HOUSE FLOOR SUBSTITUTE FOR
HOUSE BILL 412

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

AN ACT
RELATING TO TAXATION; PROHIBITING A MUNICIPALITY FROM IMPOSING
AN EXCISE TAX ON FOOD AND BEVERAGES; CHANGING DISTRIBUTIONS OF
THE LIQUOR EXCISE TAX; DISTRIBUTING A PORTION OF THE MOTOR
VEHICLE EXCISE TAX TO THE STATE ROAD FUND AND THE LOCAL
GOVERNMENTS ROAD FUND; CREATING THE LOCAL GOVERNMENT
STABILIZATION FUND; MODIFYING CERTAIN TAX CREDITS SO THAT THE
CREDITS CANNOT BE APPLIED AGAINST MODIFIED COMBINED TAX
LIABILITIES; RENAMING THE GROSS RECEIPTS TAXES TO THE STATE
SALES TAX AND THE LOCAL OPTION SALES TAXES AND THE COMPENSATING
TAX TO THE USE TAX; BASING THE RATE OF THE STATE AND LOCAL
SALES TAXES ON A FORMULA USING ESTIMATES OF BASELINE AND
REVENUE PROJECTIONS; PROVIDING THAT A PERSON WITHOUT PHYSICAL
PRESENCE IN THIS STATE THAT HAS LESS THAN ONE HUNDRED THOUSAND
DOLLARS ($100,000) IN GROSS RECEIPTS IS NOT ENGAGING IN
BUSINESS; PROVIDING ALTERNATIVE EVIDENCE OTHER THAN A

.207939.1
NONTAXABLE TRANSACTION CERTIFICATE TO ENTITLE PERSONS TO A
DEDUCTION FROM GROSS RECEIPTS; DE-EARMARKING CERTAIN LOCAL
OPTION TAXES; REQUIRING MUNICIPALITIES AND COUNTIES TO IMPOSE A
LOCAL OPTION USE TAX; NARROWING THE PREMIUM TAX IN-LIEU-OF
PROVISION TO REVENUE AND RECEIPTS FOR WHICH THE PREMIUM TAX IS
ASSESSED; PROVIDING THAT CHANGES OR REPEALS OF CERTAIN LOCAL
OPTION GROSS RECEIPTS TAXES SHALL NOT IMPAIR OUTSTANDING
REVENUE BONDS; PROVIDING A MORATORIUM ON NEW INCREMENTS OF
LOCAL OPTION GROSS RECEIPTS OR SALES TAXES; PROVIDING THAT
PREVIOUSLY DEDICATED REVENUE ATTRIBUTABLE TO A LOCAL OPTION
GROSS RECEIPTS TAX SHALL CONTINUE TO BE DEDICATED FOR THE SAME
PURPOSES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA
1978; PROVIDING A CIVIL PENALTY; MAKING AN APPROPRIATION.

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

SECTION 1. Section 3-18-2 NMSA 1978 (being Laws 1972,
Chapter 26, Section 1, as amended) is amended to read:

"3-18-2. PROHIBITION ON MUNICIPAL TAXING POWER.--

A. Unless otherwise provided by law, no
municipality may impose:

[A. (1) an income tax;
[B. (2) a tax on property measured on an ad
valorem, per unit or other basis; or
[C. (3) any excise tax, including [but not
limited to]:

.207939.1

- 2 -
[(1)] (a) sales taxes;
[(2)] (b) gross receipts taxes; and
[(3)] (c) excise taxes on any incident relating to: [(a)] 1) tobacco; [(b)] 2) liquor; [(c)] 3) food or beverages; 4) motor fuels; and [(d)] 5) motor vehicles.

[D.] B. However, any municipality may impose excise taxes of the sales, gross receipts or any other type on specific products and services, other than those enumerated in Subparagraph (c) of Paragraph (3) of Subsection [E] A of this section, if the products and services taxed are each named specifically in the ordinance imposing the tax on them and if the ordinance is approved by a majority vote in the municipality.

[E. Subsections C and D] C. The provisions in Paragraph (3) of Subsection A and in Subsection B of this section shall not [be construed to] apply to [or otherwise affect] any occupation tax imposed prior to or after the effective date of this act under Sections 3-38-1 through 3-38-12 NMSA 1978, as those sections may be amended from time to time; provided the provisions of this subsection shall not apply to the sale of motor vehicles] a license fee authorized pursuant to Section 3-38-1 NMSA 1978."

