of that act, the period for which the
11 return is made;

12 P. "taxpayer" means any corporation subject to the
13 taxes imposed by the Corporate Income and Franchise Tax Act;
14 and

15 Q. "unitary corporations" means two or more
16 integrated corporations, other than any foreign corporation
17 incorporated in a foreign country and not engaged in trade or
18 business in the United States during the taxable year, that
19 are owned in the amount of more than fifty percent and
20 controlled by the same person and for which at least one of
21 the following conditions exists:

22 (1) there is a unity of operations evidenced
23 by central purchasing, advertising, accounting or other
24 centralized services;

25 (2) there is a centralized management or

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1 executive force and centralized system of operation; or

2 (3) the operations of the corporations are
3 dependent upon or contribute property or services to one
4 another individually or as a group."

5 SECTION 55. Section 7-2A-4 NMSA 1978 (being Laws 1981,
6 Chapter 37, Section 37, as amended) is amended to read:

7 "7-2A-4. EXEMPTIONS.--No corporate income or franchise
8 tax shall be imposed upon:

9 ~~[A. insurance companies reciprocal or inter-~~
10 ~~insurance exchanges which pay a premium tax to the state;~~

11 ~~B.]~~ A. a trust organized or created in the United
12 States and forming part of a stock bonus, pension or profit-
13 sharing plan of an employer for the exclusive benefit of [~~his~~]
14 the employer's employees or their beneficiaries, which trust
15 is exempt from taxation under the provisions of the Internal
16 Revenue Code; or

17 ~~[C.]~~ B. religious, educational, benevolent or
18 other organizations not organized for profit [~~which~~] that are
19 exempt from income taxation under the Internal Revenue Code,
20 unless the organization receives income [~~which~~] that is
21 subject to federal income taxation as "unrelated business
22 income" under the Internal Revenue Code, in which case the
23 organization is subject to the corporate franchise tax, and
24 the corporate income tax applies to the unrelated business
25 income."

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1 **SECTION 56.** Section 7-2A-5 NMSA 1978 (being Laws 1981,
2 Chapter 37, Section 38, as amended) is amended to read:

3 "7-2A-5. CORPORATE INCOME TAX RATES.--The corporate
4 income tax imposed on corporations by Section 7-2A-3 NMSA 1978
5 shall be at the rates specified in the following tables:

6 A. For taxable years beginning prior to January 1,
7 2014:

8 If the net income is:	9 The tax shall be:
10 Not over \$500,000	11 4.8% of net income
12 Over \$500,000 but not	
13 over \$1,000,000	14 \$24,000 plus 6.4%
	15 of excess
	16 over \$500,000
17 Over \$1,000,000	18 \$56,000 plus 7.6%
	19 of excess
	20 over \$1,000,000.

21 B. For taxable years beginning on or after January
22 1, 2014 and prior to January 1, 2015:

23 If the net income is:	24 The tax shall be:
25 Not over \$500,000	26 4.8% of net income
27 Over \$500,000 but not	
28 over \$1,000,000	29 \$24,000 plus
	30 6.4% of excess
	31 over \$500,000
32 Over \$1,000,000	33 \$56,000 plus 7.3% of

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1 excess over
2 \$1,000,000.

3 C. For taxable years beginning on or after January
4 1, 2015 and prior to January 1, 2016:

5 If the net income is: The tax shall be:
6 Not over \$500,000 4.8% of net income
7 Over \$500,000 but not
8 over \$1,000,000 \$24,000 plus 6.4% of
9 excess over \$500,000
10 Over \$1,000,000 \$56,000 plus 6.9% of
11 excess over
12 \$1,000,000.

13 D. For taxable years beginning on or after January
14 1, 2016 and prior to January 1, 2017:

15 If the net income is: The tax shall be:
16 Not over \$500,000 4.8% of net income
17 Over \$500,000 but not
18 over \$1,000,000 \$24,000 plus 6.4% of
19 excess over \$500,000
20 Over \$1,000,000 \$56,000 plus 6.6% of
21 excess over
22 \$1,000,000.

23 E. For taxable years beginning on or after January
24 1, 2017 and prior to January 1, 2018:

25 If the net income is: The tax shall be:

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1 Not over \$500,000 4.8% of net income
2 Over \$500,000 \$24,000 plus
3 6.2% of excess over
4 \$500,000.

5 F. For taxable years beginning on or after January
6 1, 2018,

7 ~~[If the net income is:~~ ~~The tax shall be:~~
8 ~~Not over \$500,000 4.8% of net income~~
9 ~~Over \$500,000 \$24,000 plus 5.9% of~~
10 ~~excess over~~
11 ~~\$500,000]~~ the tax shall
12 be five percent of net income."

13 SECTION 57. Section 7-2A-15 NMSA 1978 (being Laws 1994,
14 Chapter 115, Section 2) is amended to read:

15 "7-2A-15. QUALIFIED BUSINESS FACILITY REHABILITATION
16 CREDIT--CORPORATE INCOME TAX CREDIT.--

17 A. To stimulate the creation of new jobs and
18 revitalize economically distressed areas within New Mexico
19 enterprise zones, any taxpayer who files a corporate income
20 tax return and who is the owner of a qualified business
21 facility may claim a credit in an amount equal to one-half of
22 the cost, not to exceed fifty thousand dollars (\$50,000),
23 incurred to restore, rehabilitate or renovate a qualified
24 business facility.

25 B. A taxpayer may claim the credit provided in

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1 this section for each taxable year in which restoration,
2 rehabilitation or renovation is carried out. Except as
3 provided in Subsection ~~[D]~~ E of this section, claims for the
4 credit provided in this section shall be limited to three
5 consecutive years, and the maximum aggregate credit allowable
6 shall not exceed fifty thousand dollars (\$50,000) for any
7 single restoration, rehabilitation or renovation project for
8 any qualified business facility. Each claim for a qualified
9 business facility rehabilitation credit shall be accompanied
10 by documentation and certification as the department may
11 require by regulation or instruction.

12 C. No credit may be claimed or allowed pursuant to
13 the provisions of this section for any costs incurred for a
14 restoration, rehabilitation or renovation project for which a
15 credit may be claimed pursuant to the provisions of Section
16 7-2A-8.6 ~~[or Section 7-9A-1]~~ NMSA 1978.

17 D. A taxpayer who otherwise qualifies and claims a
18 credit on a restoration, rehabilitation or renovation project
19 on a building owned by a partnership or other business
20 association of which the taxpayer is a member may claim a
21 credit only in proportion to ~~[his]~~ the taxpayer's interest in
22 the partnership or association. The total credit claimed by
23 all members of the partnership or association shall not exceed
24 fifty thousand dollars (\$50,000) in the aggregate for any
25 single restoration, rehabilitation or renovation project for a

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1 qualified business facility.

2 E. The credit provided in this section may only be
3 deducted from the taxpayer's corporate income tax liability.
4 Any portion of the maximum tax credit provided by this section
5 that remains unused at the end of the taxpayer's taxable year
6 may be carried forward for four consecutive taxable years;
7 provided the total tax credits claimed under this section
8 shall not exceed fifty thousand dollars (\$50,000) for any
9 single restoration, rehabilitation or renovation project for a
10 qualified business facility.

11 F. As used in this section:

12 (1) "qualified business facility" means a
13 building located in a New Mexico enterprise zone that is
14 suitable for use and is put into service by a person in the
15 manufacturing, distribution or service industry immediately
16 following the restoration, rehabilitation or renovation
17 project; provided the building ~~[must]~~ shall have been vacant
18 for the twenty-four-month period immediately preceding the
19 commencement of the restoration, rehabilitation or renovation
20 project; and

21 (2) "restoration, rehabilitation or
22 renovation" includes:

23 (a) the construction services necessary
24 to ensure that a building is in compliance with applicable
25 zoning codes, is safe for occupancy and meets the operating

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1 needs of a person in the manufacturing, distribution or
2 service industry; and

3 (b) expansion of or additions to a
4 building if the expansion or addition does not increase the
5 usable square footage of the building by more than ten percent
6 of the usable square footage of the building prior to the
7 restoration, rehabilitation or renovation."

8 **SECTION 58.** Section 7-2A-25 NMSA 1978 (being Laws 2009,
9 Chapter 279, Section 2) is amended to read:

10 "7-2A-25. ADVANCED ENERGY CORPORATE INCOME TAX CREDIT.--

11 A. The tax credit that may be claimed pursuant to
12 this section may be referred to as the "advanced energy
13 corporate income tax credit".

14 B. A taxpayer that holds an interest in a
15 qualified generating facility located in New Mexico and that
16 files a New Mexico corporate income tax return may claim an
17 advanced energy corporate income tax credit in an amount equal
18 to six percent of the eligible generation plant costs of a
19 qualified generating facility, subject to the limitations
20 imposed in this section. The tax credit claimed shall be
21 verified and approved by the department.

22 C. An entity that holds an interest in a qualified
23 generating facility may request a certificate of eligibility
24 from the department of environment to enable the requester to
25 apply for an advanced energy corporate income tax credit. The

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1 department of environment:

2 (1) shall determine if the facility is a
3 qualified generating facility;

4 (2) shall require that the requester provide
5 the department of environment with the information necessary
6 to assess whether the requester's facility meets the criteria
7 to be a qualified generating facility;

8 (3) shall issue a certificate to the
9 requester stating that the facility is or is not a qualified
10 generating facility within one hundred eighty days after
11 receiving all information necessary to make a determination;

12 (4) shall:

13 (a) issue a schedule of fees in which
14 no fee exceeds one hundred fifty thousand dollars (\$150,000);
15 and

16 (b) deposit fees collected pursuant to
17 this paragraph in the state air quality permit fund created
18 pursuant to Section 74-2-15 NMSA 1978; and

19 (5) shall report annually to the appropriate
20 interim legislative committee information that will allow the
21 legislative committee to analyze the effectiveness of the
22 advanced energy tax credits, including the identity of
23 qualified generating facilities, the energy production means
24 used, the amount of emissions identified in this section
25 reduced and removed by those qualified generating facilities

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1 and whether any requests for certificates of eligibility could
2 not be approved due to program limits.

3 D. A taxpayer that holds an interest in a
4 qualified generating facility may be allocated the right to
5 claim the advanced energy corporate income tax credit without
6 regard to the taxpayer's relative interest in the qualified
7 generating facility if:

8 (1) the business entity making the allocation
9 provides notice of the allocation and the taxpayer's interest
10 in the qualified generating facility to the department on
11 forms prescribed by the department;

12 (2) allocations to the taxpayer and all other
13 taxpayers allocated a right to claim the advanced energy tax
14 credit shall not exceed one hundred percent of the advanced
15 energy tax credit allowed for the qualified generating
16 facility; and

17 (3) the taxpayer and all other taxpayers
18 allocated a right to claim the advanced energy tax credits
19 collectively own at least a five percent interest in the
20 qualified generating facility.

21 E. Upon receipt of the notice of an allocation of
22 the right to claim all or a portion of the advanced energy
23 corporate income tax credit, the department shall verify the
24 allocation due to the recipient.

25 F. To claim the advanced energy corporate income

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1 tax credit, a taxpayer shall submit with the taxpayer's New
2 Mexico corporate income tax return a certificate of
3 eligibility from the department of environment stating that
4 the taxpayer may be eligible for advanced energy tax credits.
5 The taxation and revenue department shall provide credit claim
6 forms. A credit claim form shall accompany any return in
7 which the taxpayer wishes to apply for an approved credit, and
8 the claim shall specify the amount of credit intended to apply
9 to each return. The taxation and revenue department shall
10 determine the amount of advanced energy corporate income tax
11 credit for which the taxpayer may apply.

12 G. The total amount of all advanced energy tax
13 credits claimed shall not exceed the total amount determined
14 by the department to be allowable pursuant to this section and
15 the Income Tax Act [~~and Section 7-9G-2 NMSA 1978~~].

16 H. [~~Any balance of the advanced energy corporate~~
17 ~~income tax credit that the taxpayer is approved to claim may~~
18 ~~be claimed by the taxpayer as an advanced energy combined~~
19 ~~reporting tax credit allowed pursuant to Section 7-9G-2 NMSA~~
20 ~~1978.~~] If the advanced energy corporate income tax credit
21 exceeds the amount of the taxpayer's tax liabilities pursuant
22 to the Corporate Income and Franchise Tax Act [~~and Section~~
23 ~~7-9G-2 NMSA 1978~~] in the taxable year in which it is claimed,
24 the balance of the unpaid credit may be carried forward for
25 ten years [~~and claimed as an advanced energy corporate income~~

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1 ~~tax credit or an advanced energy combined reporting tax~~
2 ~~credit~~]. The advanced energy corporate income tax credit is
3 not refundable.

4 I. A taxpayer claiming the advanced energy
5 corporate income tax credit pursuant to this section is
6 ineligible for credits pursuant to the [~~Investment Credit Act~~
7 ~~or any other credit that may be taken pursuant to the~~]
8 Corporate Income and Franchise Tax Act [~~or credits that may be~~
9 ~~taken against the gross receipts tax, compensating tax or~~
10 ~~withholding tax~~] for the same expenditures.

11 J. The aggregate amount of all advanced energy tax
12 credits that may be claimed with respect to a qualified
13 generating facility shall not exceed sixty million dollars
14 (\$60,000,000).

15 K. As used in this section:

16 (1) "advanced energy tax credit" means the
17 advanced energy income tax credit and the advanced energy
18 corporate income tax credit [~~and the advanced energy combined~~
19 ~~reporting tax credit~~];

20 (2) "coal-based electric generating facility"
21 means a new or repowered generating facility and an associated
22 coal gasification facility, if any, that uses coal to generate
23 electricity and that meets the following specifications:

24 (a) emits the lesser of: 1) what is
25 achievable with the best available control technology; or 2)

underscoring material = new
~~[bracketed material] = delete~~

1 thirty-five thousandths pound per million British thermal
2 units of sulfur dioxide, twenty-five thousandths pound per
3 million British thermal units of oxides of nitrogen and one
4 hundredth pound per million British thermal units of total
5 particulates in the flue gas;

6 (b) removes the greater of: 1) what is
7 achievable with the best available control technology; or 2)
8 ninety percent of the mercury from the input fuel;

9 (c) captures and sequesters or controls
10 carbon dioxide emissions so that by the later of January 1,
11 2017 or eighteen months after the commercial operation date of
12 the coal-based electric generating facility, no more than one
13 thousand one hundred pounds per megawatt-hour of carbon
14 dioxide is emitted into the atmosphere;

15 (d) all infrastructure required for
16 sequestration is in place by the later of January 1, 2017 or
17 eighteen months after the commercial operation date of the
18 coal-based electric generating facility;

19 (e) includes methods and procedures to
20 monitor the disposition of the carbon dioxide captured and
21 sequestered from the coal-based electric generating facility;
22 and

23 (f) does not exceed a name-plate
24 capacity of seven hundred net megawatts;

25 (3) "eligible generation plant costs" means

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1 expenditures for the development and construction of a
2 qualified generating facility, including permitting; site
3 characterization and assessment; engineering; design; carbon
4 dioxide capture, treatment, compression, transportation and
5 sequestration; site and equipment acquisition; and fuel supply
6 development used directly and exclusively in a qualified
7 generating facility;

8 (4) "entity" means an individual, estate,
9 trust, receiver, cooperative association, club, corporation,
10 company, firm, partnership, limited liability company, limited
11 liability partnership, joint venture, syndicate or other
12 association or a gas, water or electric utility owned or
13 operated by a county or municipality;

14 (5) "geothermal electric generating facility"
15 means a facility with a name-plate capacity of one megawatt or
16 more that uses geothermal energy to generate electricity,
17 including a facility that captures and provides geothermal
18 energy to a preexisting electric generating facility using
19 other fuels in part;

20 (6) "interest in a qualified generating
21 facility" means title to a qualified generating facility; a
22 leasehold interest in a qualified generating facility; an
23 ownership interest in a business or entity that is taxed for
24 federal income tax purposes as a partnership that holds title
25 to or a leasehold interest in a qualified generating facility;

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1 or an ownership interest, through one or more intermediate
2 entities that are each taxed for federal income tax purposes
3 as a partnership, in a business that holds title to or a
4 leasehold interest in a qualified generating facility;

5 (7) "name-plate capacity" means the maximum
6 rated output of the facility measured as alternating current
7 or the equivalent direct current measurement;

8 (8) "qualified generating facility" means a
9 facility that begins construction not later than December 31,
10 2015 and is:

11 (a) a solar thermal electric generating
12 facility that begins construction on or after July 1, 2007 and
13 that may include an associated renewable energy storage
14 facility;

15 (b) a solar photovoltaic electric
16 generating facility that begins construction on or after July
17 1, 2009 and that may include an associated renewable energy
18 storage facility;

19 (c) a geothermal electric generating
20 facility that begins construction on or after July 1, 2009;

21 (d) a recycled energy project if that
22 facility begins construction on or after July 1, 2007; or

23 (e) a new or repowered coal-based
24 electric generating facility and an associated coal
25 gasification facility;

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1 (9) "recycled energy" means energy produced
2 by a generation unit with a name-plate capacity of not more
3 than fifteen megawatts that converts the otherwise lost energy
4 from the exhaust stacks or pipes to electricity without
5 combustion of additional fossil fuel;

6 (10) "sequester" means to store, or
7 chemically convert, carbon dioxide in a manner that prevents
8 its release into the atmosphere and may include the use of
9 geologic formations and enhanced oil, coalbed methane or
10 natural gas recovery techniques; and

11 (11) "solar photovoltaic electric generating
12 facility" means an electric generating facility with a name-
13 plate capacity of one megawatt or more that uses solar
14 photovoltaic energy to generate electricity [~~and~~

15 ~~(12) "solar thermal electric generating~~
16 ~~facility" means an electric generating facility with a name-~~
17 ~~plate capacity of one megawatt or more that uses solar thermal~~
18 ~~energy to generate electricity, including a facility that~~
19 ~~captures and provides solar energy to a preexisting electric~~
20 ~~generating facility using other fuels in part]."~~

21 SECTION 59. Section 7-2E-1.1 NMSA 1978 (being Laws 2007,
22 Chapter 172, Section 2, as amended) is amended to read:

23 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

24 A. The tax credit created by this section may be
25 referred to as the "rural job tax credit". Every eligible

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1 employer may apply for, and the taxation and revenue
2 department may allow, a tax credit for each qualifying job the
3 employer creates. The maximum tax credit amount with respect
4 to each qualifying job is equal to:

5 (1) twenty-five percent of the first sixteen
6 thousand dollars (\$16,000) in wages paid for the qualifying
7 job if the job is performed or based at a location in a tier
8 one area; or

9 (2) twelve and one-half percent of the first
10 sixteen thousand dollars (\$16,000) in wages paid if the
11 qualifying job is performed or based at a location in a tier
12 two area.

13 B. The purpose of the rural job tax credit is to
14 encourage businesses to start new businesses in rural areas of
15 the state.

16 C. The amount of the rural job tax credit shall be
17 six and one-fourth percent of the first sixteen thousand
18 dollars (\$16,000) in wages paid for the qualifying job in a
19 qualifying period. The rural job tax credit may be claimed
20 for each qualifying job for a maximum of:

21 (1) four qualifying periods for each
22 qualifying job performed or based at a location in a tier one
23 area; and

24 (2) two qualifying periods for each
25 qualifying job performed or based at a location in a tier two

underscoring material = new
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1 area.

2 D. With respect to each qualifying job for which
3 an eligible employer seeks the rural job tax credit, the
4 employer shall certify the amount of wages paid to each
5 eligible employee during each qualifying period, the number of
6 weeks during the qualifying period the position was occupied
7 and whether the qualifying job was in a tier one or tier two
8 area.

9 E. The economic development department shall
10 determine which employers are eligible employers and shall
11 report the listing of eligible businesses to the taxation and
12 revenue department in a manner and at times the departments
13 shall agree upon.

14 F. To receive a rural job tax credit with respect
15 to any qualifying period, an eligible employer must apply to
16 the taxation and revenue department on forms and in the manner
17 the department may prescribe. The application shall include a
18 certification made pursuant to Subsection D of this section.
19 If all the requirements of this section have been complied
20 with, the taxation and revenue department may issue to the
21 applicant a document granting a tax credit for the appropriate
22 qualifying period. The tax credit document shall be numbered
23 for identification and declare its date of issuance and the
24 amount of rural job tax credit allowed for the respective jobs
25 created. The tax credit documents may be sold, exchanged or

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1 otherwise transferred and may be carried forward for a period
2 of three years from the date of issuance. The parties to such
3 a transaction to sell, exchange or transfer a rural job tax
4 credit document shall notify the department of the transaction
5 within ten days of the sale, exchange or transfer.

6 G. The holder of the tax credit document may apply
7 all or a portion of the rural job tax credit granted by the
8 document against the holder's [~~modified combined tax~~
9 ~~liability~~] personal income tax liability or corporate income
10 tax liability. Any balance of rural job tax credit granted by
11 the document may be carried forward for up to three years from
12 the date of issuance of the tax credit document. [~~No amount~~
13 ~~of rural job tax credit may be applied against a gross~~
14 ~~receipts tax imposed by a municipality or county.~~]

15 H. Notwithstanding the provisions of Section 7-1-8
16 NMSA 1978, the taxation and revenue department may disclose to
17 any person the balance of rural job tax credit remaining on
18 any tax credit document and the balance of credit remaining on
19 that document for any period.

20 I. The secretary of economic development, the
21 secretary of taxation and revenue and the secretary of
22 workforce solutions or their designees shall annually evaluate
23 the effectiveness of the rural job tax credit in stimulating
24 economic development in the rural areas of New Mexico and make
25 a joint report of their findings to each session of the

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1 legislature so long as the rural job tax credit is in effect.

2 J. An eligible employer that creates a qualifying
3 job in the period beginning on or after July 1, 2006 but
4 before July 1, 2007 or creates a qualifying job, the
5 qualifying period of which includes a part of the period
6 between July 1, 2006 and July 1, 2007, for which the eligible
7 employer has not received a rural job tax credit document
8 pursuant to this section may submit an application for, and
9 the taxation and revenue department may issue to the eligible
10 employer applying, a document granting a tax credit for the
11 appropriate qualifying period. Claims for a rural job tax
12 credit submitted pursuant to the provisions of this subsection
13 shall be submitted within three years from the date of
14 issuance of the rural job tax credit document.

15 K. A qualifying job shall not be eligible for a
16 rural job credit pursuant to this section if:

17 (1) the job is created due to a business
18 merger, acquisition or other change in organization;

19 (2) the eligible employee was terminated from
20 employment in New Mexico by another employer involved in the
21 merger, acquisition or other change in organization; and

22 (3) the job is performed by:

23 (a) the person who performed the job or
24 its functional equivalent prior to the business merger,
25 acquisition or other change in organization; or

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1 (b) a person replacing the person who
2 performed the job or its functional equivalent prior to the
3 business merger, acquisition or other change in organization.

4 L. Notwithstanding the provisions of Subsection K
5 of this section, a qualifying job that was created by another
6 employer and for which the rural job tax credit claim was
7 received by the taxation and revenue department prior to July
8 1, 2013 and is under review or has been approved shall remain
9 eligible for the rural job tax credit for the balance of the
10 qualifying periods for which the job qualifies by the new
11 employer that results from a business merger, acquisition or
12 other change in the organization.

13 M. A job shall not be eligible for a rural job tax
14 credit pursuant to this section if the job is created due to
15 an eligible employer entering into a contract or becoming a
16 subcontractor to a contract with a governmental entity that
17 replaces one or more entities performing functionally
18 equivalent services for the governmental entity in New Mexico
19 unless the job is a qualifying job that was not being
20 performed by an employee of the replaced entity.

21 N. As used in this section:

22 (1) "eligible employee" means any individual
23 other than an individual who:

24 (a) bears any of the relationships
25 described in Paragraphs (1) through (8) of 26 U.S.C. Section

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1 152(a) to the employer or, if the employer is a corporation,
2 to an individual who owns, directly or indirectly, more than
3 fifty percent in value of the outstanding stock of the
4 corporation or, if the employer is an entity other than a
5 corporation, to any individual who owns, directly or
6 indirectly, more than fifty percent of the capital and profits
7 interests in the entity;

8 (b) if the employer is an estate or
9 trust, is a grantor, beneficiary or fiduciary of the estate or
10 trust or is an individual who bears any of the relationships
11 described in Paragraphs (1) through (8) of 26 U.S.C. Section
12 152(a) to a grantor, beneficiary or fiduciary of the estate or
13 trust; or

14 (c) is a dependent, as that term is
15 described in 26 U.S.C. Section 152(a)(9), of the employer or,
16 if the taxpayer is a corporation, of an individual who owns,
17 directly or indirectly, more than fifty percent in value of
18 the outstanding stock of the corporation or, if the employer
19 is an entity other than a corporation, of any individual who
20 owns, directly or indirectly, more than fifty percent of the
21 capital and profits interests in the entity or, if the
22 employer is an estate or trust, of a grantor, beneficiary or
23 fiduciary of the estate or trust;

24 (2) "eligible employer" means an employer
25 who is eligible for in-plant training assistance pursuant to

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1 Section 21-19-7 NMSA 1978;

2 (3) "metropolitan statistical area" means a
3 metropolitan statistical area in New Mexico as determined by
4 the United States bureau of the census;

5 [~~(4)~~] "~~modified combined tax liability~~" means
6 ~~the total liability for the reporting period for the gross~~
7 ~~receipts tax imposed by Section 7-9-4 NMSA 1978 together with~~
8 ~~any tax collected at the same time and in the same manner as~~
9 ~~that gross receipts tax, such as the compensating tax, the~~
10 ~~withholding tax, the interstate telecommunications gross~~
11 ~~receipts tax, the surcharges imposed by Section 63-9D-5 NMSA~~
12 ~~1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,~~
13 ~~minus the amount of any credit other than the rural job tax~~
14 ~~credit applied against any or all of these taxes or~~
15 ~~surcharges; but "modified combined tax liability" excludes all~~
16 ~~amounts collected with respect to local option gross receipts~~
17 ~~taxes;~~

18 ~~(5)]~~ (4) "qualifying job" means a job
19 established by the employer that is occupied by an eligible
20 employee for at least forty-eight weeks of a qualifying
21 period;

22 [~~(6)]~~ (5) "qualifying period" means the
23 period of twelve months beginning on the day an eligible
24 employee begins working in a qualifying job or the period of
25 twelve months beginning on the anniversary of the day an

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1 eligible employee began working in a qualifying job;

2 ~~(7)~~ (6) "rural area" means any part of the
3 state other than:

4 (a) an H class county;

5 (b) the state fairgrounds;

6 (c) an incorporated municipality within
7 a metropolitan statistical area if the municipality's
8 population is thirty thousand or more according to the most
9 recent federal decennial census; and

10 (d) any area within ten miles of the
11 exterior boundaries of a municipality described in
12 Subparagraph (c) of this paragraph;

13 ~~(8)~~ (7) "tier one area" means:

14 (a) any municipality within the rural
15 area if the municipality's population according to the most
16 recent federal decennial census is fifteen thousand or less;
17 or

18 (b) any part of the rural area that is
19 not within the exterior boundaries of a municipality;

20 ~~(9)~~ (8) "tier two area" means any
21 municipality within the rural area if the municipality's
22 population according to the most recent federal decennial
23 census is more than fifteen thousand; and

24 ~~(10)~~ (9) "wages" means all compensation
25 paid by an eligible employer to an eligible employee through

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1 the employer's payroll system, including those wages the
2 employee elects to defer or redirect, such as the employee's
3 contribution to 401(k) or cafeteria plan programs, but not
4 including benefits or the employer's share of payroll taxes."