SECTION 2. Section 3-31-1 NMSA 1978 (being Laws 1973, Chapter 395, Section 3, as amended) is amended to read:

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

A. In addition to any other law and constitutional home rule powers authorizing a municipality to issue revenue bonds, a municipality may issue revenue bonds pursuant to Chapter 3, Article 31 NMSA 1978 for the purposes specified in this section. [The term "pledged revenues", as used in Chapter 3, Article 31 NMSA 1978, means the revenues, net income or net revenues authorized to be pledged to the payment of particular revenue bonds as specifically provided in Subsections A through J of this section.

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

B.] C. Joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving joint water facilities, sewer facilities, gas facilities or electric facilities or for any combination of the foregoing purposes. The municipality may pledge
irrevocably any or all of the net revenues from the operation
of these municipal utilities for the payment of the interest on
and principal of the bonds. [These bonds are sometimes
referred to in Chapter 3, Article 31 NMSA 1978 as "joint
utility revenue bonds" or "joint utility bonds".]

G. For the purposes of this subsection, "gross
receipts tax revenue bonds" means gross receipts tax revenue
bonds or sales tax revenue bonds. Gross receipts]

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

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

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

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

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

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

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

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

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

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

(10) acquiring, constructing, extending,
bettering, repairing or otherwise improving a public transit
system or regional transit systems or facilities. The munic-

pial purpose. A municipality may pledge irrevocably any
or all of the [gross receipts] sales tax revenue received by
the municipality pursuant to Section [7-1-6.4 or] 7-1-6.12 NMSA
1978 to the payment of the interest on and principal of the
[gross receipts] sales tax revenue bonds [for any of the
purposes authorized in this section or for specific purposes]
or for any area of municipal government services [including but
not limited to those specified in Subsection C of Section
7-19D-9 NMSA 1978, or for public purposes authorized by
municipalities having constitutional home rule charters]. A
law that imposes or authorizes the imposition of a municipal
[gross receipts] sales tax or that affects the municipal [gross
receipts] sales tax, or a law supplemental thereto or otherwise
ap pertaining thereto, shall not be repealed or amended or
otherwise directly or indirectly modified in such a manner as
to impair adversely any outstanding revenue bonds that may be
secured by a pledge of such municipal [gross receipts] sales
tax unless the outstanding revenue bonds have been discharged
in full or provision has been fully made therefor. Revenues in
excess of the annual principal and interest due on [gross receipts] sales tax revenue bonds secured by a pledge of [gross receipts] sales tax revenue may be accumulated in a debt service reserve account. The governing body of the municipality may appoint a commercial bank trust department to act as trustee of the [gross receipts] sales tax revenue and to administer the payment of principal of and interest on the bonds.

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

E. Gasoline tax revenue bonds may be issued for laying off, opening, constructing, reconstructing, resurfacing, maintaining, acquiring rights of way, repairing and otherwise improving municipal buildings, alleys, streets, public roads and bridges or any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the gasoline tax revenue received by the municipality to the payment of the interest on and principal of the gasoline tax revenue bonds. [As used in Chapter 3, Article 31 NMSA 1978, "gasoline tax revenue bonds" means the bonds authorized in this subsection, and "gasoline tax revenue" means all or portions of the amounts of tax revenues distributed to municipalities pursuant to Sections 7-1-6.9 and 7-1-6.27 NMSA 1978, as from time to time amended and supplemented.]}

F. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any revenue-producing project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, including [but not necessarily limited to] acquiring and improving parking lots, or for any combination of the foregoing purposes. The municipality may pledge
irrevocably any or all of the net revenues from the operation
of the revenue-producing project for which the particular
project revenue bonds are issued to the payment of the interest
on and principal of the project revenue bonds. The net
revenues of any revenue-producing project may not be pledged to
the project revenue bonds issued for a revenue-producing
project that clearly is unrelated in nature; but nothing in
this subsection shall prevent the pledge to such project
revenue bonds of any revenues received from existing, future or
disconnected facilities and equipment that are related to and
that may constitute a part of the particular revenue-producing
project. A general determination by the governing body that
any facilities or equipment is reasonably related to and
constitutes a part of a specified revenue-producing project
shall be conclusive if set forth in the proceedings authorizing
the project revenue bonds. [As used in Chapter 3, Article 31
NMSA 1978:]

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

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

G. Fire district revenue bonds may be issued for
acquiring, extending, enlarging, bettering, repairing,
improving, constructing, purchasing, furnishing, equipping and
rehabilitating any fire district project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of any fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the municipality that any facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district bonds.