5 SECTION 60. Section 7-9-1 NMSA 1978 (being Laws 1966,
6 Chapter 47, Section 1, as amended) is amended to read:

7 "7-9-1. SHORT TITLE.--Chapter 7, Article 9 NMSA 1978 may
8 be cited as the "~~[Gross Receipts and Compensating]~~ Sales and
9 Use Tax Act."

10 SECTION 61. Section 7-9-3 NMSA 1978 (being Laws 1978,
11 Chapter 46, Section 1, as amended) is amended to read:

12 "7-9-3. DEFINITIONS.--As used in the ~~[Gross Receipts and~~
13 ~~Compensating]~~ Sales and Use Tax Act:

14 A. "buying" or "selling" means a transfer of
15 property for consideration or the performance of service for
16 consideration;

17 B. "department" means the taxation and revenue
18 department, the secretary of taxation and revenue or an
19 employee of the department exercising authority lawfully
20 delegated to that employee by the secretary;

21 C. "financial corporation" means a savings and
22 loan association or an incorporated savings and loan company,
23 trust company, mortgage banking company, consumer finance
24 company or other financial corporation;

25 D. "initial use" or "initially used" means the

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1 first employment for the intended purpose and does not include
2 the following activities:

3 (1) observation of tests conducted by the
4 performer of services;

5 (2) participation in progress reviews,
6 briefings, consultations and conferences conducted by the
7 performer of services;

8 (3) review of preliminary drafts, drawings
9 and other materials prepared by the performer of the services;

10 (4) inspection of preliminary prototypes
11 developed by the performer of services; or

12 (5) similar activities;

13 E. "leasing" means an arrangement whereby, for a
14 consideration, property is employed for or by any person other
15 than the owner of the property, except that the granting of a
16 license to use property is licensing and is not a lease;

17 F. "local option [~~gross receipts~~] sales tax" means
18 a tax authorized to be imposed by a county or municipality
19 upon the taxpayer's gross receipts and required to be
20 collected by the department at the same time and in the same
21 manner as the [~~gross receipts~~] state sales tax; "local option
22 [~~gross receipts~~] sales tax" includes the taxes imposed
23 pursuant to the Municipal Local Option [~~Gross Receipts Taxes~~]
24 Sales and Use Tax Act, [~~Supplemental Municipal Gross Receipts~~
25 ~~Tax Act~~] the County Local Option [~~Gross Receipts Taxes~~] Sales

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1 ~~and Use Tax Act [Local Hospital Gross Receipts Tax Act, County~~
2 ~~Correctional Facility Gross Receipts Tax Act]~~ and such other
3 acts as may be enacted authorizing counties or municipalities
4 to impose taxes on gross receipts, which taxes are to be
5 collected by the department;

6 G. "manufactured home" means a movable or portable
7 housing structure for human occupancy that exceeds either a
8 width of eight feet or a length of forty feet constructed to
9 be towed on its own chassis and designed to be installed with
10 or without a permanent foundation;

11 H. "manufacturing" means combining or processing
12 components or materials to increase their value for sale in
13 the ordinary course of business, but does not include
14 construction;

15 I. "person" means:

16 (1) an individual, estate, trust, receiver,
17 cooperative association, club, corporation, company, firm,
18 partnership, limited liability company, limited liability
19 partnership, joint venture, syndicate or other entity,
20 including any gas, water or electric utility owned or operated
21 by a county, municipality or other political subdivision of
22 the state; or

23 (2) a national, federal, state, Indian or
24 other governmental unit or subdivision, or an agency,
25 department or instrumentality of any of the foregoing;

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1 J. "property" means real property, tangible
2 personal property, licenses other than the licenses of
3 copyrights, trademarks or patents and franchises. Tangible
4 personal property includes electricity and manufactured homes;

5 K. "research and development services" means an
6 activity engaged in for other persons for consideration, for
7 one or more of the following purposes:

8 (1) advancing basic knowledge in a recognized
9 field of natural science;

10 (2) advancing technology in a field of
11 technical endeavor;

12 (3) developing a new or improved product,
13 process or system with new or improved function, performance,
14 reliability or quality, whether or not the new or improved
15 product, process or system is offered for sale, lease or other
16 transfer;

17 (4) developing new uses or applications for
18 an existing product, process or system, whether or not the new
19 use or application is offered as the rationale for purchase,
20 lease or other transfer of the product, process or system;

21 (5) developing analytical or survey
22 activities incorporating technology review, application,
23 trade-off study, modeling, simulation, conceptual design or
24 similar activities, whether or not offered for sale, lease or
25 other transfer; or

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1 (6) designing and developing prototypes or
2 integrating systems incorporating the advances, developments
3 or improvements included in Paragraphs (1) through (5) of this
4 subsection;

5 L. "secretary" means the secretary of taxation and
6 revenue or the secretary's delegate;

7 M. "service" means all activities engaged in for
8 other persons for a consideration, which activities involve
9 predominantly the performance of a service as distinguished
10 from selling or leasing property. "Service" includes
11 activities performed by a person for its members or
12 shareholders. In determining what is a service, the intended
13 use, principal objective or ultimate objective of the
14 contracting parties shall not be controlling. "Service"
15 includes construction activities and all tangible personal
16 property that will become an ingredient or component part of a
17 construction project. That tangible personal property retains
18 its character as tangible personal property until it is
19 installed as an ingredient or component part of a construction
20 project in New Mexico. Sales of tangible personal property
21 that will become an ingredient or component part of a
22 construction project to persons engaged in the construction
23 business are sales of tangible personal property; and

24 N. "use" or "using" includes use, consumption or
25 storage other than storage for subsequent sale in the ordinary

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1 course of business or for use solely outside this state."

2 SECTION 62. Section 7-9-3.2 NMSA 1978 (being Laws 1991,
3 Chapter 8, Section 1, as amended) is amended to read:

4 "7-9-3.2. ADDITIONAL DEFINITION.--~~[A.]~~ As used in the
5 ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act,
6 "governmental gross receipts":

7 A. means receipts of the state or an agency,
8 institution, instrumentality or political subdivision from:

9 (1) the sale of tangible personal property
10 other than water from facilities open to the general public;

11 (2) the performance of or admissions to
12 recreational, athletic or entertainment services or events in
13 facilities open to the general public;

14 (3) refuse collection or refuse disposal or
15 both;

16 (4) sewage services;

17 (5) the sale of water by a utility owned or
18 operated by a county, municipality or other political
19 subdivision of the state; and

20 (6) the renting of parking, docking or tie-
21 down spaces or the granting of permission to park vehicles,
22 tie down aircraft or dock boats;

23 ~~["Governmental gross receipts"]~~ B. includes
24 receipts from the sale of tangible personal property handled
25 on consignment when sold from facilities open to the general

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1 public, [~~but excludes cash discounts taken and allowed,~~
2 ~~governmental gross receipts tax payable on transactions~~
3 ~~reportable for the period and any type of time-price~~
4 ~~differential.~~

5 B. ~~As used in this section, "facilities open to~~
6 ~~the general public" does not include] not including point of
7 sale registers or electronic devices at a bookstore owned or
8 operated by a public post-secondary educational institution
9 when the registers or devices are utilized in the sale of
10 textbooks or other materials required for courses at the
11 institution to a student enrolled at the institution who
12 displays a valid student identification card; and~~

13 C. excludes cash discounts taken and allowed,
14 governmental sales tax payable on transactions reportable for
15 the period and any type of time-price differential."

16 SECTION 63. Section 7-9-3.3 NMSA 1978 (being Laws 2003,
17 Chapter 272, Section 4) is amended to read:

18 "7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in
19 the Gross Receipts and Compensating Tax Act, "engaging in
20 business" means carrying on or causing to be carried on any
21 activity with the purpose of direct or indirect benefit,
22 without regard to having physical presence, including the
23 presence of a representative acting on behalf of the person,
24 in the state, except that "engaging in business" does not
25 include:

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1 A. [~~"engaging in business" does not include~~]
2 having a worldwide [~~web site~~] website as a third-party content
3 provider on a computer physically located in New Mexico but
4 owned by another nonaffiliated person; [~~and~~]

5 B. [~~"engaging in business" does not include~~] using
6 a nonaffiliated third-party call center to accept and process
7 telephone or electronic orders of tangible personal property
8 or licenses primarily from non-New Mexico buyers, which orders
9 are forwarded to a location outside New Mexico for filling, or
10 to provide services primarily to non-New Mexico customers; and

11 C. the activities of a person without physical
12 presence in this state if the person and the person's
13 affiliates have less than one hundred thousand dollars
14 (\$100,000) of gross receipts in the state, based on receipts
15 during the prior calendar year. As used in this subsection,
16 "affiliate" means a person that directly or indirectly,
17 through one or more intermediaries controls, is controlled by
18 or is under common control with another person."

19 SECTION 64. Section 7-9-3.3 NMSA 1978 (being Laws 2003,
20 Chapter 272, Section 4, as amended by Section 63 of this act)
21 is repealed and new Section 7-9-3.3 NMSA 1978 is enacted to
22 read:

23 "7-9-3.3. [NEW MATERIAL] DEFINITION--ENGAGING IN
24 BUSINESS.--As used in the Sales and Use Tax Act, "engaging in
25 business" means carrying on or causing to be carried on any

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1 activity with the purpose of direct or indirect benefit,
2 without regard to having physical presence, including the
3 presence of a representative acting on behalf of the person,
4 in the state, except that "engaging in business" does not
5 include:

6 A. having a worldwide website as a third-party
7 content provider on a computer physically located in New
8 Mexico but owned by another nonaffiliated person;

9 B. using a nonaffiliated third-party call center
10 to accept and process telephone or electronic orders of
11 tangible personal property or licenses primarily from non-New
12 Mexico buyers, which orders are forwarded to a location
13 outside New Mexico for filling, or to provide services
14 primarily to non-New Mexico customers; and

15 C. the activities of a person without physical
16 presence in this state if the person and the person's
17 affiliates have less than one hundred thousand dollars
18 (\$100,000) of gross receipts in the state, based on receipts
19 during the prior calendar year. As used in this subsection,
20 "affiliate" means a business entity that directly or
21 indirectly, through one or more intermediaries controls, is
22 controlled by or is under common control with another business
23 entity."

24 SECTION 65. Section 7-9-3.4 NMSA 1978 (being Laws 2003,
25 Chapter 272, Section 5) is amended to read:

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1 "7-9-3.4. DEFINITIONS--CONSTRUCTION AND CONSTRUCTION
2 MATERIALS.--As used in the [~~Gross Receipts and Compensating~~]
3 Sales and Use Tax Act:

4 A. "construction" means:

5 (1) the building, altering, repairing or
6 demolishing in the ordinary course of business any:

7 (a) road, highway, bridge, parking area
8 or related project;

9 (b) building, stadium or other
10 structure;

11 (c) airport, subway or similar
12 facility;

13 (d) park, trail, athletic field, golf
14 course or similar facility;

15 (e) dam, reservoir, canal, ditch or
16 similar facility;

17 (f) sewerage or water treatment
18 facility, power generating plant, pump station, natural gas
19 compressing station, gas processing plant, coal gasification
20 plant, refinery, distillery or similar facility;

21 (g) sewerage, water, gas or other
22 pipeline;

23 (h) transmission line;

24 (i) radio, television or other tower;

25 (j) water, oil or other storage tank;

underscored material = new
[bracketed material] = delete

- 1 (k) shaft, tunnel or other mining
2 appurtenance;
3 (l) microwave station or similar
4 facility;
5 (m) retaining wall, wall, fence, gate
6 or similar structure; or
7 (n) similar work;
8 (2) the leveling or clearing of land;
9 (3) the excavating of earth;
10 (4) the drilling of wells of any type,
11 including seismograph shot holes or core drilling; or
12 (5) similar work; and

13 B. "construction material" means tangible personal
14 property that becomes or is intended to become an ingredient
15 or component part of a construction project, but "construction
16 material" does not include a replacement fixture when the
17 replacement is not construction or a replacement part for a
18 fixture."

19 SECTION 66. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
20 Chapter 272, Section 3, as amended) is amended to read:

21 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

22 A. As used in the Gross Receipts and Compensating
23 Tax Act, "gross receipts":

- 24 (1) [~~"gross receipts"~~] means the total amount
25 of money or the value of other consideration received from

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1 selling property in New Mexico, from leasing or licensing
2 property employed in New Mexico, from granting a right to use
3 a franchise employed in New Mexico, from selling services
4 performed outside New Mexico, the product of which is
5 initially used in New Mexico, or from performing services in
6 New Mexico. In an exchange in which the money or other
7 consideration received does not represent the value of the
8 property or service exchanged, "gross receipts" means the
9 reasonable value of the property or service exchanged;

10 (2) [~~"gross receipts"~~] includes:

11 (a) any receipts from sales of tangible
12 personal property handled on consignment, including
13 third-party sales made over a multi-vendor marketplace
14 platform that acts as the intermediary, typically as the
15 processor of the transaction, between the seller and the
16 purchaser;

17 (b) the total commissions or fees
18 derived from the business of buying, selling or promoting the
19 purchase, sale or lease, as an agent or broker on a commission
20 or fee basis, of any property, service, stock, bond or
21 security;

22 (c) amounts paid by members of any
23 cooperative association or similar organization for sales or
24 leases of personal property or performance of services by such
25 organization;

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1 (d) amounts received from transmitting
2 messages or conversations by persons providing telephone or
3 telegraph services;

4 (e) amounts received by a New Mexico
5 florist from the sale of flowers, plants or other products
6 that are customarily sold by florists where the sale is made
7 pursuant to orders placed with the New Mexico florist that are
8 filled and delivered outside New Mexico by an out-of-state
9 florist; and

10 (f) the receipts of a home service
11 provider from providing mobile telecommunications services to
12 customers whose place of primary use is in New Mexico if: 1)
13 the mobile telecommunications services originate and terminate
14 in the same state, regardless of where the services originate,
15 terminate or pass through; and 2) the charges for mobile
16 telecommunications services are billed by or for a customer's
17 home service provider and are deemed provided by the home
18 service provider. For the purposes of this section, "home
19 service provider", "mobile telecommunications services",
20 "customer" and "place of primary use" have the meanings given
21 in the federal Mobile Telecommunications Sourcing Act; and

22 (3) [~~gross receipts~~] excludes:

23 (a) cash discounts allowed and taken;

24 (b) [~~New Mexico gross receipts~~] state
25 sales tax, governmental [~~gross receipts~~] sales tax and leased

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1 vehicle [~~gross receipts~~] sales tax payable on transactions for
2 the reporting period;

3 (c) taxes imposed pursuant to the
4 provisions of any local option gross receipts tax that is
5 payable on transactions for the reporting period;

6 (d) any gross receipts or sales taxes
7 imposed by an Indian nation, tribe or pueblo; provided that
8 the tax is approved, if approval is required by federal law or
9 regulation, by the secretary of the interior of the United
10 States; and provided further that the gross receipts or sales
11 tax imposed by the Indian nation, tribe or pueblo provides a
12 reciprocal exclusion for gross receipts, sales or gross
13 receipts-based excise taxes imposed by the state or its
14 political subdivisions;

15 (e) any type of time-price
16 differential;

17 (f) amounts received solely on behalf
18 of another in a disclosed agency capacity; and

19 (g) amounts received by a New Mexico
20 florist from the sale of flowers, plants or other products
21 that are customarily sold by florists where the sale is made
22 pursuant to orders placed with an out-of-state florist for
23 filling and delivery in New Mexico by a New Mexico florist.

24 B. When the sale of property or service is made
25 under any type of charge, conditional or time-sales contract

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1 or the leasing of property is made under a leasing contract,
2 the seller or lessor may elect to treat all receipts,
3 excluding any type of time-price differential, under such
4 contracts as gross receipts as and when the payments are
5 actually received. If the seller or lessor transfers the
6 seller's or lessor's interest in any such contract to a third
7 person, the seller or lessor shall pay the gross receipts tax
8 upon the full sale or leasing contract amount, excluding any
9 type of time-price differential."

10 SECTION 67. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
11 Chapter 272, Section 3, as amended by Section 66 of this act)
12 is repealed and a new Section 7-9-3.5 NMSA 1978 is enacted to
13 read:

14 "7-9-3.5. [NEW MATERIAL] DEFINITION--GROSS RECEIPTS.--

15 A. As used in the Sales and Use Tax Act, "gross
16 receipts":

17 (1) means the total amount of money or the
18 value of other consideration received from selling property in
19 New Mexico, from leasing or licensing property employed in New
20 Mexico, from granting a right to use a franchise employed in
21 New Mexico, from selling services performed outside New
22 Mexico, the product of which is initially used in New Mexico,
23 or from performing services in New Mexico. In an exchange in
24 which the money or other consideration received does not
25 represent the value of the property or service exchanged,

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1 "gross receipts" means the reasonable value of the property or
2 service exchanged;

3 (2) includes:

4 (a) any receipts from sales of tangible
5 personal property handled on consignment, including
6 third-party sales made over a multi-vendor marketplace
7 platform that acts as the intermediary, typically as the
8 processor of the transaction, between the seller and the
9 purchaser;

10 (b) the total commissions or fees
11 derived from the business of buying, selling or promoting the
12 purchase, sale or lease, as an agent or broker on a commission
13 or fee basis, of any property, service, stock, bond or
14 security;

15 (c) amounts paid by members of any
16 cooperative association or similar organization for sales or
17 leases of personal property or performance of services by such
18 organization;

19 (d) amounts received from transmitting
20 messages or conversations by persons providing telephone or
21 telegraph services;

22 (e) amounts received by a New Mexico
23 florist from the sale of flowers, plants or other products
24 that are customarily sold by florists where the sale is made
25 pursuant to orders placed with the New Mexico florist that are

1 filled and delivered outside New Mexico by an out-of-state
2 florist; and

3 (f) the receipts of a home service
4 provider from providing mobile telecommunications services to
5 customers whose place of primary use is in New Mexico if: 1)
6 the mobile telecommunications services originate and terminate
7 in the same state, regardless of where the services originate,
8 terminate or pass through; and 2) the charges for mobile
9 telecommunications services are billed by or for a customer's
10 home service provider and are deemed provided by the home
11 service provider. For the purposes of this section, "home
12 service provider", "mobile telecommunications services",
13 "customer" and "place of primary use" have the meanings given
14 in the federal Mobile Telecommunications Sourcing Act; and

15 (3) excludes:

16 (a) cash discounts allowed and taken;
17 (b) state and local option sales tax,
18 governmental sales and leased vehicle sales tax payable on
19 transactions for the reporting period;

20 (c) taxes imposed pursuant to the
21 provisions of any local option sales tax that is payable on
22 transactions for the reporting period;

23 (d) any gross receipts or sales taxes
24 imposed by an Indian nation, tribe or pueblo; provided that
25 the tax is approved, if approval is required by federal law or

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1 regulation, by the secretary of the interior of the United
2 States; and provided further that the gross receipts or sales
3 tax imposed by the Indian nation, tribe or pueblo provides a
4 reciprocal exclusion for gross receipts, sales or gross
5 receipts-based excise taxes imposed by the state or its
6 political subdivisions;

7 (e) any type of time-price
8 differential;

9 (f) amounts received solely on behalf
10 of another in a disclosed agency capacity; and

11 (g) amounts received by a New Mexico
12 florist from the sale of flowers, plants or other products
13 that are customarily sold by florists where the sale is made
14 pursuant to orders placed with an out-of-state florist for
15 filling and delivery in New Mexico by a New Mexico florist.

16 B. When the sale of property or service is made
17 under any type of charge, conditional or time-sales contract
18 or the leasing of property is made under a leasing contract,
19 the seller or lessor may elect to treat all receipts,
20 excluding any type of time-price differential, under such
21 contracts as gross receipts as and when the payments are
22 actually received. If the seller or lessor transfers the
23 seller's or lessor's interest in any such contract to a third
24 person, the seller or lessor shall pay the state and local
25 option sales tax upon the full sale or leasing contract

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1 amount, excluding any type of time-price differential."

2 SECTION 68. Section 7-9-4 NMSA 1978 (being Laws 1966,
3 Chapter 47, Section 4, as amended) is amended to read:

4 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS
5 "[GROSS RECEIPTS] STATE SALES TAX".--

6 A. For the privilege of engaging in business, an
7 excise tax equal to [~~five and one-eighth percent~~] the rates
8 determined pursuant to Subsection B of this section of gross
9 receipts is imposed on any person engaging in business in New
10 Mexico. [~~B.~~] The tax imposed by this section shall be
11 referred to as the "[~~gross receipts~~] state sales tax.

12 B. The rate of the state sales tax shall be
13 determined as follows:

14 (1) on and after July 1, 2018, and prior to
15 January 1, 2020, the rate shall be the quotient of baseline
16 revenue divided by estimated fiscal year 2019 base revenue,
17 multiplied by one hundred three percent and rounded up to the
18 nearest one-hundredth percent; and

19 (2) on and after January 1, 2020, the rate
20 shall be the quotient of baseline revenue divided by fiscal
21 year 2019 base revenue, multiplied by one hundred three
22 percent and rounded up to the nearest one-hundredth percent.

23 C. As used in this section:

24 (1) "baseline revenue" means the total net
25 receipts attributable to the gross receipts tax of persons

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1 engaging in business in the state in fiscal year 2015, 2016 or
2 2017, whichever is greater;

3 (2) "estimated fiscal year 2019 base revenue"
4 means the gross receipts of all persons expected to engage in
5 business in the state in fiscal year 2019 that will be subject
6 to the state sales tax, as conservatively estimated by the
7 department, in consultation with the department of finance and
8 administration and the legislative finance committee to ensure
9 that revenue from the state sales tax will exceed the baseline
10 revenue; and

11 (3) "fiscal year 2019 base revenue" means the
12 gross receipts of all persons engaging in business in the
13 state in fiscal year 2019 that are subject to the state sales
14 tax, as determined by the department, in consultation with the
15 department of finance and administration and the legislative
16 finance committee."

17 SECTION 69. Section 7-9-4.3 NMSA 1978 (being Laws 1991,
18 Chapter 8, Section 2, as amended by Laws 1993, Chapter 332,
19 Section 1 and by Laws 1993, Chapter 352, Section 1) is amended
20 to read:

21 "7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
22 "GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX".--For the privilege
23 of engaging in certain activities by governments, there is
24 imposed on every agency, institution, instrumentality or
25 political subdivision of the state [~~except any school district~~

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1 ~~and any entity licensed by the department of health that is~~
2 ~~principally engaged in providing health care services] an~~
3 excise tax of five percent of governmental gross receipts.
4 The tax imposed by this section shall be referred to as the
5 "governmental [~~gross receipts~~] sales tax"."

6 SECTION 70. Section 7-9-5 NMSA 1978 (being Laws 1966,
7 Chapter 47, Section 5, as amended) is amended to read:

8 "7-9-5. PRESUMPTION OF TAXABILITY.--

9 A. To prevent evasion of the [~~gross receipts~~]
10 state sales tax and to aid in its administration, it is
11 presumed that all receipts of a person engaging in business
12 are subject to the [~~gross receipts~~] state sales tax. [~~Any~~] A
13 person engaged solely in transactions specifically exempt
14 under the provisions of the [~~Gross Receipts and Compensating~~]
15 Sales and Use Tax Act shall not be required to register or
16 file a return under that act.

17 B. If receipts from nontaxable charges for mobile
18 telecommunications services are aggregated with and not
19 separately stated from taxable charges for mobile
20 telecommunications services, [~~then~~] the charges for nontaxable
21 mobile telecommunications services shall be subject to [~~gross~~
22 ~~receipts~~] state sales tax unless the home service provider can
23 reasonably identify nontaxable charges in its books and
24 records that are kept in the regular course of business. For
25 the purposes of this subsection, "charges for mobile

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1 telecommunications services", "home service provider" and
2 "mobile telecommunications services" have the meanings given
3 in the federal Mobile Telecommunications Sourcing Act."

4 SECTION 71. Section 7-9-6 NMSA 1978 (being Laws 1966,
5 Chapter 47, Section 6, as amended) is amended to read:

6 "7-9-6. SEPARATELY STATING THE [~~GROSS RECEIPTS~~] STATE
7 SALES TAX--When the [~~gross receipts~~] state sales tax is
8 stated separately on the books of the seller or lessor, and if
9 the total amount of tax that is stated separately on
10 transactions reportable within one reporting period is in
11 excess of the amount of [~~gross receipts~~] state sales tax
12 otherwise payable on the transactions on which the tax was
13 stated separately, the excess amount of tax stated on the
14 transactions within that reporting period shall be included in
15 gross receipts."

16 SECTION 72. Section 7-9-7 NMSA 1978 (being Laws 1966,
17 Chapter 47, Section 7, as amended) is amended to read:

18 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
19 "[~~COMPENSATING~~] USE TAX".--

20 A. For the privilege of using tangible property in
21 New Mexico, there is imposed on the person using the property
22 an excise tax [~~equal to five and one-eighth percent~~] at the
23 rate in effect and imposed pursuant to Section 7-9-4 NMSA 1978
24 of the value of tangible property that was:

25 (1) manufactured by the person using the

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1 property in the state; or

2 (2) acquired inside or outside of this state
3 as the result of a transaction with a person located outside
4 this state that would have been subject to the [~~gross~~
5 ~~receipts~~] state sales tax had the tangible personal property
6 been acquired from a person with nexus with New Mexico [~~or~~

7 ~~(3) acquired as the result of a transaction~~
8 ~~that was not initially subject to the compensating tax imposed~~
9 ~~by Paragraph (2) of this subsection or the gross receipts tax~~
10 ~~but which transaction, because of the buyer's subsequent use~~
11 ~~of the property, should have been subject to the compensating~~
12 ~~tax imposed by Paragraph (2) of this subsection or the gross~~
13 ~~receipts tax].~~

14 B. For the purpose of Subsection A of this
15 section, value of tangible property shall be the adjusted
16 basis of the property for federal income tax purposes
17 determined as of the time of acquisition or introduction into
18 this state or of conversion to use, whichever is later. If no
19 adjusted basis for federal income tax purposes is established
20 for the property, a reasonable value of the property shall be
21 used.

22 C. For the privilege of using a license or
23 franchise in New Mexico, there is imposed on the person using
24 the property an excise tax at the rate provided in Subsection
25 A of this section against the value of the property in its use

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1 in New Mexico. For use of a license or franchise to be
2 taxable under this subsection, the property must have been
3 sold, leased or licensed by a person outside this state and
4 the receipts from the sale, lease or licensing of the license
5 or franchise must not have been subject to the state sales
6 tax.

7 [~~G.~~] D. For the privilege of using services
8 rendered in New Mexico, there is imposed on the person using
9 such services an excise tax [~~equal to five percent~~] at the
10 rate provided in Subsection A of this section of the value of
11 the services at the time they were rendered. [~~The services,~~
12 ~~to be taxable under this subsection, must have been rendered~~
13 ~~as the result of a transaction that was not initially subject~~
14 ~~to the gross receipts tax but which transaction, because of~~
15 ~~the buyer's subsequent use of the services, should have been~~
16 ~~subject to the gross receipts tax.] For use of services to be
17 taxable under this subsection, the services must have been
18 performed by a person outside this state and receipts from the
19 performance or sale of the services not subject to the state
20 sales tax.~~

21 [~~D.~~] E. The tax imposed by this section shall be
22 referred to as the "[~~compensating~~] use tax."

23 SECTION 73. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
24 Chapter 45, Section 1, as amended) is amended to read:

25 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION

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1 ACTIONS WITH RESPECT TO CERTAIN COMPENSATING AND GROSS
2 RECEIPTS TAX LIABILITIES.--

3 A. The department shall take no action to enforce
4 collection of compensating tax due on purchases made by an
5 individual if:

6 (1) the property is used only for nonbusiness
7 purposes;

8 (2) the property is not a manufactured home;
9 and

10 (3) the individual is not an agent for
11 collection of compensating tax pursuant to Section 7-9-10 NMSA
12 1978.

13 B. The department shall take no action to enforce
14 collection of gross receipts tax for a tax period prior to
15 July 1, 2017 on persons engaging in business if, for those tax
16 periods, those persons:

17 (1) lacked physical presence in the state;
18 and

19 (2) did not report taxable gross receipts.

20 [~~B.~~] C. The prohibition in Subsection A of this
21 section does not prevent the department from enforcing
22 collection of compensating tax on purchases from persons who
23 are not individuals, who are agents for collection pursuant to
24 Section 7-9-10 NMSA 1978 or who use the property in the course
25 of engaging in business in New Mexico or from enforcing

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1 collection of compensating tax due on purchase of manufactured
2 homes."

3 SECTION 74. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
4 Chapter 45, Section 1, as amended by Section 73 of this act)
5 is repealed and a new Section 7-9-7.1 NMSA 1978 is enacted to
6 read:

7 "7-9-7.1. [NEW MATERIAL] DEPARTMENT BARRED FROM TAKING
8 COLLECTION ACTIONS WITH RESPECT TO CERTAIN SALES AND USE TAX
9 LIABILITIES.--

10 A. The department shall take no action to enforce
11 collection of use tax due on purchases made by an individual
12 if:

13 (1) the property is used only for nonbusiness
14 purposes;

15 (2) the property is not a manufactured home;
16 and

17 (3) the individual is not an agent for
18 collection of use tax pursuant to Section 7-9-10 NMSA 1978.

19 B. The department shall take no action to enforce
20 collection of gross receipts tax for a tax period prior to
21 July 1, 2017 on persons engaging in business if, for those tax
22 periods, those persons:

23 (1) lacked physical presence in the state;

24 and

25 (2) did not report taxable gross receipts.

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1 C. The prohibition in Subsection A of this section
2 does not prevent the department from enforcing collection of
3 use tax on purchases from persons who are not individuals, who
4 are agents for collection pursuant to Section 7-9-10 NMSA 1978
5 or who use the property in the course of engaging in business
6 in New Mexico or from enforcing collection of use tax due on
7 purchase of manufactured homes."

8 **SECTION 75.** Section 7-9-8 NMSA 1978 (being Laws 1966,
9 Chapter 47, Section 8, as amended) is amended to read:

10 "7-9-8. PRESUMPTION OF TAXABILITY AND VALUE.--

11 A. To prevent evasion of the [~~compensating~~] use
12 tax and the duty to collect it, it is presumed that property
13 bought or sold by any person for delivery into this state is
14 bought or sold for a taxable use in this state.

15 B. In determining the amount of [~~compensating~~] use
16 tax due on the use of property, it is presumed, in the absence
17 of preponderant evidence of another value, that the value
18 means the total amount of money or the reasonable value of
19 other consideration paid for property exclusive of any type of
20 time-price differential. However, in an exchange in which the
21 amount of money paid does not represent the value of the
22 property or property and service purchased, the [~~compensating~~]
23 use tax shall be imposed on the reasonable value of the
24 property or property and service purchased.

25 C. In determining the amount of [~~compensating~~] use

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1 tax due on the use of a service, it is presumed, in the
2 absence of preponderant evidence of another value, that the
3 value means the total amount of money or the reasonable value
4 of other consideration paid for the service exclusive of any
5 type of time-price differential. However, in an exchange in
6 which the amount paid does not represent the value of the
7 service purchased, the [~~compensating~~] use tax shall be imposed
8 on the reasonable value of the service purchased."

9 SECTION 76. Section 7-9-9 NMSA 1978 (being Laws 1966,
10 Chapter 47, Section 9, as amended) is amended to read:

11 "7-9-9. LIABILITY OF USER FOR PAYMENT OF [~~COMPENSATING~~]
12 USE TAX.--Any person in New Mexico using property on the value
13 of which [~~compensating~~] use tax is payable but has not been
14 paid is liable to the state for payment of the [~~compensating~~]
15 use tax, but this liability is discharged if the buyer has
16 paid the [~~compensating~~] use tax to the seller for payment over
17 to the department."

18 SECTION 77. Section 7-9-10 NMSA 1978 (being Laws 1966,
19 Chapter 47, Section 10, as amended) is amended to read:

20 "7-9-10. AGENTS FOR COLLECTION OF [~~COMPENSATING~~] USE
21 TAX--DUTIES.--

22 A. Every person carrying on or causing to be
23 carried on any activity within this state attempting to
24 exploit New Mexico's markets who sells property or sells
25 property and service for use in this state and who is not

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1 subject to ~~[the gross receipts]~~ state sales tax on receipts
2 from these sales shall collect the ~~[compensating]~~ use tax from
3 the buyer and pay the tax collected to the department.

4 ~~["Activity", for the purposes of this section, includes but is
5 not limited to]~~

6 B. As used in this section, "activity":

7 (1) means engaging in any of the following in
8 New Mexico:

9 (a) maintaining an office or other
10 place of business;

11 (b) soliciting orders through employees
12 or independent contractors;

13 (c) soliciting orders through
14 advertisements placed in newspapers or magazines published in
15 New Mexico or advertisements broadcast by New Mexico radio or
16 television stations;

17 (d) soliciting orders through programs
18 broadcast by New Mexico radio or television stations or
19 transmitted by cable systems in New Mexico; and

20 (e) canvassing, demonstrating,
21 collecting money, warehousing or storing merchandise or
22 delivering or distributing products as a consequence of an
23 advertising or other sales program directed at potential
24 customers; ~~["Activity", for the purposes of this section]~~ and

25 (2) does not include:

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1 (a) having a [~~world wide web site~~]
2 worldwide website as a third-party provider on a computer
3 physically located in New Mexico but owned by another
4 nonaffiliated person; [~~and "activity" does not include~~] or
5 (b) using a nonaffiliated third-party
6 call center to accept and process telephone or electronic
7 orders of tangible personal property or licenses primarily
8 from non-New Mexico buyers, which orders are forwarded to a
9 location outside New Mexico for filling, or to provide
10 services primarily to non-New Mexico customers.

11 [~~B.~~] C. To ensure orderly and efficient collection
12 of the public revenue, if any application of this section is
13 held invalid, the section's application to other situations or
14 persons shall not be affected."

15 SECTION 78. Section 7-9-11 NMSA 1978 (being Laws 1966,
16 Chapter 47, Section 11, as amended) is amended to read:

17 "7-9-11. DATE PAYMENT DUE.--The taxes imposed by the
18 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act are to
19 be paid on or before the twenty-fifth day of the month
20 following the month in which the taxable event occurs."

21 SECTION 79. Section 7-9-12 NMSA 1978 (being Laws 1969,
22 Chapter 144, Section 5, as amended) is amended to read:

23 "7-9-12. EXEMPTIONS.--[~~Exempted from the gross receipts~~
24 ~~or compensating tax are those receipts or uses exempted in~~
25 ~~Sections 7-9-13 through 7-9-42 NMSA 1978.~~] Exemptions from

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1 either the [~~gross receipts~~] state sales tax or the
2 [~~compensating~~] use tax are not exemptions from both taxes
3 unless explicitly stated otherwise by law."

4 SECTION 80. Section 7-9-13.1 NMSA 1978 (being Laws 1989,
5 Chapter 262, Section 4) is amended to read:

6 "7-9-13.1. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
7 SERVICES PERFORMED OUTSIDE THE STATE THE PRODUCT OF WHICH IS
8 INITIALLY USED IN NEW MEXICO--EXCEPTIONS.--

9 A. [~~Except as provided otherwise in Subsection B~~
10 ~~of this section~~] Exempted from the [~~gross receipts~~] state
11 sales tax are the receipts from selling services, other than
12 research and development services, performed outside New
13 Mexico the product of which is initially used in New Mexico.

14 B. [~~The exemption provided by this section does~~
15 ~~not apply to research and development services other than~~]
16 Exempted from the state sales tax are receipts from selling
17 research and development services performed outside New
18 Mexico, the product of which is initially used in New Mexico
19 when the services are sold:

- 20 (1) [~~sold~~] between affiliated corporations;
21 (2) [~~sold~~] to the United States by persons
22 [~~other than organizations described in Subsection A of Section~~
23 ~~7-9-29 NMSA 1978~~] who are prime contractors operating
24 facilities in New Mexico designated as national laboratories
25 by act of congress; or

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1 (3) [~~sold~~] to persons [~~other than~~
2 ~~organizations described in Subsection A of Section 7-9-29 NMSA~~
3 ~~1978~~] who are prime contractors operating facilities in New
4 Mexico designated as national laboratories by act of congress.

5 C. An "affiliated corporation" means a corporation
6 that directly or indirectly, through one or more
7 intermediaries controls, is controlled by or is under common
8 control with the subject corporation. "Control" means
9 ownership of stock in a corporation [~~which~~] that represents at
10 least eighty percent of the total voting power of that
11 corporation and has a stated or par value equal to at least
12 eighty percent of the total stated or par value of the stock
13 of that corporation."

14 SECTION 81. Section 7-9-24 NMSA 1978 (being Laws 1969,
15 Chapter 144, Section 17, as amended) is amended to read:

16 "7-9-24. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
17 [INSURANCE COMPANIES] RECEIPTS ON WHICH PREMIUM TAX IS
18 ASSESSED.--Exempted from the [~~gross receipts~~] state sales tax
19 are the receipts [~~of insurance companies or any agent thereof~~
20 ~~from premiums and any consideration received by a property~~
21 ~~bondsman, as that person is defined in Section 59A-51-2 NMSA~~
22 ~~1978, as security or surety for a bail bond in connection with~~
23 ~~a judicial proceeding]~~ on which the premium tax, pursuant to
24 Section 59A-6-2 NMSA 1978, is assessed."

25 SECTION 82. Section 7-9-43 NMSA 1978 (being Laws 1966,

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1 Chapter 47, Section 13, as amended) is repealed and a new
2 Section 7-9-43 NMSA 1978 is enacted to read:

3 "7-9-43. [NEW MATERIAL] NONTAXABLE TRANSACTION
4 CERTIFICATE AND ALTERNATIVE EVIDENCE REQUIRED TO ENTITLE
5 PERSONS TO DEDUCTIONS.--

6 A. Except as provided in Subsection B of this
7 section, a person may establish entitlement to a deduction
8 from gross receipts allowed pursuant to the Sales and Use Tax
9 Act by obtaining a properly executed nontaxable transaction
10 certificate from the purchaser.

11 B. Except as provided in Subsection C of this
12 section, a person who does not comply with Subsection A of
13 this section may establish entitlement to a deduction from
14 gross receipts by presenting alternative evidence that
15 demonstrates the facts necessary to support entitlement to the
16 deduction, but the burden of proof is on that person.

17 Alternative evidence includes:

18 (1) invoices or contracts that identify the
19 nature of the transaction;

20 (2) documentation as to the purchaser's use
21 or disposition of the property or service;

22 (3) a statement from the purchaser indicating
23 that the purchaser sold or intends to resell the property or
24 service purchased from the seller, either by itself or in
25 combination with other property or services, in the ordinary

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1 course of business; or

2 (4) other evidence that demonstrates the
3 facts necessary to establish entitlement to the deduction or
4 specified by department rule or instruction.

5 C. A statement from the purchaser summarizing the
6 purchaser's use or disposition of the property or service
7 purchased from the seller that includes the following
8 information shall constitute prima facie evidence of
9 entitlement to the deduction:

10 (1) the seller's name;

11 (2) the date of the invoice or date of the
12 transaction;

13 (3) the invoice number or a copy of the
14 invoice;

15 (4) a copy of the purchase order, if
16 available;

17 (5) the amount from purchase; and

18 (6) a description of the property or service
19 purchased or leased.

20 D. When a person accepts in good faith a properly
21 executed nontaxable transaction certificate from the
22 purchaser, the properly executed nontaxable transaction
23 certificate shall be conclusive evidence that the proceeds
24 from the transaction are deductible from the person's gross
25 receipts.

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1 E. If a person has accepted in good faith a
2 properly executed nontaxable transaction certificate, but the
3 purchaser has not employed the property or service purchased
4 in the nontaxable manner or has provided false or inaccurate
5 information on the nontaxable transaction certificate, the
6 purchaser shall be liable for an amount equal to any tax,
7 penalty and interest that the seller would have been required
8 to pay if the seller had not complied with Subsection A of
9 this section.

10 F. Any person who knowingly or willfully provides
11 false or inaccurate information on a nontaxable transaction
12 certificate may be subject to prosecution under Sections
13 7-1-72 and 7-1-73 NMSA 1978."

14 SECTION 83. Section 7-9-44 NMSA 1978 (being Laws 1969,
15 Chapter 144, Section 34, as amended) is amended to read:

16 "7-9-44. SUSPENSION OF THE RIGHT TO USE A NONTAXABLE
17 TRANSACTION CERTIFICATE.--

18 A. The secretary may suspend for not more than one
19 year the privilege of a person to execute nontaxable
20 transaction certificates if that person [~~(+)~~] fails to pay,
21 within one year of the date [~~the tax is due, the compensating~~
22 ~~tax on the~~] in which the transaction subject to the nontaxable
23 transaction certificate occurred, the penalty provided by
24 Section 7-1-69.3 NMSA 1978 with respect to the person's
25 subsequent use of property or services purchased through the

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1 execution of a nontaxable transaction certificate. [~~or~~
2 ~~(2) executes with the seller or lessor a~~
3 ~~nontaxable transaction certificate inapplicable to the~~
4 ~~transaction when no compensating tax is due on that buyer's or~~
5 ~~lessee's use of the property or service.~~

6 ~~B. The secretary may suspend for not more than six~~
7 ~~months the privilege of a person to execute nontaxable~~
8 ~~transaction certificates to claim deductions on the basis of~~
9 ~~nontaxable transaction certificates accepted by that person,~~
10 ~~or both, if that person fails to account in the manner and~~
11 ~~time required by the department, in accordance with Subsection~~
12 ~~E of Section 7-9-43 NMSA 1978, for the certificates executed~~
13 ~~or accepted by that person.~~

14 ~~G.] B.~~ A suspension under this section voids the
15 department's approval of the person's application for the
16 privilege of executing nontaxable transaction certificates
17 and, prior to resumption of the privilege, the person whose
18 privilege to execute nontaxable transaction certificates has
19 been suspended shall reapply for the privilege of executing
20 such certificates in accordance with Section 7-9-43 NMSA 1978.

21 ~~[D.] C.~~ Notwithstanding the provisions of Section
22 7-1-8 NMSA 1978, the department may notify the public or
23 provide for notice to the public of the suspension of a
24 person's privilege to execute nontaxable transaction
25 certificates."

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1 SECTION 84. Section 7-9-45 NMSA 1978 (being Laws 1969,
2 Chapter 144, Section 35, as amended) is amended to read:

3 "7-9-45. DEDUCTIONS.--

4 A. ~~[In computing the gross receipts tax or~~
5 ~~governmental gross receipts tax due, only those receipts~~
6 ~~specified in Sections 7-9-46 through 7-9-76.2, 7-9-77.1,~~
7 ~~7-9-83, 7-9-85 through 7-9-87 and 7-9-89 NMSA 1978 may be~~
8 ~~deducted. Receipts, whether specified once or several times~~
9 ~~in those sections, may be deducted only once from gross~~
10 ~~receipts or governmental gross]~~ Receipts may only be deducted
11 once from gross receipts tax or governmental gross receipts
12 when computing the state sales tax or governmental sales tax
13 due.

14 B. The same receipts ~~[that are exempted from the~~
15 ~~gross receipts tax may]~~ shall not be both exempt from the
16 state sales tax and deducted from gross receipts. ~~[Receipts~~
17 ~~that are deducted from gross receipts may not be exempted from~~
18 ~~the gross receipts tax.]~~

19 C. The same receipts ~~[that are exempted from the~~
20 ~~governmental gross receipts tax]~~ shall not be both exempt from
21 the governmental sales tax and deducted from governmental
22 gross receipts. ~~[Receipts that are deducted from governmental~~
23 ~~gross receipts shall not be exempted from the governmental~~
24 ~~gross receipts tax.]"~~

25 SECTION 85. Section 7-9-46 NMSA 1978 (being Laws 1969,

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1 Chapter 144, Section 36, as amended) is amended to read:

2 "7-9-46. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
3 GROSS RECEIPTS--SALES TO MANUFACTURERS.--

4 A. Receipts from selling tangible personal
5 property may be deducted from gross receipts or from
6 governmental gross receipts if the sale is made to a person
7 engaged in the business of manufacturing who delivers a
8 nontaxable transaction certificate to the seller. The buyer
9 delivering the nontaxable transaction certificate must
10 incorporate the tangible personal property as an ingredient or
11 component part of the product that the buyer is in the
12 business of manufacturing.

13 B. Receipts from selling tangible personal
14 property that is a consumable and used in such a way that it
15 is consumed in the manufacturing process of a product,
16 provided that the tangible personal property is not a tool or
17 equipment used to create the manufactured product, to a person
18 engaged in the business of manufacturing that product and who
19 delivers a nontaxable transaction certificate to the seller
20 may be deducted [~~in the following percentages~~] from gross
21 receipts or from governmental gross receipts

22 ~~(1) twenty percent of receipts received~~
23 ~~prior to January 1, 2014;~~

24 ~~(2) forty percent of receipts received in~~
25 ~~calendar year 2014;~~

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1 ~~(3) sixty percent of receipts received in~~
2 ~~calendar year 2015;~~
3 ~~(4) eighty percent of receipts received in~~
4 ~~calendar year 2016; and~~
5 ~~(5) one hundred percent of receipts received~~
6 ~~on or after January 1, 2017].~~

7 C. Receipts from selling qualified equipment may
8 be deducted from gross receipts if the sale is made to a
9 person engaged in the business of manufacturing who delivers a
10 nontaxable transaction certificate to the seller.

11 ~~[G.]~~ D. The purpose of the deductions provided in
12 this section is to encourage manufacturing businesses to
13 locate in New Mexico and to reduce the tax burden, including
14 reducing pyramiding, on the tangible personal property that is
15 consumed in the manufacturing process and that is purchased by
16 manufacturing businesses in New Mexico.

17 ~~[D.]~~ E. The department shall annually report to
18 the revenue stabilization and tax policy committee the
19 aggregate amount of deductions taken pursuant to this section,
20 the number of taxpayers claiming each of the deductions and
21 any other information that is necessary to determine that the
22 deductions are performing the purposes for which they are
23 enacted.

24 ~~[E.]~~ F. A taxpayer deducting gross receipts
25 pursuant to this section shall report the amount deducted

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1 separately for each deduction provided in this section and
2 attribute the amount of the deduction to the appropriate
3 authorization provided in this section in a manner required by
4 the department that facilitates the evaluation by the
5 legislature of the benefit to the state of these deductions.

6 ~~[F.]~~ G. As used in ~~[Subsection B of]~~ this section:

7 (1) "consumable" means tangible personal
8 property that is incorporated into, destroyed, depleted or
9 transformed in the process of manufacturing a product:

10 ~~[(1)]~~ (a) including electricity, fuels,
11 water, manufacturing aids and supplies, chemicals, gases,
12 repair parts, spares and other tangibles used to manufacture a
13 product; but

14 ~~[(2)]~~ (b) excluding tangible personal
15 property used in: ~~[(a)]~~ 1) the generation of power; ~~[(b)]~~ 2)
16 the processing of natural resources, including hydrocarbons;
17 and ~~[(c)]~~ 3) the preparation of meals for immediate
18 consumption on- or off-premises;

19 (2) "manufacturing operation" means a plant
20 employing personnel to perform production tasks, in
21 conjunction with equipment not previously existing at the
22 site, to produce goods; and

23 (3) "qualified equipment" means an essential
24 machine, mechanism or tool, or a component or fitting thereof,
25 used directly and exclusively in a manufacturing operation and

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1 subject to depreciation for purposes of the Internal Revenue
2 Code of 1986 by the taxpayer carrying on the manufacturing
3 operation that:

4 (a) was not previously used in New
5 Mexico and that is owned by the taxpayer, the United States or
6 an agency or instrumentality thereof or the state or a
7 political subdivision thereof and leased or subleased to the
8 taxpayer if the equipment is in New Mexico and is incorporated
9 or is to be incorporated within one year into a manufacturing
10 operation;

11 (b) includes electricity, fuels, water,
12 manufacturing aids and supplies, chemicals, gases, repair
13 parts, spares and other tangibles used to manufacture a
14 product; and

15 (c) does not include: 1) tangible
16 personal property used in the generation of power; 2) the
17 processing of natural resources, including hydrocarbons; 3)
18 the preparation of meals for immediate consumption on- or
19 off-premises; or 4) any vehicle that leaves the site of the
20 manufacturing operation for purposes of transporting persons
21 or property or any property for which the taxpayer claims the
22 credit pursuant to Section 7-9-79 NMSA 1978."

23 SECTION 86. Section 7-9-48 NMSA 1978 (being Laws 1969,
24 Chapter 144, Section 38, as amended) is amended to read:

25 "7-9-48. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL

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1 GROSS RECEIPTS--SALE OF A SERVICE FOR RESALE.--Receipts from
2 selling a service for resale may be deducted from gross
3 receipts or from governmental gross receipts if the sale is
4 made to a person who delivers a nontaxable transaction
5 certificate to the seller. The buyer delivering the
6 nontaxable transaction certificate must resell the service in
7 the ordinary course of business [~~and the resale must be~~
8 ~~subject to the gross receipts tax or governmental gross~~
9 ~~receipts tax]."~~

10 SECTION 87. A new Section 7-9-48.1 NMSA 1978 is enacted
11 to read:

12 "7-9-48.1. [NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--
13 QUALIFIED BUSINESS SERVICES.--

14 A. Receipts from the sale of qualified business
15 services to a qualified taxpayer may be deducted from gross
16 receipts if the sale is made to a qualified taxpayer who
17 delivers a nontaxable transaction certificate to the seller.

18 B. The purpose of the deduction provided by this
19 section is to reduce the tax burden on businesses that results
20 from multiple impositions of transactional taxes upon the sale
21 or use of services that businesses purchase.

22 C. As used in this section:

23 (1) "qualified business services" means
24 services that are deductible for purposes of determining net
25 income pursuant to Section 162 of the Internal Revenue Code of

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1 1986, as that section may be amended or renumbered, and for
2 which receipts from performance of that service are subject to
3 the state sales tax and are not otherwise eligible for a
4 deduction or exemption from the state sales tax; and

5 (2) "qualified taxpayer" means a person who
6 purchases qualified business services, but does not include a
7 federal, state, tribal or other governmental unit or
8 subdivision or an agency, department, institution or
9 instrumentality of a federal, state, tribal or other
10 governmental unit or subdivision."