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

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

J. Municipal higher education facilities gross receipts tax revenue bonds may be issued for the purpose of acquisition, construction, renovation or improvement of facilities of a four-year post-secondary public educational institution located in the municipality and acquisition of or improvements to land for those facilities. The municipality may pledge irrevocably any or all of the revenue received from the municipal higher education facilities gross receipts tax to the payment of the interest on and principal of the municipal higher education facilities gross receipts tax revenue bonds.

A law that imposes or authorizes the imposition of a municipal higher education facilities gross receipts tax or that affects the municipal higher education facilities gross receipts tax, or a law supplemental to or otherwise pertaining to the tax, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of the municipal higher education facilities gross receipts tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made for their discharge. As used in Chapter 3, Article 31 NMSA 1978, "municipal higher education facilities gross receipts tax revenue bonds" means the bonds authorized in this subsection and "municipal higher
education facilities gross receipts tax revenue" means any or all of the revenue from the municipal higher education facilities gross receipts tax transferred to the municipality pursuant to Section 7-16.12 NMSA 1978.

K[-1] I. Except for the purpose of refunding previous revenue bond issues, no municipality may sell revenue bonds payable from pledged revenues after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section 3-31-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue."

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. Section 3-37A-2 NMSA 1978 (being Laws 1979, Chapter 284, Section 2, as amended) is amended to read:

"3-37A-2. DEFINITIONS.--As used in the Small Cities
HFL/HB 412

Assistance Act:

A. "municipality" means an incorporated city, town or village, whether incorporated under general act, special act or special charter, and incorporated counties and H-class counties;

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

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

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

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

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

G. "local tax effort" means the amount produced by
[a one-fourth of one percent municipal gross receipts tax] the
rate determined pursuant to Subsection B of Section 7-1-84 NMSA
1978 in the previous fiscal year;

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

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

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

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

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

SECTION 5. Section 3-65-8 NMSA 1978 (being Laws 2001,
Chapter 231, Section 8) is amended to read:
"3-65-8. AUTHORIZATION OF PROJECT.--

A. Pursuant to the provisions of Section 6-21-6 NMSA 1978, the legislature authorizes the authority to make a loan from the public project revolving fund to a municipality to acquire land for and to design, purchase, construct, remodel, renovate, rehabilitate, improve, equip or furnish a minor league baseball stadium on terms and conditions established by the authority.

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

C. The legislature or a municipality shall not repeal, amend or otherwise modify any law or ordinance that adversely affects or impairs the stadium surcharge or any loan from the authority secured by a pledge of the stadium surcharge and sales tax revenues, unless the loan has been paid in full or provisions have been made for full payment."

SECTION 6. Section 3-66-8 NMSA 1978 (being Laws 2005, Chapter 351, Section 10) is amended to read:

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

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

B. Revenue bonds issued by a municipality may be secured by event center revenues, event center surcharge receipts or sales tax revenues transferred to that municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978.

C. An action shall not be brought questioning the legality of the pledge of event center revenues, event center surcharge receipts or sales tax revenues, bonds issued pursuant to the Municipal Event Center Funding .207939.1
Act, issuance of those bonds, an event center surcharge included in a vendor contract or any other matter concerning the bonds after thirty days from the date of publication of the ordinance authorizing issuance of the bonds and the pledging of event center receipts, event center surcharge receipts or [gross receipts] sales tax revenues of a municipality to make debt service payments.