11 SECTION 88. Section 7-9-54 NMSA 1978 (being Laws 1969,
12 Chapter 144, Section 44, as amended by Laws 2003, Chapter 272,
13 Section 6 and by Laws 2003, Chapter 330, Section 2) is amended
14 to read:

15 "7-9-54. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--GOVERNMENTAL~~
16 GROSS RECEIPTS [~~TAX~~]~~--SALES TO [GOVERNMENTAL AGENCIES]~~ LOCAL
17 GOVERNMENTS FOR BOND PROJECTS.--

18 A. Receipts from selling tangible personal
19 property to [~~the United States or New Mexico or a governmental~~
20 ~~unit, subdivision, agency, department or instrumentality~~
21 ~~thereof]~~ a local government for a bond project may be deducted
22 from gross receipts or from governmental gross receipts.
23 Unless contrary to federal law, the deduction provided by this
24 subsection does not apply to:

25 [~~(1) receipts from selling metalliferous~~

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1 ~~mineral ore;~~

2 ~~(2)~~ (1) receipts from selling tangible
3 personal property that is or will be incorporated into a
4 metropolitan redevelopment project created under the
5 Metropolitan Redevelopment Code;

6 ~~(3)~~ (2) receipts from selling construction
7 material; or

8 ~~(4)~~ (3) that portion of the receipts from
9 performing a "service" that reflects the value of tangible
10 personal property utilized or produced in performance of such
11 service.

12 ~~[B. Receipts from selling tangible personal~~
13 ~~property for any purpose to an Indian tribe, nation or pueblo~~
14 ~~or a governmental unit, subdivision, agency, department or~~
15 ~~instrumentality thereof for use on Indian reservations or~~
16 ~~pueblo grants may be deducted from gross receipts or from~~
17 ~~governmental gross receipts.~~

18 ~~C. When a seller, in good faith, deducts receipts~~
19 ~~for tangible personal property sold to the state or a~~
20 ~~governmental unit, subdivision, agency, department or~~
21 ~~instrumentality thereof, after receiving written assurances~~
22 ~~from the buyer's representative that the property sold is not~~
23 ~~construction material, the department shall not assert in a~~
24 ~~later assessment or audit of the seller that the receipts are~~
25 ~~not deductible pursuant to Paragraph (3) of Subsection A of~~

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1 ~~this section.]~~

2 B. For the purposes of this section, "bond
3 project" means an arrangement entered into pursuant to the
4 Industrial Revenue Bond Act, the County Industrial Revenue
5 Bond Act or similar act in which:

6 (1) a private person agrees to:

7 (a) arrange for the constructing and
8 equipping of a facility for a local government by acting as
9 agent for the government in procuring construction services;
10 other services; tangible personal property that becomes an
11 ingredient or component part of a construction project; and
12 other tangible personal property necessary for constructing
13 and equipping the facility;

14 (b) lease the completed facility from
15 the government; and

16 (c) buy the facility upon repayment of
17 the bonds; and

18 (2) the local government agrees to own the
19 facility, finance the project in whole or in part through the
20 issuance of bonds, designate the private person as its agent
21 in procuring the necessary property and services, lease the
22 facility to the private person and sell the facility to the
23 private person upon repayment of the bonds."

24 SECTION 89. Section 7-9-55 NMSA 1978 (being Laws 1969,
25 Chapter 144, Section 45, as amended) is amended to read:

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1 "7-9-55. [~~DEDUCTION--GROSS RECEIPTS~~] EXEMPTION--STATE
2 SALES TAX--[~~GOVERNMENTAL GROSS RECEIPTS TAX~~] EXPORTS--
3 TRANSACTION IN INTERSTATE COMMERCE.--

4 A. Exempted from the state sales tax and the
5 governmental sales tax are receipts from transactions in
6 interstate or foreign commerce [~~may be deducted from gross~~
7 ~~receipts~~] to the extent that the imposition of the [~~gross~~
8 ~~receipts~~] state sales tax would be unlawful under the United
9 States constitution.

10 [~~B. Receipts from transactions in interstate~~
11 ~~commerce may be deducted from governmental gross receipts.~~

12 C. ~~Receipts from transmitting messages or~~
13 ~~conversations by radio other than from one point in this state~~
14 ~~to another point in this state and receipts from the sale of~~
15 ~~radio or television broadcast time when the advertising~~
16 ~~message is supplied by or on behalf of a national or regional~~
17 ~~seller or advertiser not having its principal place of~~
18 ~~business in or being incorporated under the laws of this state~~
19 ~~may be deducted from gross receipts. Commissions of~~
20 ~~advertising agencies from performing services in this state~~
21 ~~may not be deducted from gross receipts under this section]~~

22 B. Exempted from the state sales tax are receipts
23 from selling tangible personal property in interstate or
24 foreign commerce when the seller ships or delivers the
25 tangible personal property to a location outside New Mexico

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1 for use outside New Mexico.

2 C. Exempted from the state sales tax are receipts
3 from leasing or licensing personal property in interstate or
4 foreign commerce when the property is employed outside New
5 Mexico.

6 D. Exempted from the state sales tax are receipts
7 from granting a right to use a franchise in interstate or
8 foreign commerce when the franchise is employed outside New
9 Mexico.

10 E. Exempted from the state sales tax are receipts
11 from selling in interstate or foreign commerce a service
12 performed in New Mexico and the seller ships or delivers the
13 product of the service to a location outside New Mexico for
14 use outside New Mexico."

15 SECTION 90. Section 7-9-57.1 NMSA 1978 (being Laws 1998,
16 Chapter 92, Section 3) is amended to read:

17 "7-9-57.1. [~~DEDUCTION--GROSS RECEIPTS~~] EXEMPTION--STATE
18 SALES TAX--SALES THROUGH [WORLD WIDE WEB SITES] WORLDWIDE
19 WEBSITES.--Exempted from the state sales tax are receipts of
20 any person derived from the sale of a service or property made
21 through a [world wide web site] worldwide website to a person
22 with a billing address outside New Mexico [~~may be deducted~~
23 from gross receipts]."

24 SECTION 91. Section 7-9-62 NMSA 1978 (being Laws 1969,
25 Chapter 144, Section 52, as amended) is amended to read:

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1 "7-9-62. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--AGRICULTURAL
2 IMPLEMENTS--AIRCRAFT MANUFACTURERS--VEHICLES THAT ARE NOT
3 REQUIRED TO BE REGISTERED--AIRCRAFT PARTS AND MAINTENANCE
4 SERVICES--REPORTING REQUIREMENTS.--

5 A. Except for receipts deductible under Subsection
6 B of this section, prior to July 1, 2024, fifty percent of the
7 receipts from selling agricultural implements, farm tractors,
8 aircraft or vehicles that are not required to be registered
9 under the Motor Vehicle Code may be deducted from gross
10 receipts; provided that, with respect to agricultural
11 implements, the sale is made to a person who states in writing
12 that the person is regularly engaged in the business of
13 farming or ranching. [~~Any deduction allowed under Section~~
14 ~~7-9-71 NMSA 1978 must be taken before the deduction allowed by~~
15 ~~this subsection is computed.~~]

16 B. Prior to July 1, 2024, receipts of an aircraft
17 manufacturer or affiliate from selling aircraft or from
18 selling aircraft flight support, pilot training or maintenance
19 training services may be deducted from gross receipts. [~~Any~~
20 ~~deduction allowed under Section 7-9-71 NMSA 1978 must be taken~~
21 ~~before the deduction allowed by this subsection is computed.~~]

22 C. Prior to July 1, 2024, receipts from selling
23 aircraft parts or maintenance services for aircraft or
24 aircraft parts may be deducted from gross receipts. [~~Any~~
25 ~~deduction allowed under Section 7-9-71 NMSA 1978 must be taken~~

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1 ~~before the deduction allowed by this subsection is computed.]~~

2 D. A taxpayer allowed a deduction pursuant to this
3 section shall report the amount of the deduction separately in
4 a manner required by the department.

5 E. The department shall compile an annual report
6 on the deductions provided by this section that shall include
7 the number of taxpayers approved by the department to receive
8 the deductions, the aggregate amount of deductions approved
9 and any other information necessary to evaluate the
10 effectiveness of the deductions. [~~Beginning in 2019 and every~~
11 ~~five years thereafter~~] Each year that the deductions are in
12 effect, the department shall compile and present the annual
13 reports to the revenue stabilization and tax policy committee
14 and the legislative finance committee with an analysis of the
15 effectiveness and cost of the deductions.

16 F. As used in this section:

17 (1) "affiliate" means a business entity that
18 directly or indirectly through one or more intermediaries
19 controls, is controlled by or is under common control with the
20 aircraft manufacturer;

21 (2) "agricultural implement" means a tool,
22 utensil or instrument that is depreciable for federal income
23 tax purposes and that is:

24 (a) designed to irrigate agricultural
25 crops above ground or below ground at the place where the crop

1 is grown; or

2 (b) designed primarily for use with a
3 source of motive power, such as a tractor, in planting,
4 growing, cultivating, harvesting or processing agricultural
5 crops at the place where the crop is grown; in raising poultry
6 or livestock; or in obtaining or processing food or fiber,
7 such as eggs, milk, wool or mohair, from living poultry or
8 livestock at the place where the poultry or livestock are kept
9 for this purpose;

10 (3) "aircraft manufacturer" means a business
11 entity that in the ordinary course of business designs and
12 builds private or commercial aircraft certified by the federal
13 aviation administration;

14 (4) "business entity" means a corporation,
15 limited liability company, partnership, limited partnership,
16 limited liability partnership or real estate investment trust,
17 but does not mean an individual or a joint venture;

18 (5) "control" means equity ownership in a
19 business entity that:

20 (a) represents at least fifty percent
21 of the total voting power of that business entity; and

22 (b) has a value equal to at least fifty
23 percent of the total equity of that business entity; and

24 (6) "flight support" means providing
25 navigation data, charts, weather information, online

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1 maintenance records and other aircraft or flight-related
2 information and the software needed to access the
3 information."

4 SECTION 92. Section 7-9-62.1 NMSA 1978 (being Laws 2000
5 (2nd S.S.), Chapter 4, Section 2, as amended) is amended to
6 read:

7 "7-9-62.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--AIRCRAFT
8 SALES AND SERVICES--REPORTING REQUIREMENTS.--

9 A. Prior to July 1, 2024, receipts from the sale
10 of or from maintaining, refurbishing, remodeling or otherwise
11 modifying a commercial or military carrier over ten thousand
12 pounds gross landing weight may be deducted from gross
13 receipts.

14 B. A taxpayer allowed a deduction pursuant to this
15 section shall report the amount of the deduction separately in
16 a manner required by the department.

17 C. The department shall compile an annual report
18 on the deduction provided by this section that shall include
19 the number of taxpayers approved by the department to receive
20 the deduction, the aggregate amount of deductions approved and
21 any other information necessary to evaluate the effectiveness
22 of the deduction. [~~Beginning in 2019 and every five years~~
23 ~~thereafter~~] Each year that the deduction is in effect, the
24 department shall compile and present the annual reports to the
25 revenue stabilization and tax policy committee and the

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1 legislative finance committee with an analysis of the
2 effectiveness and cost of the deduction."

3 SECTION 93. Section 7-9-67 NMSA 1978 (being Laws 1969,
4 Chapter 144, Section 58, as amended) is amended to read:

5 "7-9-67. [~~DEDUCTION--GROSS RECEIPTS~~] EXEMPTION--STATE
6 SALES TAX--GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX--REFUNDS--
7 UNCOLLECTIBLE DEBTS.--

8 A. Exempted from the state sales tax are refunds
9 and allowances made to buyers or amounts written off the books
10 as an uncollectible debt by a person reporting [~~gross~~
11 ~~receipts~~] state sales tax on an accrual basis [~~may be deducted~~
12 ~~from gross receipts~~]. If debts reported uncollectible are
13 subsequently collected, such receipts shall be included in
14 gross receipts in the month of collection.

15 B. Exempted from the governmental sales tax are
16 refunds and allowances made to buyers or amounts written off
17 the books as an uncollectible debt by a person reporting
18 governmental [~~gross receipts~~] sales tax on an accrual basis
19 [~~may be deducted from governmental gross receipts~~]. If debts
20 reported uncollectible are subsequently collected, such
21 receipts shall be included in governmental gross receipts in
22 the month of collection."

23 SECTION 94. Section 7-9-71 NMSA 1978 (being Laws 1969,
24 Chapter 144, Section 63, as amended) is amended to read:

25 "7-9-71. [~~DEDUCTION--GROSS RECEIPTS~~] EXEMPTION--STATE

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1 SALES TAX--TRADE-IN ALLOWANCE.--Exempted from the state sales
2 tax is that portion of the receipts of a seller that is
3 represented by a trade-in of tangible personal property of the
4 same type being sold, except for the receipts represented by a
5 trade-in of a manufactured home [~~may be deducted from gross~~
6 ~~receipts~~]."

7 SECTION 95. Section 7-9-77 NMSA 1978 (being Laws 1966,
8 Chapter 47, Section 15, as amended) is amended to read:

9 "7-9-77. [~~DEDUCTIONS~~] DEDUCTION--[~~COMPENSATING~~] USE
10 TAX--TRADE-IN VALUE OF TANGIBLE PERSONAL PROPERTY.--[~~A.~~] Fifty
11 percent of [~~the value of agricultural implements, farm~~
12 ~~tractors, aircraft not exempted under Section 7-9-30 NMSA 1978~~
13 ~~or vehicles that are not required to be registered under the~~
14 ~~Motor Vehicle Code may be deducted from the value in computing~~
15 ~~the compensating tax due; provided that, with respect to use~~
16 ~~of agricultural implements, the person using the property is~~
17 ~~regularly engaged in the business of farming or ranching. Any~~
18 ~~deduction allowed under Subsection B of this section is to be~~
19 ~~taken before the deduction allowed by this subsection is~~
20 ~~computed. As used in this subsection, "agricultural~~
21 ~~implement" means a tool, utensil or instrument that is:~~

22 (1) ~~designed primarily for use with a source~~
23 ~~of motive power, such as a tractor, in planting, growing,~~
24 ~~cultivating, harvesting or processing agricultural produce at~~
25 ~~the place where the produce is grown; in raising poultry or~~

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1 ~~livestock; or in obtaining or processing food or fiber, such~~
2 ~~as eggs, milk, wool or mohair, from living poultry or~~
3 ~~livestock at the place where the poultry or livestock are kept~~
4 ~~for this purpose; and~~

5 ~~(2) depreciable for federal income tax~~
6 ~~purposes.~~

7 B.] that portion of the value of tangible personal
8 property on which an allowance was granted to the buyer for a
9 trade-in of tangible personal property of the same type that
10 was bought may be deducted from the value in computing the
11 [compensating] use tax due."

12 SECTION 96. Section 7-9-92 NMSA 1978 (being Laws 2004,
13 Chapter 116, Section 5) is amended to read:

14 "7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT
15 RETAIL FOOD STORE TO BENEFICIARIES OF THE FEDERAL SUPPLEMENTAL
16 NUTRITION ASSISTANCE PROGRAM.--

17 A. Receipts from the sale of food at a retail food
18 store [~~that~~] may be deducted from gross receipts if:

19 (1) the sale is made to a person who is a
20 cardholder of an electronic benefit transfer card and who is
21 eligible to receive benefits under the federal supplemental
22 nutrition assistance program in the month the sale is made;
23 and

24 (2) the receipts are not exempt [from gross
25 receipts taxation and are not] or deductible pursuant to

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1 another provision of the [~~Gross Receipts and Compensating~~]
2 Sales and Use Tax Act [~~may be deducted from gross receipts~~].

3 B. The deduction provided by this section shall be
4 separately stated by the taxpayer.

5 [~~B.~~] C. For the purposes of this section:

6 (1) "electronic benefit transfer card" means
7 a plastic card or any other access device issued by the human
8 services department to a cardholder that enables the
9 cardholder to have access to and process transactions against
10 one or more public assistance benefit accounts or other
11 benefit accounts;

12 [~~(1)~~] (2) "food" means any food or food
13 product for home consumption that meets the definition of food
14 in 7 USCA [~~2012(g)(1)~~] 2012(k)(1) for purposes of the federal
15 [~~food stamp~~] supplemental nutrition assistance program; and

16 [~~(2)~~] (3) "retail food store" means an
17 establishment that sells food for home preparation and
18 consumption and that meets the definition of retail food store
19 in 7 USCA [~~2012(k)(1)~~] 2012(p)(1) for purposes of the federal
20 [~~food stamp~~] supplemental nutrition assistance program,
21 whether or not the establishment participates in the [~~food~~
22 ~~stamp~~] supplemental nutrition assistance program."

23 **SECTION 97.** Section 7-9-110.1 NMSA 1978 (being Laws
24 2011, Chapter 60, Section 1 and Laws 2011, Chapter 61, Section
25 1) is amended to read:

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1 "7-9-110.1. DEDUCTION--~~[GROSS RECEIPTS]~~ STATE SALES
2 TAX--LOCOMOTIVE ENGINE FUEL.--

3 A. Prior to July 1, 2038, receipts from the sale
4 of fuel to a common carrier to be loaded or used in a
5 locomotive engine may be deducted from gross receipts. [~~For~~
6 ~~the purposes of this section, "locomotive engine" means a~~
7 ~~wheeled vehicle consisting of a self-propelled engine that is~~
8 ~~used to draw trains along railway tracks.]~~

9 B. Prior to July 1, 2038, the value of fuel to be
10 loaded or used by a common carrier in a locomotive engine may
11 be deducted in computing the use tax due.

12 C. The purpose of the deductions provided by this
13 section is to encourage the construction, renovation,
14 maintenance and operation of railroad locomotive refueling
15 facilities and other railroad capital investments in New
16 Mexico.

17 D. To be eligible for a deduction on fuel loaded
18 or used by a common carrier in a locomotive engine from the
19 use tax, the fuel shall be used or loaded by a common carrier
20 that:

21 (1) after July 1, 2011, made a capital
22 investment of one hundred million dollars (\$100,000,000) or
23 more in new construction or renovations at the railroad
24 locomotive refueling facility in which the fuel is loaded or
25 used; or

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1 (2) on or after July 1, 2012, made a capital
2 investment of fifty million dollars (\$50,000,000) or more in
3 new railroad infrastructure improvements, including railroad
4 facilities, track, signals and supporting railroad network,
5 located in New Mexico; provided that the new railroad
6 infrastructure improvements are not required by a regulatory
7 agency to correct problems, such as regular or preventive
8 maintenance, specifically identified by that agency as
9 requiring necessary corrective action.

10 E. To be eligible for the deduction on fuel loaded
11 or used by a common carrier in a locomotive engine from gross
12 receipts, a common carrier shall deliver an appropriate
13 nontaxable transaction certificate to the seller and the sale
14 shall be made to a common carrier that:

15 (1) after July 1, 2011, made a capital
16 investment of one hundred million dollars (\$100,000,000) or
17 more in new construction or renovations at the railroad
18 locomotive refueling facility in which the fuel is sold; or

19 (2) on or after July 1, 2012, made a capital
20 investment of fifty million dollars (\$50,000,000) or more in
21 new railroad infrastructure improvements, including railroad
22 facilities, track, signals and supporting railroad network,
23 located in New Mexico; provided that the new railroad
24 infrastructure improvements are not required by a regulatory
25 agency to correct problems, such as regular or preventative

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1 maintenance, specifically identified by that agency as
2 requiring necessary corrective action.

3 F. The economic development department shall
4 promulgate rules for the issuance of a certificate of
5 eligibility for the purposes of claiming a deduction pursuant
6 to this section. A common carrier may request a certificate
7 of eligibility from the economic development department to
8 provide to the taxation and revenue department to establish
9 eligibility for a nontaxable transaction certificate for the
10 deduction on fuel loaded or used by a common carrier in a
11 locomotive engine from gross receipts. The taxation and
12 revenue department shall issue nontaxable transaction
13 certificates to a common carrier upon the presentation of a
14 certificate of eligibility obtained from the economic
15 development department pursuant to this subsection.

16 G. The economic development department shall keep
17 a record of temporary and permanent jobs from all railroad
18 activity where a capital investment is made by a common
19 carrier that claims a deduction pursuant to this section. The
20 economic development department and the taxation and revenue
21 department shall estimate the amount of state revenue that is
22 attributable to all railroad activity where a capital
23 investment is made by a common carrier that claims a deduction
24 pursuant to this section.

25 H. The economic development department and the

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1 taxation and revenue department shall compile an annual report
2 with the number of taxpayers who claim the deduction pursuant
3 to this section, the number of jobs created as a result of
4 that deduction, the amount of that deduction approved, the net
5 revenue to the state as a result of that deduction and any
6 other information required by the legislature to aid in
7 evaluating the effectiveness of that deduction. A taxpayer
8 who claims a deduction pursuant to this section shall provide
9 the economic development department and the taxation and
10 revenue department with the information required to compile
11 that report. The economic development department and the
12 taxation and revenue department shall present that report
13 before the legislative interim revenue stabilization and tax
14 policy committee and the legislative finance committee by
15 November of each year. Notwithstanding any other section of
16 law to the contrary, the economic development department and
17 the taxation and revenue department may disclose the number of
18 applicants for the deduction pursuant to this section, the
19 amount of the deduction approved, the number of employees of
20 the taxpayer and any other information required by the
21 legislature or the taxation and revenue department to aid in
22 evaluating the effectiveness of that deduction.

23 I. An appropriate legislative committee shall
24 review the effectiveness of the deduction for each taxpayer
25 who claims the deduction pursuant to this section every six

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1 years beginning in 2019.

2 J. For the purposes of this section, "locomotive
3 engine" means a wheeled vehicle consisting of a self-propelled
4 engine that is used to draw trains along railway tracks."

5 SECTION 98. Section 7-9-115 NMSA 1978 (being Laws 2015
6 (1st S.S.), Chapter 2, Section 9) is amended to read:

7 "7-9-115. DEDUCTION--GROSS RECEIPTS [~~TAX~~]-GOODS AND
8 SERVICES FOR THE DEPARTMENT OF DEFENSE RELATED TO DIRECTED
9 ENERGY AND SATELLITES.--

10 A. Prior to January 1, 2021, receipts from the
11 sale by a qualified contractor of qualified research and
12 development services and qualified directed energy and
13 satellite-related inputs may be deducted from gross receipts
14 when sold pursuant to a contract with the United States
15 department of defense.

16 B. The purposes of the deduction allowed in this
17 section are to promote new and sophisticated technology,
18 enhance the viability of directed energy and satellite
19 projects, attract new projects and employers to New Mexico and
20 increase high-technology employment opportunities in New
21 Mexico.

22 C. A taxpayer allowed a deduction pursuant to this
23 section shall report the amount of the deduction separately in
24 a manner required by the department.

25 D. The department shall compile an annual report

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1 on the deduction provided by this section that shall include
2 the number of taxpayers that claimed the deduction, the
3 aggregate amount of deductions claimed and any other
4 information necessary to evaluate the effectiveness of the
5 deduction. Beginning in 2017 and each year thereafter that
6 the deduction is in effect, the department and the economic
7 development department shall present the annual report to the
8 revenue stabilization and tax policy committee and the
9 legislative finance committee with an analysis of the
10 effectiveness and cost of the deduction and whether the
11 deduction is performing the purpose for which it was created.

12 E. As used in this section:

13 (1) "directed energy" means a system,
14 including related services, that enables the use of the
15 frequency spectrum, including radio waves, light and x-rays;

16 (2) "inputs" means systems, subsystems,
17 components, prototypes and demonstrators or products and
18 services involving optics, photonics, electronics, advanced
19 materials, nanoelectromechanical and microelectromechanical
20 systems, fabrication materials and test evaluation and
21 computer control systems related to directed energy or
22 satellites;

23 (3) "qualified contractor" means a person
24 other than an organization designated as a national laboratory
25 by act of congress or an operator of national laboratory

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1 facilities in New Mexico; provided that the operator may be a
2 qualified contractor with respect to the operator's receipts
3 not connected with operating the national laboratory;

4 (4) "qualified directed energy and satellite-
5 related inputs" means inputs supplied to the department of
6 defense pursuant to a contract with that department entered
7 into on or after January 1, 2016;

8 (5) "qualified research and development
9 services" means research and development services related to
10 directed energy or satellites provided to the department of
11 defense pursuant to a contract with that department entered
12 into on or after January 1, 2016; and

13 (6) "satellite" means composite systems
14 assembled and packaged for use in space, including launch
15 vehicles and related products and services."

16 SECTION 99. Section 7-9C-1 NMSA 1978 (being Laws 1992,
17 Chapter 50, Section 1 and also Laws 1992, Chapter 67, Section
18 1, as amended) is amended to read:

19 "7-9C-1. SHORT TITLE.--Chapter 7, Article 9C NMSA 1978
20 may be cited as the "Interstate Telecommunications [~~Gross~~
21 ~~Receipts~~] Sales Tax Act"."

22 SECTION 100. Section 7-9C-7 NMSA 1978 (being Laws 1992,
23 Chapter 50, Section 7 and also Laws 1992, Chapter 67, Section
24 7, as amended) is amended to read:

25 "7-9C-7. DEDUCTION--SALE OF A SERVICE FOR RESALE.--[A.]

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1 Receipts from providing an interstate telecommunications
2 service in this state that will be used by other persons in
3 providing telephone or telegraph services to the final user
4 may be deducted from interstate telecommunications gross
5 receipts if the sale is made to a person who is subject to the
6 interstate telecommunications [~~gross receipts tax or to the~~
7 ~~gross receipts tax or the compensating~~] sales tax, the state
8 sales tax or the use tax.

9 [B. ~~Receipts during the period July 1, 1998~~
10 ~~through June 30, 2000 from providing leased telephone lines,~~
11 ~~telecommunications services, internet access services or~~
12 ~~computer programming that will be used by other persons in~~
13 ~~providing internet access and related services to the final~~
14 ~~user may be deducted from interstate telecommunications gross~~
15 ~~receipts if the sale is made to a person who is subject to the~~
16 ~~interstate telecommunications gross receipts tax, the gross~~
17 ~~receipts tax or the compensating tax.]"~~

18 SECTION 101. Section 7-9F-3 NMSA 1978 (being Laws 2000
19 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to
20 read:

21 "7-9F-3. DEFINITIONS.--As used in the Technology Jobs
22 and Research and Development Tax Credit Act:

23 A. "affiliate" means a person who directly or
24 indirectly owns or controls, is owned or controlled by or is
25 under common ownership or control with another person through

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1 ownership of voting securities or other ownership interests
2 representing a majority of the total voting power of the
3 entity;

4 B. "annual payroll expense" means the wages paid
5 or payable to employees in the state by the taxpayer in the
6 taxable year for which the taxpayer applies for an additional
7 credit pursuant to the Technology Jobs and Research and
8 Development Tax Credit Act;

9 C. "base payroll expense" means the wages paid or
10 payable by the taxpayer in the taxable year prior to the
11 taxable year for which the taxpayer applies for an additional
12 credit pursuant to the Technology Jobs and Research and
13 Development Tax Credit Act, adjusted for any increase from the
14 preceding taxable year in the consumer price index for the
15 United States for all items as published by the United States
16 department of labor in the taxable year for which the
17 additional credit is claimed. In a taxable year during which
18 a taxpayer has been part of a business merger or acquisition
19 or other change in business organization, the taxpayer's base
20 payroll expense shall include the payroll expense of all
21 entities included in the reorganization for all positions that
22 are included in the business entity resulting from the
23 reorganization;

24 D. "department" means the taxation and revenue
25 department, the secretary of taxation and revenue or any

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1 employee of the department exercising authority lawfully
2 delegated to that employee by the secretary;

3 E. "facility" means a factory, mill, plant,
4 refinery, warehouse, dairy, feedlot, building or complex of
5 buildings located within the state, including the land on
6 which it is located and all machinery, equipment and other
7 real and tangible personal property located at or within it
8 and used in connection with its operation;

9 ~~[F. "local option gross receipts tax" means a tax~~
10 ~~authorized to be imposed by a county or municipality upon the~~
11 ~~taxpayer's gross receipts, as that term is defined in the~~
12 ~~Gross Receipts and Compensating Tax Act, and required to be~~
13 ~~collected by the department at the same time and in the same~~
14 ~~manner as the gross receipts tax; "local option gross receipts~~
15 ~~tax" includes the taxes imposed pursuant to the Municipal~~
16 ~~Local Option Gross Receipts Taxes Act, Supplemental Municipal~~
17 ~~Gross Receipts Tax Act, County Local Option Gross Receipts~~
18 ~~Taxes Act, Local Hospital Gross Receipts Tax Act, County~~
19 ~~Correctional Facility Gross Receipts Tax Act and such other~~
20 ~~acts as may be enacted authorizing counties or municipalities~~
21 ~~to impose taxes on gross receipts, which taxes are to be~~
22 ~~collected by the department in the same time and in the same~~
23 ~~manner as it collects the gross receipts tax;~~

24 G.] F. "qualified expenditure" means an
25 expenditure or an allocated portion of an expenditure by a

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1 taxpayer in connection with qualified research at a qualified
2 facility, including expenditures for depletable land and rent
3 paid or incurred for land, improvements, the allowable amount
4 paid or incurred to operate or maintain a facility, buildings,
5 equipment, computer software, computer software upgrades,
6 consultants and contractors performing work in New Mexico,
7 payroll, technical books and manuals and test materials, but
8 not including any expenditure on property that is owned by a
9 municipality or county in connection with an industrial
10 revenue bond project, property for which the taxpayer has
11 received any credit pursuant to the Investment Credit Act,
12 property that was owned by the taxpayer or an affiliate before
13 July 3, 2000 or research and development expenditures
14 reimbursed by a person who is not an affiliate of the
15 taxpayer. If a "qualified expenditure" is an allocation of an
16 expenditure, the cost accounting methodology used for the
17 allocation of the expenditure shall be the same cost
18 accounting methodology used by the taxpayer in its other
19 business activities;

20 ~~[H.]~~ G. "qualified facility" means a facility in
21 New Mexico at which qualified research is conducted other than
22 a facility operated by a taxpayer for the United States or any
23 agency, department or instrumentality thereof;

24 ~~[I.]~~ H. "qualified research" means research:

25 (1) that is undertaken for the purpose of

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1 discovering information:

2 (a) that is technological in nature;

3 and

4 (b) the application of which is
5 intended to be useful in the development of a new or improved
6 business component of the taxpayer; and

7 (2) substantially all of the activities of
8 which constitute elements of a process of experimentation
9 related to a new or improved function, performance,
10 reliability or quality, but not related to style, taste or
11 cosmetic or seasonal design factors;

12 [~~J.~~] I. "qualified research and development small
13 business" means a taxpayer that:

14 (1) employed no more than fifty employees as
15 determined by the number of employees for which the taxpayer
16 was liable for unemployment insurance coverage in the taxable
17 year for which an additional credit is claimed;

18 (2) had total qualified expenditures of no
19 more than five million dollars (\$5,000,000) in the taxable
20 year for which an additional credit is claimed; and

21 (3) did not have more than fifty percent of
22 its voting securities or other equity interest with the right
23 to designate or elect the board of directors or other
24 governing body of the business owned directly or indirectly by
25 another business;

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1 ~~[K.]~~ J. "rural area" means any area of the state
2 other than the state fairgrounds, an incorporated municipality
3 with a population of thirty thousand or more according to the
4 most recent federal decennial census and any area within three
5 miles of the external boundaries of an incorporated
6 municipality with a population of thirty thousand or more
7 according to the most recent federal decennial census;

8 ~~[L.]~~ K. "taxpayer" means any of the following
9 persons, other than a federal, state or other governmental
10 unit or subdivision or an agency, department, institution or
11 instrumentality thereof:

12 (1) a person liable for payment of any tax;

13 (2) a person responsible for withholding and
14 payment or collection and payment of any tax;

15 (3) a person to whom an assessment has been
16 made if the assessment remains unabated or the assessed amount
17 has not been paid; or

18 (4) for purposes of the additional credit
19 against the taxpayer's income tax pursuant to the Technology
20 Jobs and Research and Development Tax Credit Act and to the
21 extent of their respective interest in that entity, the
22 shareholders, members, partners or other owners of:

23 (a) a small business corporation that
24 has elected to be treated as an S corporation for federal
25 income tax purposes; or

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1 (b) an entity treated as a partnership
2 or disregarded entity for federal income tax purposes; and

3 [M.] L. "wages" means remuneration for services
4 performed by an employee in New Mexico for an employer."

5 SECTION 102. Section 7-9F-9 NMSA 1978 (being Laws 2000
6 (2nd S.S.), Chapter 22, Section 9, as amended) is amended to
7 read:

8 "7-9F-9. CLAIMING THE BASIC CREDIT.--

9 A. A taxpayer may apply for approval of a credit
10 within one year following the end of the reporting period in
11 which the qualified expenditure was made.

12 B. A taxpayer having applied for and been granted
13 approval for a basic credit by the department pursuant to the
14 Technology Jobs and Research and Development Tax Credit Act
15 may claim the amount of the approved basic credit against the
16 taxpayer's ~~[compensating tax, withholding tax or gross~~
17 ~~receipts tax, excluding local option gross receipts tax]~~
18 income tax or corporate income tax liability due to the state
19 of New Mexico; provided that no taxpayer may claim an amount
20 of approved basic credit for a ~~[reporting period]~~ taxable year
21 in which the basic credit is being claimed that exceeds the
22 ~~[sum]~~ amount of the taxpayer's ~~[compensating tax, withholding~~
23 ~~tax and gross receipts tax, excluding local option gross~~
24 ~~receipts tax, due for that reporting period]~~ income tax or
25 corporate income tax due for that taxable year.

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1 C. Any amount of approved basic credit not claimed
2 against the taxpayer's [~~compensating tax, withholding tax or~~
3 ~~gross receipts tax, excluding local option gross receipts tax~~]
4 income tax or corporate income tax liability due may be
5 claimed in subsequent [~~reporting periods~~] taxable years for a
6 period of up to three years from the date of the original
7 claim."

8 SECTION 103. Section 7-9F-11 NMSA 1978 (being Laws 2000
9 (2nd S.S.), Chapter 22, Section 11) is amended to read:

10 "7-9F-11. RECAPTURE.--If the taxpayer or a successor in
11 business of the taxpayer ceases operations in New Mexico for
12 at least one hundred eighty consecutive days within a two-year
13 period after the taxpayer has claimed a basic credit or an
14 additional credit at a facility [~~with respect to which the~~
15 ~~taxpayer has claimed the basic credit or the additional~~
16 ~~credit~~], the department shall grant no further basic credit or
17 additional credit to the taxpayer with respect to that
18 facility. In addition, any amount of approved basic credit
19 [~~not claimed against the taxpayer's gross receipts tax,~~
20 ~~compensating tax or withholding tax and any amount of~~
21 ~~approved~~] or additional credit not claimed against the
22 taxpayer's income tax or corporate income tax shall be
23 extinguished, and within thirty days after the one hundred
24 eightieth day of the cessation of operations, the taxpayer
25 shall pay the amount of any [~~gross receipts tax, compensating~~

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1 ~~tax or withholding tax for which an approved basic credit was~~
2 ~~taken and any]~~ income tax or corporate income tax against
3 which an approved additional credit was taken. For purposes
4 of this section, a taxpayer shall not be deemed to have ceased
5 operations during reasonable periods for maintenance or
6 retooling or for the repair or replacement of facilities
7 damaged or destroyed or during the continuance of labor
8 disputes."

9 SECTION 104. Section 7-9I-2 NMSA 1978 (being Laws 2005,
10 Chapter 104, Section 18, as amended) is amended to read:

11 "7-9I-2. DEFINITIONS.--As used in the Affordable Housing
12 Tax Credit Act:

13 A. "affordable housing project" means land
14 acquisition, construction, building acquisition, remodeling,
15 improvement, rehabilitation, conversion or weatherization for
16 residential housing that is approved by the authority and that
17 includes single-family housing or multifamily housing;

18 B. "authority" means the New Mexico mortgage
19 finance authority;

20 C. "department" means the taxation and revenue
21 department; and

22 ~~[D. "modified combined tax liability" means the~~
23 ~~total liability for the reporting period for the gross~~
24 ~~receipts tax imposed by Section 7-9-4 NMSA 1978 together with~~
25 ~~any tax collected at the same time and in the same manner as~~

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1 ~~the gross receipts tax, such as the compensating tax, the~~
2 ~~withholding tax, the interstate telecommunications gross~~
3 ~~receipts tax, the surcharges imposed by Section 63-9D-5 NMSA~~
4 ~~1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,~~
5 ~~minus the amount of any credit other than the affordable~~
6 ~~housing tax credit applied against any or all of these taxes~~
7 ~~or surcharges; but "modified combined tax liability" excludes~~
8 ~~all amounts collected with respect to local option gross~~
9 ~~receipts taxes and governmental gross receipts taxes; and~~

10 E.] D. "person" means an individual, tribal
11 government, housing authority, corporation, limited liability
12 company, partnership, joint venture, syndicate, association or
13 nonprofit organization."

14 SECTION 105. Section 7-9I-5 NMSA 1978 (being Laws 2005,
15 Chapter 104, Section 21) is amended to read:

16 "7-9I-5. AFFORDABLE HOUSING TAX CREDIT.--

17 A. The tax credit provided in this section may be
18 referred to as the "affordable housing tax credit". Except as
19 otherwise provided by the Affordable Housing Tax Credit Act, a
20 holder of an investment voucher that submits the investment
21 voucher to the department may apply for, and the department
22 may allow, a tax credit in an amount not to exceed the value
23 of the investment voucher during the tax year in which the
24 authority certifies to the department:

25 (1) completion of a service for which an

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1 investment voucher has been issued pursuant to the Affordable
2 Housing Tax Credit Act; or

3 (2) approval by the authority or completion
4 of an affordable housing project for which a land, building or
5 cash donation has been made and for which an investment
6 voucher has been issued pursuant to the Affordable Housing Tax
7 Credit Act.

8 B. A holder of an investment voucher may apply all
9 or a portion of the affordable housing tax credit against the
10 holder's [~~modified combined tax liability~~] personal income tax
11 liability or corporate income tax liability. Any balance of
12 the affordable housing tax credit claimed may be carried
13 forward for up to five years from the calendar year during
14 which the authority certifies to the department approval of
15 the affordable housing project for which the investment
16 voucher used to claim the affordable housing tax credit is
17 issued. [~~No amount of the affordable housing tax credit may
18 be applied against a local option gross receipts tax imposed
19 by a municipality or county or against the government gross
20 receipts tax.~~]

21 C. Notwithstanding the provisions of Section 7-1-8
22 NMSA 1978, the department may disclose to a person the balance
23 of the affordable housing tax credit remaining with respect to
24 any investment voucher submitted by that person."

25 SECTION 106. Section 7-10-1 NMSA 1978 (being Laws 1970,

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1 Chapter 26, Section 1, as amended) is amended to read:

2 "7-10-1. SHORT TITLE.--Chapter 7, Article 10 NMSA 1978
3 may be cited as the "[~~Gross Receipts~~] Sales Tax Registration
4 Act"."

5 SECTION 107. Section 7-10-3 NMSA 1978 (being Laws 1970,
6 Chapter 26, Section 3, as amended) is amended to read:

7 "7-10-3. DEFINITIONS.--As used in the [~~Gross Receipts~~]
8 Sales Tax Registration Act:

9 A. "department" means the taxation and revenue
10 department, the secretary of taxation and revenue or any
11 employee of the department exercising authority lawfully
12 delegated to that employee by the secretary;

13 B. "person" means any individual, estate, trust,
14 receiver, cooperative association, club, corporation, company,
15 firm, partnership, joint venture, syndicate or other entity;
16 and

17 C. "state" means any state agency, department or
18 office that has authority to contract in the name of the state
19 or to make payments from state funds."

20 SECTION 108. Section 7-10-4 NMSA 1978 (being Laws 1970,
21 Chapter 26, Section 4, as amended) is amended to read:

22 "7-10-4. PERSONS DOING BUSINESS WITH THE STATE--
23 REGISTRATION TO PAY THE [~~GROSS RECEIPTS~~] STATE SALES TAX
24 REQUIRED.--Any person leasing or selling property to the state
25 or performing services for the state, as those terms are used

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1 in the [~~Gross Receipts and Compensating~~] Sales and Use Tax
2 Act, shall be registered with the department to pay [~~the gross~~
3 ~~receipts~~] state sales tax unless that person has no business
4 location, employees or property in New Mexico and does not
5 conduct business in New Mexico through agents or contractors."

6 SECTION 109. Section 7-10-5 NMSA 1978 (being Laws 1970,
7 Chapter 26, Section 5, as amended) is amended to read:

8 "7-10-5. PENALTY FOR NONCOMPLIANCE.--If any person
9 required to register under the provisions of Section 7-10-4
10 NMSA 1978 is not registered to pay the [~~gross receipts~~] state
11 sales tax, the state shall withhold payment of the amount due
12 until the person has presented evidence of registration with
13 the department to pay the [~~gross receipts~~] state sales tax."

14 SECTION 110. Section 7-14-10 NMSA 1978 (being Laws 1988,
15 Chapter 73, Section 20, as amended) is amended to read:

16 "7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from
17 the tax and any associated interest and penalties shall be
18 deposited in the "motor vehicle suspense fund", hereby created
19 in the state treasury. As of the end of each month, the net
20 receipts attributable to the tax and associated penalties and
21 interest shall be distributed [~~to the general fund~~] as
22 follows:

- 23 A. fifty percent to the state road fund; and
24 B. fifty percent to the local governments road
25 fund."

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1 SECTION 111. Section 7-14A-1 NMSA 1978 (being Laws 1991,
2 Chapter 197, Section 5, as amended) is amended to read:

3 "7-14A-1. SHORT TITLE.--Chapter 7, Article 14A NMSA 1978
4 may be cited as the "Leased Vehicle [~~Gross Receipts~~] Sales Tax
5 Act"."

6 SECTION 112. Section 7-14A-2 NMSA 1978 (being Laws 1991,
7 Chapter 197, Section 6, as amended) is amended to read:

8 "7-14A-2. DEFINITIONS.--As used in the Leased Vehicle
9 [~~Gross Receipts~~] Sales Tax Act:

10 A. "department" means the taxation and revenue
11 department, the secretary of taxation and revenue or any
12 employee of the department exercising authority lawfully
13 delegated to that employee by the secretary;

14 B. "engaging in business" means carrying on or
15 causing to be carried on the leasing of vehicles with the
16 purpose of direct or indirect benefit;

17 C. "gross receipts" means the total amount of
18 money or the value of other consideration received from
19 leasing vehicles used in New Mexico, but excludes cash
20 discounts allowed and taken, leased vehicle [~~gross receipts~~]
21 sales tax payable on transactions for the reporting period,
22 [~~gross receipts~~] state sales tax payable pursuant to the
23 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act on
24 transactions for the reporting period and taxes imposed
25 pursuant to the provisions of any local option [~~gross~~

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1 ~~receipts]~~ sales tax, as that term is defined in the Tax
2 Administration Act, that is payable on transactions for the
3 reporting period and any type of time-price differential.
4 Also excluded from "gross receipts" are any gross receipts or
5 sales taxes imposed by an Indian nation, tribe or pueblo;
6 provided that the tax is approved, if approval is required by
7 federal law or regulation, by the secretary of the interior of
8 the United States; and provided further that the gross
9 receipts or sales tax imposed by the Indian nation, tribe or
10 pueblo provides a reciprocal exclusion for gross receipts,
11 sales or gross receipts-based excise taxes imposed by the
12 state or its political subdivisions. In an exchange in which
13 the money or other consideration received does not represent
14 the value of the lease of the vehicle, "gross receipts" means
15 the reasonable value of the lease of the vehicle. When the
16 leasing of vehicles is made under a leasing contract, the
17 seller or lessor may elect to treat all receipts under those
18 contracts as gross receipts as and when the payments are
19 actually received. "Gross receipts" also includes amounts
20 paid by members of any cooperative association or similar
21 organization for the lease of vehicles by that organization;

22 D. "leasing" means any arrangement whereby, for a
23 consideration, a vehicle without a driver furnished by the
24 lessor or owner is employed for or by any person other than
25 the owner of the vehicle for a period of not more than six

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1 months;

2 E. "person" means any individual, estate, trust,
3 receiver, cooperative association, club, corporation, company,
4 firm, partnership, joint venture, syndicate or other entity;
5 and

6 F. "vehicle" means a passenger automobile designed
7 to accommodate six or fewer adult human beings that is part of
8 a fleet of five or more passenger automobiles owned by the
9 same person."

10 SECTION 113. Section 7-14A-3 NMSA 1978 (being Laws 1991,
11 Chapter 197, Section 7) is amended to read:

12 "7-14A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
13 "LEASED VEHICLE [~~GROSS RECEIPTS~~] SALES TAX".--

14 A. For the privilege of engaging in business, an
15 excise tax equal to five percent of gross receipts is imposed
16 on any person engaging in business in New Mexico.

17 B. The tax imposed by this section shall be
18 referred to as the "leased vehicle [~~gross receipts~~] sales
19 tax".

20 SECTION 114. Section 7-14A-3.1 NMSA 1978 (being Laws
21 1993, Chapter 359, Section 1, as amended) is amended to read:

22 "7-14A-3.1. IMPOSITION AND RATE--LEASED VEHICLE
23 SURCHARGE.--

24 A. Except as provided in Subsection B of this
25 section, there is imposed a surcharge on the leasing of a

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1 vehicle to another person by a person engaging in business in
2 New Mexico if the lease is subject to the leased vehicle
3 [~~gross receipts~~] sales tax. The amount of this surcharge is
4 two dollars (\$2.00) for each day the vehicle is leased by the
5 person. The surcharge may be referred to as the "leased
6 vehicle surcharge".

7 B. The leased vehicle surcharge imposed in
8 Subsection A of this section shall not apply to the lease of a
9 temporary replacement vehicle if the lessee signs a statement
10 that the temporary replacement vehicle is to be used as a
11 replacement for another vehicle that is being repaired,
12 serviced or replaced. For the purposes of this section,
13 "temporary replacement vehicle" means a vehicle that is:

14 (1) used by an individual in place of another
15 vehicle that is unavailable for use by the individual due to
16 loss, damage, mechanical breakdown or need for servicing; and

17 (2) leased temporarily by or on behalf of the
18 individual or loaned temporarily to the individual by a
19 vehicle repair facility or dealer while the other vehicle is
20 being repaired, serviced or replaced."

21 SECTION 115. Section 7-14A-4 NMSA 1978 (being Laws 1991,
22 Chapter 197, Section 8, as amended) is amended to read:

23 "7-14A-4. PRESUMPTION OF TAXABILITY.--To prevent evasion
24 of the leased vehicle [~~gross receipts~~] sales tax and the
25 leased vehicle surcharge and to aid in their administration,

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1 it is presumed that all receipts of a person engaging in
2 business are subject to the leased vehicle [~~gross receipts~~]
3 sales tax and that all vehicles leased by that person are
4 subject to the leased vehicle surcharge."

5 SECTION 116. Section 7-14A-5 NMSA 1978 (being Laws 1991,
6 Chapter 197, Section 9) is amended to read:

7 "7-14A-5. SEPARATELY STATING THE LEASED VEHICLE [~~GROSS~~
8 ~~RECEIPTS~~] SALES TAX.--When the leased vehicle [~~gross receipts~~]
9 sales tax is stated separately on the books of the lessor and
10 if the total amount of tax that is stated separately on
11 transactions reportable within one reporting period is in
12 excess of the amount of leased vehicle [~~gross receipts~~] sales
13 tax otherwise payable on the transactions on which the tax was
14 separately stated, the excess amount of tax stated on the
15 transactions within that reporting period shall be included in
16 gross receipts."

17 SECTION 117. Section 7-14A-6 NMSA 1978 (being Laws 1991,
18 Chapter 197, Section 10, as amended) is amended to read:

19 "7-14A-6. DATE PAYMENT DUE.--The tax and the surcharge
20 imposed by the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act
21 are to be paid on or before the twenty-fifth day of the month
22 following the month in which the taxable event occurs."

23 SECTION 118. Section 7-14A-7 NMSA 1978 (being Laws 1991,
24 Chapter 197, Section 11) is amended to read:

25 "7-14A-7. DEDUCTION--TRANSACTIONS IN INTERSTATE

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1 COMMERCE.--Receipts from transactions in interstate commerce
2 may be deducted from gross receipts to the extent that the
3 imposition of the leased vehicle [~~gross receipts~~] sales tax
4 would be unlawful under the United States constitution."

5 SECTION 119. Section 7-14A-10 NMSA 1978 (being Laws
6 1991, Chapter 197, Section 14, as amended) is amended to read:

7 "7-14A-10. DISTRIBUTION OF PROCEEDS.--At the end of each
8 month, the net receipts attributable to the leased vehicle
9 [~~gross receipts~~] sales tax and any associated penalties and
10 interest shall be distributed as follows:

11 A. one-fourth to the local governments road fund;
12 and

13 B. three-fourths to the highway infrastructure
14 fund."

15 SECTION 120. Section 7-14A-11 NMSA 1978 (being Laws
16 1991, Chapter 197, Section 15, as amended) is amended to read:

17 "7-14A-11. ADMINISTRATION.--

18 A. The department shall interpret the provisions
19 of the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act.

20 B. The department shall administer and enforce the
21 collection of the leased vehicle [~~gross receipts~~] sales tax
22 and the leased vehicle surcharge, and the Tax Administration
23 Act applies to the administration and enforcement of the tax
24 and the surcharge."

25 SECTION 121. Section 7-19D-1 NMSA 1978 (being Laws 1993,

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1 Chapter 346, Section 1) is amended to read:

2 "7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA 1978
3 may be cited as the "Municipal Local Option [~~Gross Receipts~~
4 ~~Taxes~~] Sales and Use Tax Act."

5 SECTION 122. Section 7-19D-2 NMSA 1978 (being Laws 1993,
6 Chapter 346, Section 2) is amended to read:

7 "7-19D-2. DEFINITIONS.--As used in the Municipal Local
8 Option [~~Gross Receipts Taxes~~] Sales and Use Tax Act:

9 A. "department" means the taxation and revenue
10 department, the secretary of taxation and revenue or any
11 employee of the department exercising authority lawfully
12 delegated to that employee by the secretary;

13 B. "governing body" means the city council or city
14 commission of a city, the board of trustees of a town or
15 village and the board of county commissioners of an H-class
16 [~~counties~~] county;

17 C. "municipality" means any incorporated city,
18 town or village, whether incorporated under general act,
19 special act or special charter, and an H-class county;

20 D. "person" means an individual or any other legal
21 entity; and

22 E. "state [~~gross receipts~~] sales tax" means the
23 [~~gross receipts~~] state sales tax imposed [~~under the Gross~~
24 ~~Receipts and Compensating~~] pursuant to the Sales and Use Tax
25 Act."

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1 SECTION 123. Section 7-19D-3 NMSA 1978 (being Laws 1993,
2 Chapter 346, Section 3) is amended to read:

3 "7-19D-3. EFFECTIVE DATE OF ORDINANCE.--An ordinance
4 imposing, amending or repealing a tax or an increment of tax
5 authorized by the Municipal Local Option [~~Gross Receipts~~
6 ~~Taxes~~] Sales and Use Tax Act shall be effective on July 1 or
7 January 1, whichever date occurs first after the expiration of
8 at least three months from the date the adopted ordinance is
9 mailed or delivered to the department. The ordinance shall
10 include that effective date."

11 SECTION 124. Section 7-19D-4 NMSA 1978 (being Laws 1993,
12 Chapter 346, Section 4) is amended to read:

13 "7-19D-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS
14 OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT
15 AND REQUIREMENTS OF THE DEPARTMENT.--

16 A. An ordinance imposing a tax [~~under~~] pursuant to
17 the provisions of the Municipal Local Option [~~Gross Receipts~~
18 ~~Taxes~~] Sales and Use Tax Act shall adopt by reference the same
19 definitions and the same provisions relating to exemptions and
20 deductions as are contained in the [~~Gross Receipts and~~
21 ~~Compensating~~] Sales and Use Tax Act then in effect and as it
22 may be amended from time to time.

23 B. The governing body of any municipality imposing
24 a tax [~~under~~] pursuant to provisions of the Municipal Local
25 Option [~~Gross Receipts Taxes~~] Sales and Use Tax Act shall

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1 impose the tax by adopting the model ordinance with respect to
2 the tax furnished to the municipality by the department. An
3 ordinance that does not conform substantially to the model
4 ordinance of the department is not valid."

5 SECTION 125. Section 7-19D-5 NMSA 1978 (being Laws 1993,
6 Chapter 346, Section 5, as amended) is amended to read:

7 "7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the
8 provisions of the Municipal Local Option [~~Gross Receipts~~
9 ~~Taxes~~] Sales and Use Tax Act shall be imposed on the gross
10 receipts arising from [~~A.~~] transporting persons or property
11 for hire by railroad, motor vehicle, air transportation or any
12 other means from one point within the municipality to another
13 point outside the municipality [~~or~~

14 ~~B. a business located outside the boundaries of a~~
15 ~~municipality on land owned by that municipality for which a~~
16 ~~state gross receipts tax distribution is made pursuant to~~
17 ~~Section 7-1-6.4 NMSA 1978]."~~

18 SECTION 126. Section 7-19D-6 NMSA 1978 (being Laws 1993,
19 Chapter 346, Section 6) is amended to read:

20 "7-19D-6. COPY OF ORDINANCE TO BE SUBMITTED TO
21 DEPARTMENT.--A certified copy of the ordinance imposing or
22 repealing a tax authorized [~~under~~] by the Municipal Local
23 Option [~~Gross Receipts Taxes~~] Sales and Use Tax Act or
24 changing the tax rate imposed shall be mailed or delivered to
25 the department within five days after the later of the date

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1 the ordinance is adopted or the date the results of any
2 election held with respect to the ordinance are certified to
3 be in favor of the ordinance."

4 SECTION 127. Section 7-19D-7 NMSA 1978 (being Laws 1993,
5 Chapter 346, Section 7, as amended) is amended to read:

6 "7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF
7 PROCEEDS--DEDUCTIONS.--

8 A. The department shall collect each tax imposed
9 pursuant to the provisions of the Municipal Local Option
10 [~~Gross Receipts Taxes~~] Sales and Use Tax Act in the same
11 manner and at the same time it collects the state [~~gross~~
12 ~~receipts tax~~] sales and use taxes.

13 B. Except as provided in Subsection C of this
14 section, the department shall withhold an administrative fee
15 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978.
16 The department shall transfer to each municipality for which
17 it is collecting a tax pursuant to the provisions of the
18 Municipal Local Option [~~Gross Receipts Taxes~~] Sales and Use
19 Tax Act the amount of each tax collected for that
20 municipality, less the administrative fee withheld and less
21 any disbursements for tax credits, refunds and the payment of
22 interest applicable to the tax. The transfer to the
23 municipality shall be made within the month following the
24 month in which the tax is collected.

25 C. With respect to the municipal [~~gross receipts~~]

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1 sales tax imposed by a municipality pursuant to Section
2 7-19D-9 NMSA 1978, the department shall withhold the
3 administrative fee pursuant to Section [~~1 of this 1997 act~~]
4 7-1-6.41 NMSA 1978 only on that portion of the municipal
5 [~~gross receipts~~] sales tax arising from a municipal [~~gross~~
6 ~~receipts~~] sales tax rate in excess of one-half [~~of one~~]
7 percent."

8 SECTION 128. Section 7-19D-8 NMSA 1978 (being Laws 1993,
9 Chapter 346, Section 8) is amended to read:

10 "7-19D-8. INTERPRETATION OF ACT--ADMINISTRATION AND
11 ENFORCEMENT OF ACT.--

12 A. The department shall interpret the provisions
13 of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales and
14 Use Tax Act.

15 B. The department shall administer and enforce the
16 collection of each tax authorized [~~under~~] by the provisions of
17 the Municipal Local Option [~~Gross Receipts Taxes~~] Sales and
18 Use Tax Act, and the Tax Administration Act applies to the
19 administration and enforcement of each tax."

20 SECTION 129. Section 7-19D-9 NMSA 1978 (being Laws 1978,
21 Chapter 151, Section 1, as amended) is amended to read:

22 "7-19D-9. MUNICIPAL [~~GROSS RECEIPTS~~] SALES TAX--
23 AUTHORITY TO IMPOSE RATE.--

24 A. The majority of the members of the governing
25 body of any municipality may impose by ordinance an excise tax

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1 ~~[not to exceed a rate of one and one-half percent of]~~ on the
2 gross receipts of any person engaging in business in the
3 municipality for the privilege of engaging in business in the
4 municipality. A tax imposed pursuant to this section shall be
5 imposed by the enactment of one or more ordinances ~~[each~~
6 ~~imposing any number of municipal gross receipts tax rate~~
7 ~~increments, but the total municipal gross receipts tax rate~~
8 ~~imposed by all ordinances shall not exceed an aggregate rate~~
9 ~~of one and one-half percent of the gross receipts of a person~~
10 ~~engaging in business. Municipalities may impose increments of~~
11 ~~one-eighth of one]~~ in increments measured by hundredths of a
12 percent. ~~[B.]~~ The tax imposed pursuant to ~~[Subsection A of]~~
13 this section may be referred to as the "municipal ~~[gross~~
14 ~~receipts]~~ sales tax.

15 B. The maximum rate of the municipal sales tax on
16 the gross receipts of any person engaging in business in a
17 municipality shall be determined as follows for each
18 municipality:

19 (1) on and after July 1, 2018, and prior to
20 January 1, 2020, the rate shall be the quotient of baseline
21 revenue divided by estimated fiscal year 2019 base revenue,
22 multiplied by one hundred three percent and rounded up to the
23 nearest one-hundredth percent; and

24 (2) on and after January 1, 2020, the rate
25 shall be the quotient of baseline revenue divided by fiscal

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1 year 2019 base revenue, multiplied by one hundred three
2 percent and rounded up to the nearest one-hundredth percent;
3 but a municipality may change the rate of municipal sales tax
4 in effect for the municipality on or after July 1, 2020, by
5 imposing or repealing municipal sales tax increments; provided
6 that:

7 (a) the total municipal sales tax in
8 effect for the municipality may not exceed the maximum rate
9 applicable to the municipality. For municipalities that, on
10 July 1, 2018, had a municipal sales tax in effect at a rate
11 greater than two and two-tenths percent, the maximum rate is
12 three percent. For all other municipalities, the maximum rate
13 is two and two-tenths percent; and

14 (b) if imposing an additional increment
15 authorized by Subparagraph (a) of this paragraph would cause
16 the total municipal sales tax rate in effect for the
17 municipality to exceed one and four-tenths percent, imposition
18 of the additional increment shall be subject to an election
19 pursuant to Subsection D of this section.

20 C. The governing body of a municipality may, at
21 the time of enacting an ordinance imposing the tax authorized
22 in Subsection A of this section, dedicate the revenue for a
23 specific purpose or area of municipal government services
24 [~~including but not limited to police protection, fire~~
25 ~~protection, public transportation or street repair and~~

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1 maintenance]. If the governing body proposes to dedicate such
2 revenue, the ordinance and, if any election is held, the
3 ballot shall clearly state the purpose to which the revenue
4 will be dedicated, and any revenue so dedicated shall be used
5 by the municipality for that purpose unless a subsequent
6 ordinance is adopted to change the purpose to which dedicated
7 or to place the revenue in the general fund of the
8 municipality.

9 D. An election shall be called on the questions of
10 disapproval or approval of any ordinance enacted pursuant to
11 ~~[Subsection A]~~ Subparagraph (b) of Paragraph (2) of Subsection
12 B of this section or any ordinance amending such ordinance.

13 ~~[(1) if the governing body chooses to provide~~
14 ~~in the ordinance that it shall not be effective until the~~
15 ~~ordinance is approved by the majority of the registered voters~~
16 ~~voting on the question at an election to]~~ The election shall
17 be held pursuant to the provisions of a home-rule charter or
18 on a date set by the governing body and pursuant to the
19 provisions of the Municipal Election Code governing special
20 elections. [~~or~~

21 ~~(2) if the ordinance does not contain a~~
22 ~~mandatory election provision as provided in Paragraph (1) of~~
23 ~~this subsection, upon the filing of a petition requesting such~~
24 ~~an election if the petition is filed:~~

25 ~~(a) pursuant to the requirements of a~~

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1 ~~referendum provision contained in a municipal home-rule~~
2 ~~charter and signed by the number of registered voters in the~~
3 ~~municipality equal to the number of registered voters required~~
4 ~~in its charter to seek a referendum; or~~

5 ~~(b) in all other municipalities, with~~
6 ~~the municipal clerk within thirty days after the adoption of~~
7 ~~such ordinance and the petition has been signed by a number of~~
8 ~~registered voters in the municipality equal to at least five~~
9 ~~percent of the number of the voters in the municipality who~~
10 ~~were registered to vote in the most recent regular municipal~~
11 ~~election.~~

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

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1 ~~the municipal clerk or it may be held in conjunction with a~~
2 ~~regular municipal election if such election occurs within~~
3 ~~seventy-five days after the date of verification by the~~
4 ~~municipal clerk.~~

5 F.] E. If at an election called pursuant to
6 Subsection D of this section a majority of the registered
7 voters voting on the question approves the ordinance imposing
8 the tax, the ordinance shall become effective in accordance
9 with the provisions of the Municipal Local Option [~~Gross~~
10 ~~Receipts Taxes~~] Sales and Use Tax Act. If at such an election
11 a majority of the registered voters voting on the question
12 disapproves the ordinance, the ordinance imposing the tax
13 shall be deemed repealed and the question of imposing any
14 increment of the municipal [~~gross receipts~~] sales tax
15 authorized in this section shall not be considered again by
16 the governing body for a period of one year from the date of
17 the election.

18 ~~[G. Any municipality that has lawfully imposed by~~
19 ~~the requirements of the Special Municipal Gross Receipts Tax~~
20 ~~Act a rate of at least one-fourth of one percent shall be~~
21 ~~deemed to have imposed one-fourth of one percent municipal~~
22 ~~gross receipts tax pursuant to this section. Any rate of tax~~
23 ~~deemed to be imposed pursuant to this subsection shall~~
24 ~~continue to be dedicated to the payment of outstanding bonds~~
25 ~~issued by the municipality that pledged the tax revenues by~~

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1 ~~ordinance until such time as the bonds are fully paid. A~~
2 ~~municipality may by ordinance change the purpose for any rate~~
3 ~~of tax deemed to be imposed at any time the revenues are not~~
4 ~~committed to payment of bonds.~~

5 H.] F. Any law that imposes or authorizes the
6 imposition of a municipal [~~gross receipts~~] sales tax or that
7 affects the municipal [~~gross receipts~~] sales tax, or any law
8 supplemental thereto or otherwise appertaining thereto, shall
9 not be repealed or amended or otherwise directly or indirectly
10 modified in such a manner as to impair adversely any
11 outstanding revenue bonds that may be secured by a pledge of
12 such municipal [~~gross receipts~~] sales tax unless such
13 outstanding revenue bonds have been discharged in full or
14 provision has been fully made therefor.

15 G. As used in this section:

16 (1) "baseline revenue" means, for each
17 municipality, the greater of the combined revenue for the
18 municipality in fiscal year 2018 or the annual average of the
19 combined revenue for the municipality in fiscal years 2015
20 through 2017;

21 (2) "combined revenue" means:

22 (a) any distribution to a municipality
23 pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;

24 (b) any transfer to a municipality with
25 respect to any local option gross receipts tax imposed by that

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1 municipality; and

2 (c) any distribution to a municipality
3 of compensating taxes pursuant to Section 7-1-6.55 NMSA 1978;

4 (3) "estimated fiscal year 2019 base revenue"
5 means, for each municipality, the gross receipts of all
6 persons expected to engage in business in the municipality in
7 fiscal year 2019 that will be subject to the state sales tax,
8 as conservatively estimated by the department, in consultation
9 with the department of finance and administration and the
10 legislative finance committee to ensure that revenue from the
11 municipal sales tax will exceed the baseline revenue; and

12 (4) "fiscal year 2019 base revenue" means,
13 for each municipality, the gross receipts of all persons
14 engaging in business in the municipality in fiscal year 2019
15 that are subject to the state sales tax, as determined by the
16 department, in consultation with the department of finance and
17 administration and the legislative finance committee."

18 SECTION 130. A new section of the Municipal Local Option
19 Sales and Use Tax Act is enacted to read:

20 "[NEW MATERIAL] MUNICIPAL USE TAX.--

21 A. The majority of the members of the governing
22 body of a municipality shall impose by ordinance an excise tax
23 on a person using tangible personal property in the
24 municipality, for the privilege of using the tangible property
25 in the municipality, at a rate equal to the rate imposed and

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1 in effect pursuant to Section 7-19D-9 NMSA 1978 of the value
2 of tangible property that was:

3 (1) manufactured by the person using the
4 property in the state; or

5 (2) acquired inside or outside of this state
6 as the result of a transaction with a person located outside
7 this state that would have been subject to the state sales tax
8 had the tangible personal property been acquired from a person
9 with nexus with New Mexico.

10 B. For the purpose of Subsection A of this
11 section, the value of tangible property shall be the adjusted
12 basis of the property for federal income tax purposes
13 determined as of the time of acquisition or introduction into
14 this state or of conversion to use, whichever is later. If no
15 adjusted basis for federal income tax purposes is established
16 for the property, a reasonable value of the property shall be
17 used.

18 C. For the privilege of using a license or
19 franchise in a municipality, there is imposed on the person
20 using the property an excise tax equal to the tax rate
21 provided in Subsection A of this section against the value of
22 the property in its use in the municipality. For use of a
23 license or franchise to be taxable under this subsection, the
24 property must have been sold, leased or licensed by a person
25 outside this state and the receipts from the sale, lease or

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1 licensing of the license or franchise must not have been
2 subject to the state sales tax.

3 D. For the privilege of using services rendered in
4 a municipality, there is imposed on the person using such
5 services an excise tax at the rate provided in Subsection A of
6 this section of the value of the services at the time they
7 were rendered. For use of services to be taxable under this
8 subsection, the services must have been performed by a person
9 outside this state and receipts from the performance or sale
10 of the services not subject to the state sales tax.

11 E. The tax imposed by this section may be cited as
12 the "municipal use tax".

13 SECTION 131. Section 7-20E-1 NMSA 1978 (being Laws 1993,
14 Chapter 354, Section 1) is amended to read:

15 "7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA 1978
16 may be cited as the "County Local Option [~~Gross Receipts~~
17 ~~Taxes~~] Sales and Use Tax Act".

18 SECTION 132. Section 7-20E-2 NMSA 1978 (being Laws 1993,
19 Chapter 354, Section 2, as amended by Laws 1994, Chapter 93,
20 Section 1 and also by Laws 1994, Chapter 97, Section 1) is
21 amended to read:

22 "7-20E-2. DEFINITIONS.--As used in the County Local
23 Option [~~Gross Receipts Taxes~~] Sales and Use Tax Act:

24 A. "county" means, unless specifically defined
25 otherwise in the County Local Option [~~Gross Receipts Taxes~~]

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1 Sales and Use Tax Act, a county, including an H class county;

2 B. "county area" means that portion of a county
3 located outside the boundaries of any municipality, except
4 that for H class counties, "county area" means the entire
5 county;

6 C. "department" means the taxation and revenue
7 department, the secretary of taxation and revenue or any
8 employee of the department exercising authority lawfully
9 delegated to that employee by the secretary;

10 D. "governing body" means the county commission of
11 the county or the county council of an H class county;

12 E. "person" means an individual or any other legal
13 entity; and

14 F. "state [~~gross receipts~~] sales tax" means the
15 [~~gross receipts~~] state sales tax imposed under the [~~Gross~~
16 ~~Receipts and Compensating~~] Sales and Use Tax Act."

17 SECTION 133. Section 7-20E-3 NMSA 1978 (being Laws 1993,
18 Chapter 354, Section 3, as amended) is amended to read:

19 "7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE
20 OF ORDINANCE.--

21 A. The governing body of a county imposing a tax
22 or an increment of tax authorized by the County [~~Local Option~~
23 ~~Gross Receipts Taxes~~] Sales Tax Act [~~or any other county local~~
24 ~~option gross receipts tax act~~] that is subject to optional
25 referendum selection shall select, when enacting the ordinance

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1 imposing the tax, one of the following referendum options:

2 (1) the ordinance imposing the tax or
3 increment of tax shall go into effect on July 1 or January 1
4 in accordance with the provisions of the County Local Option
5 [~~Gross Receipts Taxes~~] Sales and Use Tax Act, but an election
6 may be called in the county on the question of approving or
7 disapproving that ordinance as follows:

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

21 (b) the signatures on the petition
22 requesting an election shall be verified by the county clerk.
23 If the petition is verified by the county clerk as containing
24 the required number of signatures of registered voters, the
25 governing body shall adopt a resolution calling an election on

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1 the question of approving or disapproving the ordinance. The
2 election shall be held within sixty days after the date the
3 petition is verified by the county clerk, or it may be held in
4 conjunction with a general election if that election occurs
5 within sixty days after the date of the verification. The
6 election shall be called, held, conducted and canvassed in
7 substantially the same manner as provided by law for general
8 elections; and

9 (c) if a majority of the registered
10 voters voting on the question approves the ordinance, the
11 ordinance shall go into effect on July 1 or January 1 in
12 accordance with the provisions of the County Local Option
13 [~~Gross Receipts Taxes~~] Sales and Use Tax Act. If at such an
14 election a majority of the registered voters voting on the
15 question disapproves the ordinance, the ordinance imposing the
16 tax shall be deemed repealed and the question of imposing the
17 tax or increment of tax shall not be considered again by the
18 governing body for a period of one year from the date of the
19 election; or

20 (2) the ordinance imposing the tax or
21 increment of tax shall not go into effect until after an
22 election is held and a simple majority of the registered
23 voters of the county voting on the question votes in favor of
24 imposing the tax or increment of tax. The governing body
25 shall adopt a resolution calling for an election within

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1 seventy-five days of the date the ordinance is adopted on the
2 question of imposing the tax or increment of tax. Such
3 question may be submitted to the voters and voted upon as a
4 separate question at any general election or at any special
5 election called for that purpose by the governing body. The
6 election upon the question shall be called, held, conducted
7 and canvassed in substantially the same manner as may be
8 provided by law for general elections. If the question of
9 imposing the tax or increment of tax fails, the governing body
10 shall not again propose the tax or increment of tax for a
11 period of one year after the election.

12 B. An ordinance imposing, amending or repealing a
13 tax or an increment of tax authorized by the County Local
14 Option [~~Gross Receipts Taxes~~] Sales and Use Tax Act shall be
15 effective on July 1 or January 1, whichever date occurs first
16 after the expiration of at least three months from the date
17 the adopted ordinance is mailed or delivered to the
18 department. The ordinance shall include that effective date."

19 SECTION 134. Section 7-20E-4 NMSA 1978 (being Laws 1993,
20 Chapter 354, Section 4) is amended to read:

21 "7-20E-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS
22 OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT
23 AND REQUIREMENTS OF THE DEPARTMENT.--

24 A. An ordinance imposing a tax [~~under~~] pursuant to
25 the provisions of the County Local Option [~~Gross Receipts~~

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1 ~~Taxes~~] Sales and Use Tax Act shall adopt by reference the same
2 definitions and the same provisions relating to exemptions and
3 deductions as are contained in the [~~Gross Receipts and~~
4 ~~Compensating~~] Sales and Use Tax Act then in effect and as it
5 may be amended from time to time.

6 B. The governing body of any county imposing a tax
7 [~~under~~] authorized by the County Local Option [~~Gross Receipts~~
8 ~~Taxes~~] Sales and Use Tax Act shall impose the tax by adopting
9 the model ordinance with respect to the tax furnished to the
10 county by the department. An ordinance that does not conform
11 substantially to the model ordinance of the department is not
12 valid."

13 SECTION 135. Section 7-20E-5 NMSA 1978 (being Laws 1993,
14 Chapter 354, Section 5, as amended) is amended to read:

15 "7-20E-5. SPECIFIC EXEMPTIONS.--No tax authorized under
16 the provisions of the County Local Option [~~Gross Receipts~~
17 ~~Taxes~~] Sales and Use Tax Act shall be imposed on the gross
18 receipts arising from transporting persons or property for
19 hire by railroad, motor vehicle, air transportation or any
20 other means from one point within the county to another point
21 outside the county."

22 SECTION 136. Section 7-20E-6 NMSA 1978 (being Laws 1993,
23 Chapter 354, Section 6) is amended to read:

24 "7-20E-6. COPY OF ORDINANCE TO BE SUBMITTED TO
25 DEPARTMENT.--A certified copy of any ordinance imposing or

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1 repealing a tax or an increment of a tax authorized [~~under~~] by
2 the County Local Option [~~Gross Receipts Taxes~~] Sales and Use
3 Tax Act or changing the tax rate imposed shall be mailed or
4 delivered to the department within five days after the later
5 of the date the ordinance is adopted or the date the results
6 of any election held with respect to the ordinance are
7 certified to be in favor of the ordinance."

8 SECTION 137. Section 7-20E-7 NMSA 1978 (being Laws 1993,
9 Chapter 354, Section 7, as amended) is amended to read:

10 "7-20E-7. COLLECTION BY DEPARTMENT--TRANSFER OF
11 PROCEEDS--DEDUCTIONS.--

12 A. The department shall collect each tax imposed
13 pursuant to the provisions of the County Local Option [~~Gross~~
14 ~~Receipts Taxes~~] Sales and Use Tax Act in the same manner and
15 at the same time it collects the state [~~gross receipts tax~~]
16 sales and use taxes.

17 B. The department shall withhold an administrative
18 fee pursuant to Section 7-1-6.41 NMSA 1978. The department
19 shall transfer to each county for which it is collecting a tax
20 pursuant to the provisions of the County Local Option [~~Gross~~
21 ~~Receipts Taxes~~] Sales and Use Tax Act the amount of each tax
22 collected for that county, less the administrative fee
23 withheld and less any disbursements for tax credits, refunds
24 and the payment of interest applicable to the tax. The
25 transfer to the county shall be made within the month

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1 following the month in which the tax is collected."

2 SECTION 138. Section 7-20E-8 NMSA 1978 (being Laws 1993,
3 Chapter 354, Section 8) is amended to read:

4 "7-20E-8. INTERPRETATION OF ACT--ADMINISTRATION AND
5 ENFORCEMENT OF ACT.--

6 A. The department shall interpret the provisions
7 of the County Local Option [~~Gross Receipts Taxes~~] Sales and
8 Use Tax Act.

9 B. The department shall administer and enforce the
10 collection of each tax authorized [~~under~~] by the provisions of
11 the County Local Option [~~Gross Receipts Taxes~~] Sales and Use
12 Tax Act, and the Tax Administration Act applies to the
13 administration and enforcement of each tax."

14 SECTION 139. Section 7-20E-9 NMSA 1978 (being Laws 1983,
15 Chapter 213, Section 30, as amended) is amended to read:

16 "7-20E-9. COUNTY [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY
17 TO IMPOSE RATE--COUNTY HEALTH CARE ASSISTANCE FUND
18 REQUIREMENTS.--

19 A. [~~Except as provided in Subsection E of this~~
20 ~~section~~] A majority of the members of the governing body of a
21 county may enact an ordinance imposing an excise tax [~~not to~~
22 ~~exceed a rate of seven-sixteenths percent of~~] on the gross
23 receipts of any person engaging in business in the county or
24 county area for the privilege of engaging in business in the
25 county or county area. [~~An ordinance imposing an excise tax~~

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1 ~~pursuant to this subsection shall impose the tax in three~~
2 ~~independent increments of one-eighth percent and one~~
3 ~~independent increment of one-sixteenth percent, which shall be~~
4 ~~separately denominated as "the first one-eighth increment",~~
5 ~~"the second one-eighth increment", "the third one-eighth~~
6 ~~increment" and "the one-sixteenth increment", respectively,~~
7 ~~not to exceed an aggregate amount of seven-sixteenths percent.~~

8 B.] A tax imposed pursuant to this section shall be
9 imposed by the enactment of one or more ordinances in
10 increments measured by hundredths of a percent. The tax
11 authorized by this section is to be referred to as the "county
12 [~~gross receipts~~] sales tax".

13 B. The maximum rate of the county sales tax on the
14 gross receipts of any person engaging in business in a county
15 or county area shall be determined as follows for each county
16 and county area:

17 (1) on and after July 1, 2018, and prior to
18 January 1, 2020, the rate shall be the quotient of the
19 county's or county area's baseline revenue divided by
20 estimated fiscal year 2019 base revenue of the county or
21 county area, multiplied by one hundred three percent and
22 rounded up to the nearest one-hundredth percent; and

23 (2) on and after January 1, 2020, the rate
24 shall be the quotient of the county's or county area's
25 baseline revenue divided by fiscal year 2019 base revenue of

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1 the county or county area, multiplied by one hundred three
2 percent and rounded up to the nearest one-hundredth percent;
3 but a county may change the rate of county sales tax in effect
4 for the county on or after July 1, 2020, by imposing or
5 repealing county sales tax increments; provided that the total
6 county sales tax in effect for the county may not exceed the
7 maximum rate applicable to the county. For counties that on
8 July 1, 2018:

9 (a) had a county sales tax in effect at
10 a rate greater than one percent on the gross receipts of any
11 person engaging in business in the county, the maximum rate is
12 one and thirty-five hundredths percent. For all other
13 counties, the maximum rate is one percent; provided further
14 that if imposing an additional increment authorized pursuant
15 to this subparagraph would cause the total county sales tax
16 rate in effect for the county to exceed six-tenths percent,
17 imposition of the increment shall be subject to an election
18 pursuant to Subsection A of Section 7-20E-3 NMSA 1978; and

19 (b) had a county sales tax in effect at
20 a rate greater than one and four-tenths percent on the gross
21 receipts of any person engaging in business in the county
22 area, the maximum rate is one and seventy-five hundredths
23 percent. For all other counties, the maximum rate is one and
24 four-tenths percent; provided further that if imposing an
25 additional increment authorized pursuant to this subparagraph

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1 would cause the total county sales tax rate in effect for the
2 county area to exceed eight-tenths percent, imposition of the
3 increment shall be subject to an election pursuant to
4 Subsection A of Section 7-20E-3 NMSA 1978.

5 C. A class A county with a county hospital
6 operated and maintained pursuant to a lease or operating
7 agreement with a state educational institution named in
8 Article 12, Section 11 of the constitution of New Mexico
9 enacting [~~the second one-eighth~~] an increment of county [~~gross~~
10 ~~receipts~~] sales tax shall provide, each year that the tax is
11 in effect, not less than one million dollars (\$1,000,000) in
12 funds, and that amount shall be dedicated to the support of
13 indigent patients who are residents of that county. Funds for
14 indigent care shall be made available each month of each year
15 the tax is in effect in an amount not less than eighty-three
16 thousand three hundred thirty-three dollars thirty-three cents
17 (\$83,333.33). The interest from the investment of county
18 funds for indigent care may be used for other assistance to
19 indigent persons, not to exceed twenty thousand dollars
20 (\$20,000) for all other assistance in any year.

21 D. A county, except a class A county with a county
22 hospital operated and maintained pursuant to a lease or
23 operating agreement with a state educational institution named
24 in Article 12, Section 11 of the constitution of New Mexico,
25 imposing [~~the second one-eighth~~] an increment of a county

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1 ~~[gross receipts]~~ sales tax shall be required to dedicate the
2 ~~[entire]~~ same amount of revenue that would have been produced
3 by the imposition of ~~[the second]~~ a one-eighth increment of a
4 county gross receipts tax, if the county gross receipts tax
5 was still in effect, for the support of indigent patients who
6 are residents of that county. ~~[The revenue produced by the~~
7 ~~imposition of the third one-eighth increment and the one-~~
8 ~~sixteenth increment may be used for general purposes. Any] A~~
9 county that has ~~[imposed the second one-eighth increment or~~
10 ~~the third one-eighth increment, or both, on January 1, 1996~~
11 ~~for support of indigent patients in the county or, after~~
12 ~~January 1, 1996, imposes the second one-eighth increment or~~
13 ~~imposes the third one-eighth increment and dedicates one-half~~
14 ~~of that increment]~~ dedicated revenue from a county sales tax
15 for county indigent patient purposes shall deposit the revenue
16 ~~[dedicated for county indigent purposes]~~ that is transferred
17 to the county in the county health care assistance fund, and
18 such revenues shall be expended pursuant to the Indigent
19 Hospital and County Health Care Act.

20 ~~[E. Until June 30, 2017, in addition to the~~
21 ~~increments authorized pursuant to Subsection A of this~~
22 ~~section, the majority of the members of the governing body of~~
23 ~~a county, except a class A county with a hospital that is~~
24 ~~operated and maintained pursuant to a lease or operating~~
25 ~~agreement with a state educational institution named in~~

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1 ~~Article 12, Section 11 of the constitution of New Mexico, may~~
2 ~~enact an ordinance imposing an excise tax of one-sixteenth~~
3 ~~percent or one-twelfth percent of the gross receipts of any~~
4 ~~person engaging in business in the county for the privilege of~~
5 ~~engaging in business in the county.]~~

6 E. As used in this section:

7 (1) "baseline revenue" means, for each county
8 and county area, the greater of the combined revenue for the
9 county in fiscal year 2018 or the annual average of the
10 combined revenue for the county in fiscal years 2015 through
11 2017;

12 (2) "combined revenue" means:

13 (a) any transfer to a county with
14 respect to any local option gross receipts tax imposed by that
15 county; and

16 (b) any distribution to a county
17 pursuant to Section 7-1-6.47 NMSA 1978;

18 (3) "estimated fiscal year 2019 base revenue"
19 means, for each county and county area, the gross receipts of
20 all persons expected to engage in business in the county or
21 county area in fiscal year 2019 that will be subject to the
22 state sales tax, as conservatively estimated by the
23 department, in consultation with the department of finance and
24 administration and the legislative finance committee to ensure
25 that revenue from the county sales tax will exceed the

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1 baseline revenue; and

2 (4) "fiscal year 2019 base revenue" means,
3 for each county and county area, the gross receipts of all
4 persons engaging in business in the county or county area in
5 fiscal year 2019 that are subject to the state sales tax, as
6 determined by the department, in consultation with the
7 department of finance and administration and the legislative
8 finance committee."

9 SECTION 140. A new section of the County Local Option
10 Sales and Use Tax Act is enacted to read:

11 "[NEW MATERIAL] COUNTY USE TAX.--

12 A. The majority of the members of the governing
13 body of a county shall impose by ordinance an excise tax on a
14 person using tangible personal property in the county, for the
15 privilege of using the tangible property in the county, at a
16 rate equal to the rate imposed and in effect pursuant to
17 Section 7-20E-9 NMSA 1978 of the value of tangible property
18 that was:

19 (1) manufactured by the person using the
20 property in the state; or

21 (2) acquired inside or outside of this state
22 as the result of a transaction with a person located outside
23 this state that would have been subject to the state sales tax
24 had the tangible personal property been acquired from a person
25 with nexus with New Mexico.

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

9 C. For the privilege of using a license or
10 franchise in a county, there is imposed on the person using
11 the property an excise tax equal to the tax rate provided in
12 Subsection A of this section against the value of the property
13 in its use in the county. For use of a license or franchise
14 to be taxable under this subsection, the property must have
15 been sold, leased or licensed by a person outside this state
16 and the receipts from the sale, lease or licensing of the
17 license or franchise must not have been subject to the state
18 sales tax.

19 D. For the privilege of using services rendered in
20 a county, there is imposed on the person using such services
21 an excise tax at the rate provided in Subsection A of this
22 section of the value of the services at the time they were
23 rendered. For use of services to be taxable under this
24 subsection, the services must have been performed by a person
25 outside this state and receipts from the performance or sale

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1 of the services not subject to the state sales tax.

2 E. The tax imposed by this section may be cited as
3 the "county use tax".

4 SECTION 141. Section 7-36-21.2 NMSA 1978 (being Laws
5 2000, Chapter 10, Section 2, as amended) is amended to read:

6 "7-36-21.2. LIMITATION ON INCREASES IN VALUATION OF
7 RESIDENTIAL PROPERTY.--

8 A. Except as otherwise provided in this section,
9 residential property shall be valued at its current and
10 correct value in accordance with the provisions of the
11 Property Tax Code; provided that [~~for the 2001 and subsequent~~
12 ~~tax years, the value of a property in any tax year shall not~~
13 ~~exceed the higher of one hundred three percent of the value in~~
14 ~~the tax year prior to the tax year in which the property is~~
15 ~~being valued or one hundred six and one-tenth percent of the~~
16 ~~value in the tax year two years prior to the tax year in which~~
17 ~~the property is being valued. This]:~~

18 (1) for the 2018 tax year, the value of a
19 property shall not exceed whichever value is the highest of
20 the following:

21 (a) one hundred five percent of the
22 value in the tax year prior to the tax year in which the
23 property is being valued;

24 (b) one hundred ten and twenty-five
25 hundredths percent of the value in the tax year two years

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1 prior to the tax year in which the property is being valued;

2 or

3 (c) seventy percent of the current and
4 correct value of the property determined for property taxation
5 purposes;

6 (2) for the 2019 tax year, the value of a
7 property shall not exceed whichever value is the highest of
8 the following:

9 (a) one hundred seven percent of the
10 value in the tax year prior to the tax year in which the
11 property is being valued;

12 (b) one hundred fourteen and forty-nine
13 hundredths percent of the value in the tax year two years
14 prior to the tax year in which the property is being valued;

15 or

16 (c) eighty-five percent of the current
17 and correct value of the property determined for property
18 taxation purposes; and

19 (3) for the 2020 and subsequent tax years, a
20 property shall be valued at its current and correct value in
21 accordance with the general provisions of the Property Tax
22 Code.

23 B. The limitation on increases in value pursuant
24 to Subsection A of this section shall be the highest value and
25 shall not exceed the current and correct value of the property

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1 determined for property taxation purposes in accordance with
2 the general provisions of the Property Tax Code.

3 C. Notwithstanding Subsection A of this section,
4 the valuation for property taxation purposes of a
5 single-family dwelling owned and occupied as the primary
6 residence of a New Mexico resident, whose modified gross
7 income, as defined in the Income Tax Act, for the prior
8 taxable year did not exceed the greater of thirty-five
9 thousand dollars (\$35,000), for:

10 (1) ten to twenty-four years, shall not
11 exceed whichever value is the highest of the following:

12 (a) one hundred five percent of the
13 value in the tax year prior to the tax year in which the
14 property is being valued; or

15 (b) one hundred ten and twenty-five
16 hundredths percent of the value in the tax year two years
17 prior to the tax year in which the property is being valued;
18 or

19 (2) more than twenty-four years, shall not
20 exceed whichever value is the highest of the following:

21 (a) one hundred three percent of the
22 value in the tax year prior to the tax year in which the
23 property is being valued; or

24 (b) one hundred six and one-tenth
25 percent of the value in the tax year two years prior to the

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1 tax year in which the property is being valued.

2 D. The limitation on increases in value does not
3 apply to:

4 (1) a residential property in the first tax
5 year that it is valued for property taxation purposes;

6 (2) any physical improvements, except for
7 solar energy system installations, made to the property during
8 the year immediately prior to the tax year or omitted in a
9 prior tax year; or

10 (3) valuation of a residential property in
11 any tax year in which

12 ~~[(a) a change of ownership of the~~
13 ~~property occurred in the year immediately prior to the tax~~
14 ~~year for which the value of the property for property taxation~~
15 ~~purposes is being determined; or~~

16 ~~(b)]~~ the use or zoning of the property
17 has changed in the year prior to the tax year.

18 ~~[B. If a change of ownership of residential~~
19 ~~property occurred in the year immediately prior to the tax~~
20 ~~year for which the value of the property for property taxation~~
21 ~~purposes is being determined, the value of the property shall~~
22 ~~be its current and correct value as determined pursuant to the~~
23 ~~general valuation provisions of the Property Tax Code.~~

24 ~~C. To assure that the values of residential~~
25 ~~property for property taxation purposes are at current and~~

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1 ~~correct values in all counties prior to application of the~~
2 ~~limitation in Subsection A of this section, the department~~
3 ~~shall determine for the 2000 tax year the sales ratio pursuant~~
4 ~~to Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be~~
5 ~~determined pursuant to that section, conduct a sales ratio~~
6 ~~analysis using both independent appraisals by the department~~
7 ~~and sales. If the sales ratio for a county for the 2000 tax~~
8 ~~year is less than eighty-five, as measured by the median ratio~~
9 ~~of value for property taxation purposes to sales price or~~
10 ~~independent appraisal by the department, the county shall not~~
11 ~~be subject to the limitations of Subsection A of this section~~
12 ~~and shall conduct a reassessment of residential property in~~
13 ~~the county so that, by the 2003 tax year, the sales ratio is~~
14 ~~at least eighty-five. After such reassessment, the limitation~~
15 ~~on increases in valuation in this section shall apply in those~~
16 ~~counties in the earlier of the 2004 tax year or the first tax~~
17 ~~year following the tax year that the county has a sales ratio~~
18 ~~of eighty-five or higher, as measured by the median ratio of~~
19 ~~value for property taxation purposes to sales value or~~
20 ~~independent appraisal by the department. Thereafter, the~~
21 ~~limitation on increases in valuation of residential property~~
22 ~~for property taxation purposes in this section shall apply to~~
23 ~~subsequent tax years in all counties.~~

24 ~~D.~~ E. The provisions of this section do not apply
25 to residential property for any tax year in which the property

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1 is subject to the valuation limitation in Section 7-36-21.3
2 NMSA 1978.

3 ~~[E. As used in this section, "change of ownership"~~
4 ~~means a transfer to a transferee by a transferor of all or any~~
5 ~~part of the transferor's legal or equitable ownership interest~~
6 ~~in residential property except for a transfer:~~

7 ~~(1) to a trustee for the beneficial use of~~
8 ~~the spouse of the transferor or the surviving spouse of a~~
9 ~~deceased transferor;~~

10 ~~(2) to the spouse of the transferor that~~
11 ~~takes effect upon the death of the transferor;~~

12 ~~(3) that creates, transfers or terminates,~~
13 ~~solely between spouses, any co-owner's interest;~~

14 ~~(4) to a child of the transferor, who~~
15 ~~occupies the property as that person's principal residence at~~
16 ~~the time of transfer; provided that the first subsequent tax~~
17 ~~year in which that person does not qualify for the head of~~
18 ~~household exemption on that property, a change of ownership~~
19 ~~shall be deemed to have occurred;~~

20 ~~(5) that confirms or corrects a previous~~
21 ~~transfer made by a document that was recorded in the real~~
22 ~~estate records of the county in which the real property is~~
23 ~~located;~~

24 ~~(6) for the purpose of quieting the title to~~
25 ~~real property or resolving a disputed location of a real~~

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1 ~~property boundary;~~

2 ~~(7) to a revocable trust by the transferor~~
3 ~~with the transferor, the transferor's spouse or a child of the~~
4 ~~transferor as beneficiary; or~~

5 ~~(8) from a revocable trust described in~~
6 ~~Paragraph (7) of this subsection back to the settlor or~~
7 ~~trustor or to the beneficiaries of the trust.]~~

8 F. The limitation of value pursuant to Subsection
9 C of this section shall be applied only if claimed and allowed
10 in accordance with Section 7-38-17 NMSA 1978 and rules of the
11 department. The limitation may be claimed by filing proof of
12 eligibility with the county assessor on an application form
13 prescribed by the department and furnished by the assessor,
14 which shall provide for proof of occupancy and income
15 eligibility. An owner who applies for a limitation of value
16 pursuant to this subsection and files proof of income
17 eligibility for the three consecutive years immediately prior
18 to the tax year for which the application is made need not
19 claim the limitation for subsequent tax years if there is no
20 change in eligibility. Thereafter, the county assessor shall
21 apply the limitation automatically in subsequent tax years
22 until a change in eligibility occurs.

23 [F.] G. As used in this section, "solar energy
24 system installation" means an installation that is used to
25 provide space heat, hot water or electricity to the property

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1 in which it is installed and is:

2 (1) an installation that uses solar panels
3 that are not also windows;

4 (2) a dark-colored water tank exposed to
5 sunlight; or

6 (3) a non-vented trombe wall."

7 SECTION 142. Section 7-38-17 NMSA 1978 (being Laws 1973,
8 Chapter 258, Section 57, as amended) is amended to read:

9 "7-38-17. CLAIMING EXEMPTIONS--REQUIREMENTS--
10 PENALTIES.--

11 A. Subject to the requirements of Subsection E of
12 this section, the limitation of value pursuant to Section
13 7-36-21.2 NMSA 1978, head-of-family exemptions, veteran
14 exemptions, disabled veteran exemptions or veterans'
15 organization exemptions claimed and allowed in a tax year need
16 not be claimed for subsequent tax years if there is no change
17 in eligibility for the exemption nor any change in ownership
18 of the property against which the exemption was claimed.

19 Head-of-family, veteran and veterans' organization exemptions
20 allowable under this subsection shall be applied automatically
21 by county assessors in the subsequent tax years.

22 B. Other exemptions of real property specified
23 under Section 7-36-7 NMSA 1978 for nongovernmental entities
24 shall be claimed in order to be allowed. Once such exemptions
25 are claimed and allowed for a tax year, they need not be

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1 claimed for subsequent tax years if there is no change in
2 eligibility. Exemptions allowable under this subsection shall
3 be applied automatically by county assessors in subsequent tax
4 years.

5 C. Except as set forth in Subsection H of this
6 section, an exemption required to be claimed under this
7 section shall be applied for no later than thirty days after
8 the mailing of the county assessor's notices of valuation
9 pursuant to Section 7-38-20 NMSA 1978 in order for it to be
10 allowed for that tax year.

11 D. A person who has had an exemption applied to a
12 tax year and subsequently becomes ineligible for the exemption
13 because of a change in the person's status or a change in the
14 ownership of the property against which the exemption was
15 applied shall notify the county assessor of the loss of
16 eligibility for the exemption by the last day of February of
17 the tax year immediately following the year in which loss of
18 eligibility occurs.

19 E. Exemptions may be claimed by filing proof of
20 eligibility for the exemption with the county assessor. The
21 proof shall be in a form prescribed by regulation of the
22 department. Procedures for determining eligibility of
23 claimants for any exemption shall be prescribed by regulation
24 of the department, and these regulations shall include
25 provisions for requiring the veterans' services department to

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1 issue certificates of eligibility for veteran and veterans'
2 organization exemptions in a form and with the information
3 required by the department. The regulations shall also
4 include verification procedures to assure that veteran
5 exemptions in excess of the amount authorized under Section
6 7-37-5 NMSA 1978 are not allowed as a result of multiple
7 claiming in more than one county or claiming against more than
8 one property in a single tax year.

9 F. The department shall consult and cooperate with
10 the veterans' services department in the development, adoption
11 and promulgation of regulations under Subsection E of this
12 section. The veterans' services department shall comply with
13 the promulgated regulations. The veterans' services
14 department shall collect a fee of five dollars (\$5.00) for the
15 issuance of a duplicate certificate of eligibility to a
16 veteran or to a veterans' organization.

17 G. A person who violates the provisions of this
18 section by intentionally claiming and receiving the benefit of
19 an exemption to which the person is not entitled or who fails
20 to comply with the provisions of Subsection D of this section
21 is guilty of a misdemeanor and shall be punished by a fine of
22 not more than one thousand dollars (\$1,000). A county
23 assessor or the assessor's employee who knowingly permits a
24 claimant for an exemption to receive the benefit of an
25 exemption to which the claimant is not entitled is guilty of a

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1 misdemeanor and shall be punished by a fine of not more than
2 one thousand dollars (\$1,000) and shall also be automatically
3 removed from office or dismissed from employment upon
4 conviction under this subsection.

5 ~~[H. A veteran or the veteran's unmarried surviving~~
6 ~~spouse who became eligible to receive a property tax exemption~~
7 ~~due to the expansion of the class of eligible veterans~~
8 ~~resulting from approval by the electorate in November 2004 of~~
9 ~~an amendment to Article 8, Section 5 of the constitution of~~
10 ~~New Mexico shall apply at the time the veteran or the~~
11 ~~veteran's unmarried surviving spouse applies for the 2005~~
12 ~~veteran exemption, to the county assessor of the county in~~
13 ~~which the property of the veteran or the veteran's unmarried~~
14 ~~surviving spouse is located to have the veteran exemptions for~~
15 ~~the 2004 and 2005 property tax years applied to the 2005~~
16 ~~taxable value of the property. The same form of documentation~~
17 ~~required for a veteran's property exemption for property tax~~
18 ~~year 2005 is required to be presented to the county assessor~~
19 ~~for property tax year 2004.]"~~

20 SECTION 143. Section 9-6-5.2 NMSA 1978 (being Laws 2011,
21 Chapter 106, Section 5) is amended to read:

22 "9-6-5.2. FAILURE TO TIMELY SUBMIT AUDIT REPORTS OR
23 FINANCIAL REPORTS--ENFORCEMENT POWERS OF SECRETARY.--

24 A. Upon notification by the state auditor pursuant
25 to Subsection G of Section 12-6-3 NMSA 1978 that a state

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1 agency, state institution, municipality or county has failed
2 to submit an audit report as required by the Audit Act, the
3 secretary of finance and administration shall order the
4 agency, institution, municipality or county to submit monthly
5 financial reports to the department of finance and
6 administration until all past-due audit reports have been
7 submitted to the state auditor and the secretary is satisfied
8 that the agency, institution, municipality or county is in
9 compliance with all financial and audit requirements.

10 B. If, ninety days after an order has been issued
11 pursuant to Subsection A of this section to a state agency or
12 state institution subject to periodic allotments, the agency
13 or institution has not submitted all past-due reports or has
14 not otherwise made progress, satisfactory to the state
15 auditor, toward compliance with the Audit Act, the secretary
16 may direct the state budget division to temporarily withhold
17 periodic allotments to the agency or institution pursuant to
18 Section 6-3-6 NMSA 1978. The amounts withheld and the period
19 of time for which the allotments are to be withheld shall be
20 determined by the secretary subject to the following
21 guidelines:

22 (1) the initial amount withheld shall not
23 exceed five percent of the allotment and shall be for a period
24 of no more than three months;

25 (2) every three months, the secretary shall

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1 determine if the agency or institution has submitted all past-
2 due audit reports or has otherwise made progress, satisfactory
3 to the state auditor, toward compliance with the Audit Act.

4 If the secretary determines that past-due reports have not
5 been submitted and that there has been inadequate progress,
6 the secretary may direct that the amount being currently
7 withheld be increased by an additional amount, up to another
8 five percent of the allotment, for an additional period of up
9 to three months; and

10 (3) upon a determination that all past-due
11 audit reports have been submitted or that the agency or
12 institution is otherwise making progress, satisfactory to the
13 state auditor, toward compliance with the Audit Act, the
14 secretary shall direct that all withheld amounts be
15 distributed to the agency or institution and that future
16 allotments shall be made in full.

17 C. If, ninety days after an order has been issued
18 pursuant to Subsection A of this section to a municipality or
19 county, the municipality or county has not submitted all past-
20 due reports or has not otherwise made progress, satisfactory
21 to the state auditor, toward compliance with the Audit Act,
22 the secretary may direct the secretary of taxation and revenue
23 to temporarily withhold distributions to the municipality or
24 county pursuant to Section 7-1-6.15 NMSA 1978. The amounts
25 withheld, the source of the amounts and the period of time for

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1 which the distributions are to be withheld shall be determined
2 by the secretary of finance and administration subject to the
3 following guidelines:

4 (1) transfers to a county or municipality of
5 receipts from [~~any local option gross receipts tax or from~~] a
6 tax imposed pursuant to the Municipal Local Option Sales and
7 Use Tax Act, the County Local Option Sales and Use Tax Act and
8 the Local Liquor Excise Tax Act shall not be withheld;

9 (2) the source and amount of a withheld
10 distribution shall be determined in a manner that will not:

11 (a) impair any outstanding bonds or
12 other obligations of the municipality or county; or

13 (b) interrupt a redirected distribution
14 to the New Mexico finance authority pursuant to an ordinance
15 or a resolution passed by the county or municipality and a
16 written agreement of the municipality or county and the New
17 Mexico finance authority;

18 (3) the initial amount withheld shall not
19 exceed five percent of the amount that would otherwise be
20 distributed to the municipality or county pursuant to the Tax
21 Administration Act and shall be for a period of no more than
22 three months;

23 (4) every three months, the secretary of
24 finance and administration shall determine if the municipality
25 or county has submitted all past-due audit reports or has

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1 otherwise made progress, satisfactory to the state auditor,
2 toward compliance with the Audit Act. If the secretary
3 determines that past-due reports have not been submitted and
4 that there has been inadequate progress, the secretary may
5 direct that the amount being currently withheld be increased
6 by an additional amount, up to another five percent of the
7 amount that would otherwise be distributed, for an additional
8 period of up to three months; and

9 (5) upon a determination that all past-due
10 audit reports have been submitted or that the municipality or
11 county is otherwise making progress, satisfactory to the state
12 auditor, toward compliance with the Audit Act, the secretary
13 shall direct that all withheld amounts be distributed to the
14 municipality or county and that future distributions shall be
15 made in full.

16 D. After receiving notice from the local
17 government division of the department of finance and
18 administration required by Subsection G of Section 6-6-2 NMSA
19 1978 that a municipality or county has failed to submit two
20 consecutive financial reports pursuant to Subsection F of that
21 section, the secretary may direct the secretary of taxation
22 and revenue to temporarily withhold distributions to the
23 municipality or county pursuant to Section 7-1-6.15 NMSA 1978.
24 The amounts withheld, the source of the amounts and the period
25 of time for which the distributions are to be withheld shall

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1 be determined by the secretary of finance and administration
2 subject to the following guidelines:

3 (1) transfers to a county or municipality of
4 receipts from [~~any local option gross receipts tax or from~~] a
5 tax imposed pursuant to the Municipal Local Option Sales and
6 Use Tax Act, the County Local Option Sales and Use Tax Act and
7 the Local Liquor Excise Tax Act shall not be withheld;

8 (2) the source and amount of a withheld
9 distribution shall be determined in a manner that will not:

10 (a) impair any outstanding bonds or
11 other obligations of the municipality or county; or

12 (b) interrupt a redirected distribution
13 to the New Mexico finance authority pursuant to an ordinance
14 or a resolution passed by the county or municipality and a
15 written agreement of the municipality or county and the New
16 Mexico finance authority;

17 (3) the initial amount withheld shall not
18 exceed five percent of the amount that would otherwise be
19 distributed to the municipality or county pursuant to the Tax
20 Administration Act and shall be for a period of no more than
21 three months;

22 (4) every three months, the secretary of
23 finance and administration shall determine if the municipality
24 or county has submitted all past-due financial reports or has
25 otherwise made progress, satisfactory to the local government

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1 division, toward compliance with the law. If the secretary
2 determines that past-due reports have not been submitted and
3 that there has been inadequate progress, the secretary may
4 direct that the amount being currently withheld be increased
5 by an additional amount, up to another five percent of the
6 amount that would otherwise be distributed, for an additional
7 period of up to three months; and

8 (5) upon a determination that all past-due
9 financial reports have been submitted or that the municipality
10 or county is otherwise making progress, satisfactory to the
11 local government division, toward compliance with the law, the
12 secretary shall direct that all withheld amounts be
13 distributed to the municipality or county and that future
14 distributions shall be made in full."

15 SECTION 144. Section 27-5-6.2 NMSA 1978 (being Laws
16 2014, Chapter 79, Section 16) is amended to read:

17 "27-5-6.2. TRANSFER TO SAFETY NET CARE POOL FUND.--

18 A. A county shall ~~[by ordinance to be effective~~
19 ~~July 1, 2014]~~ dedicate to the safety net care pool fund an
20 amount equal to a ~~[gross receipts]~~ county sales tax rate ~~[of~~
21 ~~one-twelfth percent]~~ as determined pursuant to Subsection H of
22 Section 7-1-84 NMSA 1978 applied to the taxable gross receipts
23 reported during the prior fiscal year by persons engaging in
24 business in the county. For purposes of this ~~[subsection]~~
25 section, a county may use public funds from any existing

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1 authorized revenue source of the county.

2 B. A county [~~enacting an ordinance pursuant to~~
3 ~~Subsection A of this section~~] shall transfer the dedicated
4 amounts to the safety net care pool fund by the last day of
5 March, June, September and December of each year an amount
6 equal to one-fourth of the county's payment to the safety net
7 care pool fund."

8 SECTION 145. Section 27-10-4 NMSA 1978 (being Laws 1991,
9 Chapter 212, Section 4, as amended) is amended to read:

10 "27-10-4. [~~ALTERNATIVE REVENUE SOURCE TO IMPOSITION OF~~
11 ~~COUNTY HEALTH CARE GROSS RECEIPTS TAX]~~ COUNTY TRANSFER TO
12 COUNTY-SUPPORTED MEDICAID FUND.--

13 A. [~~In the event a county does not enact an~~
14 ~~ordinance imposing a county health care gross receipts tax~~
15 ~~pursuant to Section 7-20D-3 NMSA 1978, the]~~ A county shall [by
16 ~~ordinance to be effective July 1, 1993]~~ dedicate to the
17 county-supported medicaid fund an amount equal to a [gross
18 receipts] county sales tax rate [of one-sixteenth of one
19 percent] as determined pursuant to Subsection I of Section
20 7-1-84 NMSA 1978 applied to the taxable gross receipts
21 reported during the prior fiscal year by persons engaging in
22 business in the county. For purposes of this subsection, a
23 county may use funds from any existing authorized revenue
24 source of the county.

25 B. For each county, [~~that has in effect an~~

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1 ~~ordinance enacted pursuant to Subsection A of this section on~~
2 ~~July 1 of each year]~~ the taxation and revenue department shall
3 certify to the county [~~by September 15, 1993 and]~~ by September
4 15 of each [~~subsequent~~] fiscal year the amount of gross
5 receipts reported for the county [~~for purposes of the gross~~
6 ~~receipts tax]~~ during the prior fiscal year. Upon
7 certification by the taxation and revenue department, [~~any~~
8 ~~county enacting an ordinance pursuant to Subsection A of this~~
9 ~~section]~~ a county shall transfer one-fourth of the dedication
10 to the county-supported medicaid fund by the last day of
11 March, June, September and December of each year [~~an amount~~
12 ~~equal to a rate of one sixty-fourth of one percent applied to~~
13 ~~the certified amount.~~

14 C. ~~The requirements of an ordinance enacted~~
15 ~~pursuant to this section may be terminated for a county only~~
16 ~~on the effective date of an ordinance enacted by the county~~
17 ~~imposing the county health care gross receipts tax; provided~~
18 ~~that if the effective date of the ordinance imposing the tax~~
19 ~~is January 1, the termination does not apply to the payments~~
20 ~~required for September and December of that year]."~~

21 SECTION 146. Section 47-14-18 NMSA 1978 (being Laws
22 2009, Chapter 214, Section 18, as amended) is amended to read:

23 "47-14-18. PAYMENT--LIMITS--DISCLOSURE [~~NONTAXABLE~~
24 ~~TRANSACTION CERTIFICATE]~~.--

25 A. The fees paid to an appraiser for completion of

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1 the appraisal shall not include a fee for management of the
2 appraisal process or any activity other than the performance
3 of the appraisal.

4 B. An appraisal management company shall
5 separately state the fees paid to an appraiser for appraisal
6 services and the fees charged by the appraisal management
7 company for services associated with the management of the
8 appraisal process, including procurement of the appraiser's
9 services to the client, borrower and any other payor.

10 C. Appraisers shall not be prohibited by the
11 appraisal management company, client or other third party from
12 disclosing the fee paid to the appraiser for the performance
13 of the appraisal in the appraisal report.

14 D. As used in this section, "payor" means any
15 person or entity who is responsible for making payment for the
16 appraisal.

17 E. An appraisal management company shall, except
18 in cases of breach of contract or substandard performance of
19 services, make payment to an independent appraiser for the
20 completion of an appraisal or valuation assignment within
21 sixty days of the date on which the independent appraiser
22 transmits or otherwise provides the completed appraisal or
23 valuation study to the appraisal management company or its
24 assignee.

25 ~~[F. An appraisal management company shall provide~~

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1 ~~an appraiser with the appropriate nontaxable transaction~~
2 ~~certificate pursuant to Section 7-9-48 NMSA 1978.]"~~

3 SECTION 147. Section 58-31-3 NMSA 1978 (being Laws 2005,
4 Chapter 128, Section 3, as amended) is amended to read:

5 "58-31-3. DEFINITIONS.--As used in the Spaceport
6 Development Act:

7 A. "authority" means the spaceport authority;

8 B. "project" means any land, building or other
9 improvements acquired as part of a spaceport or associated
10 with a spaceport or to aid commerce in connection with a
11 spaceport and all real and personal property deemed necessary
12 in connection with the spaceport;

13 C. "revenue" means municipal [~~regional spaceport~~
14 ~~gross receipts tax~~] and county [~~regional spaceport gross~~
15 ~~receipts~~] local option sales tax revenue dedicated by the
16 municipality or county for the financing, planning, designing,
17 engineering and construction of a regional spaceport pursuant
18 to the Regional Spaceport District Act and received from a
19 regional spaceport district, revenue generated by a project
20 and any other legally available funds of the authority;

21 D. "space vehicle" means a vehicle capable of
22 being flown in space or launching a payload into space; and

23 E. "spaceport" means a facility in New Mexico at
24 which space vehicles may be launched or landed, including all
25 facilities and support infrastructure related to launch,

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1 landing or payload processing."

2 SECTION 148. Section 58-31-5 NMSA 1978 (being Laws 2005,
3 Chapter 128, Section 5, as amended) is amended to read:

4 "58-31-5. AUTHORITY POWERS AND DUTIES.--

5 A. The authority shall:

6 (1) hire an executive director, who shall
7 employ the necessary professional, technical and clerical
8 staff to enable the authority to function efficiently and
9 shall direct the affairs and business of the authority,
10 subject to the direction of the authority;

11 (2) be located within fifty miles of a
12 southwest regional spaceport;

13 (3) advise the governor, the governor's staff
14 and the New Mexico finance authority oversight committee on
15 methods, proposals, programs and initiatives involving a
16 southwest regional spaceport that may further stimulate space-
17 related business and employment opportunities in New Mexico;

18 (4) initiate, develop, acquire, own,
19 construct, maintain and lease space-related projects;

20 (5) make and execute all contracts and other
21 instruments necessary or convenient to the exercise of its
22 powers and duties;

23 (6) create programs to expand high-technology
24 economic opportunities within New Mexico;

25 (7) create avenues of communication among

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1 federal government agencies, the space industry, users of
2 space launch services and academia concerning space business;

3 (8) promote legislation that will further the
4 goals of the authority and development of space business;

5 (9) oversee and fund production of
6 promotional literature related to the authority's goals;

7 (10) identify science and technology trends
8 that are significant to space enterprise and the state and act
9 as a clearinghouse for space enterprise issues and
10 information;

11 (11) coordinate and expedite the involvement
12 of the state executive branch's space-related development
13 efforts; and

14 (12) perform environmental, transportation,
15 communication, land use and other technical studies necessary
16 or advisable for projects and programs or to secure licensing
17 by appropriate United States agencies.

18 B. The authority may:

19 (1) advise and cooperate with municipalities,
20 counties, state agencies and organizations, appropriate
21 federal agencies and organizations and other interested
22 persons and groups;

23 (2) solicit and accept federal, state, local
24 and private grants of funds or property and financial or other
25 aid for the purpose of carrying out the provisions of the

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1 Spaceport Development Act;

2 (3) adopt rules governing the manner in which
3 its business is transacted and the manner in which the powers
4 of the authority are exercised and its duties performed;

5 (4) operate spaceport facilities, including
6 acquisition of real property necessary for spaceport
7 facilities and the filing of necessary documents with
8 appropriate agencies;

9 (5) construct, purchase, accept donations of
10 or lease projects located within the state;

11 (6) sell, lease or otherwise dispose of a
12 project upon terms and conditions acceptable to the authority
13 and in the best interests of the state;

14 (7) issue revenue bonds and borrow money for
15 the purpose of defraying the cost of acquiring a project by
16 purchase or construction and of securing the payment of the
17 bonds or repayment of a loan;

18 (8) enter into contracts with regional
19 spaceport districts and issue bonds on behalf of regional
20 spaceport districts for the purpose of financing the purchase,
21 construction, renovation, equipping or furnishing of a
22 regional spaceport or a spaceport-related project;

23 (9) refinance a project;

24 (10) contract with any competent private or
25 public organization or individual to assist in the fulfillment

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1 of its duties;

2 (11) fix, alter, charge and collect tolls,
3 fees or rentals and impose any other charges for the use of or
4 for services rendered by any authority facility, program or
5 service; and

6 (12) contract with regional spaceport
7 districts to receive revenue from a municipal [~~spaceport gross~~
8 ~~receipts tax and~~] or county [~~regional spaceport gross~~
9 ~~receipts~~] local option sales tax [~~revenues~~].

10 C. The authority shall not:

11 (1) incur debt as a general obligation of the
12 state or pledge the full faith and credit of the state to
13 repay debt; or

14 (2) expend funds or incur debt for the
15 improvement, maintenance, repair or addition to property
16 unless it is owned by the authority, the state or a political
17 subdivision of the state."

18 SECTION 149. Section 58-31-6 NMSA 1978 (being Laws 2005,
19 Chapter 128, Section 6, as amended) is amended to read:

20 "58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER
21 TO ISSUE REVENUE BONDS.--

22 A. The authority may issue revenue bonds on its
23 own behalf or on behalf of a regional spaceport district, for
24 regional spaceport purposes and spaceport-related projects.

25 Revenue bonds so issued may be considered appropriate

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1 investments for the severance tax permanent fund or collateral
2 for the deposit of public funds if the bonds are rated not
3 less than "A" by a national rating service and both the
4 principal and interest of the bonds are fully and
5 unconditionally guaranteed by a lease agreement executed by an
6 agency of the United States government or by a corporation
7 organized and operating within the United States, that
8 corporation or the long-term debt of that corporation being
9 rated not less than "A" by a national rating service. All
10 bonds issued by the authority are legal and authorized
11 investments for banks, trust companies, savings and loan
12 associations and insurance companies.

13 B. The authority may pay from the bond proceeds
14 all expenses, premiums and commissions that the authority
15 deems necessary or advantageous in connection with the
16 authorization, sale and issuance of the bonds.

17 C. Authority revenue bonds:

18 (1) may have interest or appreciated
19 principal value or any part thereof payable at intervals
20 determined by the authority;

21 (2) may be subject to prior redemption or
22 mandatory redemption at the authority's option at the time and
23 upon such terms and conditions with or without the payment of
24 a premium as may be provided by resolution of the authority;

25 (3) may mature at any time not exceeding

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1 twenty years after the date of issuance if secured by revenue
2 from [the] a county or municipal [~~regional spaceport gross~~
3 ~~receipts~~] sales tax or thirty years if secured by revenue from
4 other sources;

5 (4) may be serial in form and maturity; may
6 consist of one or more bonds payable at one time or in
7 installments; or may be in such other form as determined by
8 the authority;

9 (5) may be in registered or bearer form or in
10 book-entry form through facilities of a securities depository
11 either as to principal or interest or both;

12 (6) shall be sold for cash at, above or below
13 par and at a price that results in a net effective interest
14 rate that conforms to the Public Securities Act; and

15 (7) may be sold at public or negotiated sale.

16 D. Subject to the approval of the state board of
17 finance, the authority may enter into other financial
18 arrangements if it determines that the arrangements will
19 assist the authority."

20 SECTION 150. Section 59A-6-6 NMSA 1978 (being Laws 1984,
21 Chapter 127, Section 106, as amended) is amended to read:

22 "59A-6-6. [~~PREEMPTION AND~~] IN LIEU PROVISION.--[The
23 ~~state government of New Mexico preempts the field of taxation~~
24 ~~of insurers, nonprofit health care plans, health maintenance~~
25 ~~organizations, prepaid dental plans, prearranged funeral plans~~

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1 ~~and insurance producers as such, and payment of the taxes,~~
2 ~~licenses and fees provided for in the Insurance Code] The
3 premium tax imposed pursuant to Section 59A-6-2 NMSA 1978
4 shall be in lieu of all other taxes, licenses and fees [~~of~~
5 ~~every kind now or hereafter imposed by this state or any~~
6 ~~political subdivision thereof on any of the foregoing~~
7 ~~specified entities, excepting the regular state, county and~~
8 ~~city taxes on property located in New Mexico and excepting the~~
9 ~~income tax on insurance producers. No provision of law~~
10 ~~enacted after January 1, 1985 shall be deemed to modify this~~
11 ~~provision except by express reference to this section] on
12 revenue or receipts for which the premium tax is assessed."~~~~

13 SECTION 151. TEMPORARY PROVISION--REFERENCES IN LAW.--

14 A. References in law to the compensating tax shall
15 be deemed to be references to the use tax.

16 B. References in law to the county gross receipts
17 tax shall be deemed to be references to county sales tax.

18 C. References in law to a county local option
19 gross receipts tax shall be deemed to be references to a
20 county sales tax.

21 D. References in law to the County Local Option
22 Gross Receipts Taxes Act shall be deemed to be references to
23 the County Local Option Sales and Use Tax Act.

24 E. References in law to the governmental gross
25 receipts tax shall be deemed to be references to the

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1 governmental sales tax.

2 F. References in law to the Gross Receipts and
3 Compensating Tax Act shall be deemed to be references to the
4 Sales and Use Tax Act.

5 G. References in law to the gross receipts tax
6 shall be deemed to be references to the state sales tax.

7 H. References in law to the interstate
8 telecommunications gross receipts tax shall be deemed to be
9 references to the interstate telecommunications sales tax.

10 I. References in law to the Interstate
11 Telecommunications Gross Receipts Tax Act shall be deemed to
12 be references to the Interstate Telecommunications Sales Tax
13 Act.

14 J. References in law to the interstate
15 telecommunications gross receipts tax shall be deemed to be
16 references to the interstate telecommunications sales tax.

17 K. References in law to the leased vehicle gross
18 receipts tax shall be deemed to be references to the leased
19 vehicle sales tax.

20 L. References in law to the Leased Vehicle Gross
21 Receipts Tax Act shall be deemed to be references to the
22 Leased Vehicle Sales Tax Act.

23 M. References in law to a local option gross
24 receipts tax shall be deemed to be references to a local
25 option sales tax.

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1 N. References in law to the municipal gross
2 receipts tax shall be deemed to be references to the municipal
3 sales tax.

4 O. References in law to the Municipal Local Option
5 Gross Receipts Taxes Act shall be deemed to be references to
6 the Municipal Local Option Sales and Use Tax Act.

7 P. References in law to the state gross receipts
8 tax shall be deemed to be references to the state sales tax.

9 **SECTION 152. TEMPORARY PROVISION--MORATORIUM OF**
10 **ENACTMENT OF ADDITIONAL LOCAL OPTION GROSS RECEIPTS TAXES.--**

11 A. Notwithstanding the provisions of the Municipal
12 Local Option Gross Receipts Taxes Act or the County Local
13 Option Gross Receipts Taxes Act, on and after the effective
14 date of this act, a municipality or county shall not impose
15 any local option gross receipts tax increments in addition to
16 those in effect on the effective date of this act.

17 B. Notwithstanding the provisions of the Municipal
18 Local Option Sales and Use Tax Act or the County Local Option
19 Sales and Use Tax Act, on and after the effective date of this
20 act, a municipality or county shall not impose any local
21 option sales tax increments in addition to those in effect on
22 July 1, 2020, if the additional increment is be effective
23 prior to July 1, 2020.

24 **SECTION 153. TEMPORARY PROVISION--OUTSTANDING REVENUE**
25 **BONDS.--**

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1 A. The repeal of and changes to certain taxes made
2 in this act shall not impair outstanding bonds that are
3 secured by a pledge of those taxes.

4 B. If a municipality or county has issued a
5 revenue bond that is secured by a pledge of any tax being
6 amended by Sections 129 or 139 of this act, or being repealed
7 by Section 155 of this act, the local option sales tax revenue
8 received by the municipality or county is impressed with the
9 obligation to repay the outstanding bond and is dedicated to
10 that repayment until the bond is fully discharged or otherwise
11 provided for in full.

12 **SECTION 154. TEMPORARY PROVISION--PREVIOUSLY IMPOSED**
13 **LOCAL OPTION GROSS RECEIPTS TAXES--DEDICATIONS.--**If a
14 municipality or county has dedicated any amount of revenue
15 attributable to a municipal or county gross receipts tax, the
16 municipality or county shall continue to dedicate the same
17 amount of municipal or county sales tax revenue until the
18 ordinance dedicating the revenue expires, the term of the
19 dedication expires, the governing body acts to change the
20 dedication or, in the case of bonded indebtedness, the debt is
21 fully discharged or otherwise provided for in full.

22 **SECTION 155. REPEAL.--**

23 A. Sections 6-21-5.1, 6-23-8 and 6-23-9 NMSA 1978
24 (being Laws 1998, Chapter 65, Section 1 and Laws 1993, Chapter
25 231, Sections 8 and 9, as amended) are repealed.

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1 B. Sections 7-1-6.4, 7-1-6.33, 7-1-6.46, 7-1-6.47,
2 7-1-6.52, 7-1-6.55, 7-1-6.57, 7-1-6.60 and 7-1-69.2 NMSA 1978
3 (being Laws 1983, Chapter 211, Section 9, Laws 1991, Chapter
4 212, Section 15, Laws 2004, Chapter 116, Sections 1 and 2,
5 Laws 2005, Chapter 104, Section 1, Laws 2007, Chapter 331,
6 Section 4, Laws 2007, Chapter 361, Section 1, Laws 2010,
7 Chapter 31, Section 2 and Laws 2016 (2nd S.S.), Chapter 3,
8 Section 3, as amended) are repealed.

9 C. Sections 7-9-2, 7-9-13.4, 7-9-15, 7-9-16,
10 7-9-18, 7-9-19, 7-9-26.1, 7-9-29, 7-9-40, 7-9-41.4, 7-9-54.1
11 through 7-9-54.5, 7-9-56 through 7-9-57, 7-9-57.2 through
12 7-9-60, 7-9-61.1, 7-9-63 through 7-9-66.1, 7-9-68 through
13 7-9-70, 7-9-73 through 7-9-76.2, 7-9-77.1 through 7-9-78.1,
14 7-9-79.2, 7-9-83 through 7-9-87, 7-9-90, 7-9-91, 7-9-93
15 through 7-9-96.1, 7-9-97 through 7-9-109, 7-9-110.2 through
16 7-9-112 and 7-9-114 NMSA 1978 (being Laws 1966, Chapter 47,
17 Section 2; Laws 2002, Chapter 20, Section 1; Laws 1970,
18 Chapter 12, Section 1; Laws 1969, Chapter 144, Sections 9, 11
19 and 12; Laws 2003, Chapter 62, Section 1; Laws 1970, Chapter
20 12, Section 3; Laws 1970, Chapter 60, Section 2; Laws 2009,
21 Chapter 62, Section 1; Laws 1992, Chapter 40, Section 1; Laws
22 1995, Chapter 183, Section 2; Laws 2002, Chapter 37, Section
23 8; Laws 2003, Chapter 62, Section 4; Laws 2004, Chapter 16,
24 Section 3; Laws 1994, Chapter 112, Section 2; Laws 1998,
25 Chapter 92, Sections 1 and 2; Laws 2003, Chapter 232, Section

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1 1; Laws 1969, Chapter 144, Section 47; Laws 2002, Chapter 10,
2 Section 1; Laws 1969, Chapter 144, Sections 48 and 49; Laws
3 1970, Chapter 12, Section 4; Laws 1981, Chapter 37, Section
4 52; Laws 1969, Chapter 144, Sections 53, 54, 56 and 57; Laws
5 1984, Chapter 129, Section 2; Laws 1969, Chapter 144, Sections
6 60 through 62; Laws 1970, Chapter 78, Section 2; Laws 1991,
7 Chapter 8, Section 3; Laws 1998, Chapter 95, Section 2 and
8 Laws 1998, Chapter 99, Section 4; Laws 2014, Chapter 26,
9 Section 1; Laws 1971, Chapter 217, Section 2; Laws 1972,
10 Chapter 39, Section 2; Laws 1977, Chapter 288, Section 2; Laws
11 1979, Chapter 338, Section 7; Laws 1984, Chapter 2, Section 6;
12 Laws 1998, Chapter 96, Section 1; Laws 1969, Chapter 144,
13 Section 65; Laws 1999, Chapter 231, Section 4; Laws 2007,
14 Chapter 204, Section 9; Laws 1993, Chapter 364, Sections 1 and
15 2; Laws 1994, Chapter 43, Section 1; Laws 1995, Chapter 80,
16 Section 1; Laws 1995, Chapter 155, Section 35; Laws 1999,
17 Chapter 231, Section 3; Laws 2001, Chapter 135, Section 1;
18 Laws 2004, Chapter 116, Section 6; Laws 2005, Chapter 104,
19 Sections 23, 25 and 26; Laws 2007, Chapter 361, Section 7;
20 Laws 2005, Chapter 169, Section 1; Laws 2005, Chapter 179,
21 Section 1; Laws 2006, Chapter 35, Sections 1 and 2; Laws 2007,
22 Chapter 3, Sections 16 through 18; Laws 2012, Chapter 12,
23 Sections 2 and 3; Laws 2007, Chapter 33, Section 1; Laws 2007,
24 Chapter 45, Section 6; Laws 2007, Chapter 172, Sections 8
25 through 11; Laws 2011, Chapter 60, Section 2 and Laws 2011,

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1 Chapter 61, Section 2; Laws 2011, Chapter 60, Section 3 and
2 Laws 2011, Chapter 61, Section 3; Laws 2007, Chapter 361,
3 Section 6; Laws 2007, Chapter 204, Section 10; and Laws 2010,
4 Chapter 77, Section 1 and Laws 2010, Chapter 78, Section 1, as
5 amended) are repealed.

6 D. Sections 7-9A-1 through 7-9A-9 and 7-9A-11 NMSA
7 1978 (being Laws 1979, Chapter 347, Sections 1 and 2; Laws
8 2001, Chapter 57, Section 2 and Laws 2001, Chapter 337,
9 Section 2; Laws 1979, Chapter 347, Sections 3 through 7; Laws
10 1983, Chapter 206, Section 6; Laws 1979, Chapter 347, Sections
11 8 and 9; and Laws 1997, Chapter 62, Section 2, as amended) are
12 repealed.

13 E. Sections 7-9G-1 and 7-9G-2 NMSA 1978 (being
14 Laws 2004, Chapter 15, Section 1 and Laws 2007, Chapter 229,
15 Section 1, as amended) are repealed.

16 F. Sections 7-9J-1 through 7-9J-8 NMSA 1978 (being
17 Laws 2007, Chapter 204, Sections 11 through 18, as amended)
18 are repealed.

19 G. Section 7-10-2 NMSA 1978 (being Laws 1970,
20 Chapter 26, Section 2, as amended) is repealed.

21 H. Sections 7-19-10 through 7-19-18 NMSA 1978
22 (being Laws 1979, Chapter 397, Sections 1 through 8, Laws
23 1997, Chapter 219, Section 4 and Laws 1979, Chapter 397,
24 Section 9, as amended) are repealed.

25 I. Sections 7-19D-10 through 7-19D-12 and 7-19D-14

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1 through 7-19D-18 NMSA 1978 (being Laws 1990, Chapter 99,
2 Section 51, Laws 1991, Chapter 9, Section 3, Laws 2001,
3 Chapter 172, Section 1, Laws 2005, Chapter 212, Section 2,
4 Laws 2006, Chapter 15, Section 14, Laws 2007, Chapter 148,
5 Section 1, Laws 2012, Chapter 58, Section 1 and Laws 2013,
6 Chapter 160, Section 11, as amended) are repealed.

7 J. Sections 7-20C-1 through 7-20C-17 NMSA 1978
8 (being Laws 1991, Chapter 176, Sections 1 through 9, Laws
9 1993, Chapter 306, Section 4, Laws 1991, Chapter 176, Sections
10 10 through 15 and Laws 1996, Chapter 18, Sections 3 and 4, as
11 amended) are repealed.

12 K. Sections 7-20E-10 through 7-20E-28 NMSA 1978
13 (being Laws 1983, Chapter 213, Sections 32 and 35, Laws 1989,
14 Chapter 239, Section 1, Laws 1994, Chapter 14, Section 1, Laws
15 1987, Chapter 45, Sections 3 and 8, Laws 1979, Chapter 398,
16 Sections 3 and 8, Laws 1990, Chapter 99, Section 58, Laws
17 1991, Chapter 212, Section 7, Laws 1998, Chapter 90, Section
18 7, Laws 2001, Chapter 328, Section 1, Laws 2001, Chapter 172,
19 Section 2, Laws 2002, Chapter 14, Section 1, Laws 2004,
20 Chapter 17, Section 2, Laws 2005, Chapter 212, Section 1, Laws
21 2006, Chapter 15, Section 15, Laws 2007, Chapter 346, Section
22 1, Laws 2010, Chapter 31, Section 1 and Laws 2013, Chapter
23 160, Section 12, as amended) are repealed.

24 L. Sections 7-20F-1 through 7-20F-12 NMSA 1978
25 (being Laws 1993, Chapter 303, Sections 1 through 12, as

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1 amended) are repealed.

2 M. Sections 7-24B-1 through 7-24B-4 and 7-24B-5.1
3 through 7-24B-9 NMSA 1978 (being Laws 1987, Chapter 45,
4 Sections 10 through 13, Laws 1990, Chapter 88, Section 16 and
5 Laws 1987, Chapter 45, Sections 15 through 18, as amended) are
6 repealed.

7 N. Section 60-2E-47.1 NMSA 1978 (being Laws 2010,
8 Chapter 31, Section 3) is repealed.

9 SECTION 156. APPLICABILITY.--

10 A. The provisions of Sections 50 through 59 and
11 101 through 103 of this act apply to taxable years beginning
12 on or after January 1, 2018.

13 B. The provisions of Section 110 of this act apply
14 to receipts of the motor vehicle excise tax and any associated
15 interest and penalties that are collected on and after July 1,
16 2018.

17 C. The provisions of Sections 141 and 142 of this
18 act apply to property tax years beginning on and after January
19 1, 2018.

20 SECTION 157. EFFECTIVE DATE.--

21 A. The effective date of the provisions of
22 Sections 1 through 38, 40 through 43, 45 through 62, 64, 65,
23 67 through 72, 74 through 109, 111 through 140 and 143 through
24 155 of this act is July 1, 2018.

25 B. The effective date of the provisions of

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Sections 39, 44, 63, 66 and 73 of this act is July 1, 2017.

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