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

SECTION 7. Section 4-48B-12 NMSA 1978 (being Laws 1981, Chapter 83, Section 12, as amended) is amended to read:

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

A. The county commissioners are authorized to impose a mill levy and collect annual assessments against the net taxable value of the property in a county to pay the cost of operating and maintaining county hospitals or to pay to contracting hospitals in accordance with a health care facilities contract and in class A counties to pay for the county's transfer to the county-supported medicaid fund pursuant to Section 27-10-4 NMSA 1978 as follows:
(1) in class A counties as defined in Section 4-44-1 NMSA 1978, the mill levy shall not exceed a rate of six dollars fifty cents ($6.50), or any lower maximum amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon a mill levy imposed pursuant to this paragraph, on each one thousand dollars ($1,000) of net taxable value of property allocated to the county; however, if the county uses any portion, not to exceed one dollar fifty cents ($1.50), of the rate authorized by this paragraph to meet the requirement of Section 27-10-4 NMSA 1978, the provisions of Section 7-37-7.1 NMSA 1978 do not apply to the portion of the rate necessary to produce the revenues required; provided that the portion of the rate does not exceed one dollar fifty cents ($1.50); and

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

B. The mill levies provided in Paragraphs (1) and (2) of Subsection A of this section shall be made at the direction of the county commissioners, but only to the extent that the county commissioners deem it necessary to operate and
maintain county hospitals, to pay the amounts required in the
performance of any health care facilities contracts made
pursuant to the Hospital Funding Act and to provide for a class
A county's transfer to the county-supported medicaid fund
pursuant to Section 27-10-4 NMSA 1978.

C. In the event that the mill levy provided for in
Paragraph (1) of Subsection A of this section is not authorized
by the electorate or the resulting mill levy proceeds are not
remitted to the entity operating the hospital within a
reasonable time period, any lease for operation of the hospital
between a county and a state educational institution named in
Article 12, Section 11 of the constitution of New Mexico may,
at the option of the state educational institution, be
terminated immediately. Except as provided in Subsection D of
this section, in the event that the mill levy provided for in
Paragraph (1) of Subsection A of this section is authorized, an
amount not less than the amount that would be produced by a
mill levy at the rate of four dollars ($4.00), or any lower
amount that would be required by operation of the rate
limitation provisions of Section 7-37-7.1 NMSA 1978 upon this
rate, on each one thousand dollars ($1,000) of net taxable
value of property allocated to the county shall be provided
from the proceeds of the mill levy to the state educational
institution operating the hospital for hospital purposes unless
the institution determines that the amount is not necessary.
D. A class A county imposing the mill levy provided for in Paragraph (1) of Subsection A of this section may enter into a mutual agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico operating the hospital permitting the transfer to the county-supported medicaid fund by the county pursuant to Section 27-10-4 NMSA 1978 of not to exceed the amount that would be produced by a mill levy at a rate of one dollar fifty cents ($1.50) applied to the net taxable value of property allocated to the county for the prior property tax year and also not to exceed the amount that would be produced by imposition of [the county health care gross receipts tax] the rate determined pursuant to Subsection C of Section 7-1-84 NMSA 1978.

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

SECTION 8. Section 4-61-2 NMSA 1978 (being Laws 1982, Chapter 44, Section 2, as amended) is amended to read:

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

A. "adjustment factor" means a fraction, the numerator of which is the net taxable value of the state for the property tax year prior to the year in which the amount of .207939.1

- 23 -
small counties assistance is being determined and the
denominator of which is the net taxable value for property tax
year 2002; the adjustment factor shall be calculated without
reference to assessed value determined pursuant to the Oil and
Gas Ad Valorem Production Tax Act, assessed value determined
pursuant to the Oil and Gas Production Equipment Ad Valorem Tax
Act or taxable value determined pursuant to the Copper
Production Ad Valorem Tax Act;

B. "ceiling valuation" means,

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

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

D. "inflation factor" means a fraction whose
numerator is the annual implicit price deflator index for state
and local government purchases of goods and services, as
published in the United States department of commerce monthly
publication entitled "Survey of Current Business" or any
successor publication prepared by an agency of the United
States and adopted by the department of finance and
administration, for the calendar year one year prior to the
year in which the distribution is to be made and whose
denominator is the annual index for calendar year 2004;
provided that, if the inflation factor is calculated to have a
value less than one, it shall be deemed to have a value of one;

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

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

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

(2) by July 1 of the property tax year in

which any distribution under the Small Counties Assistance Act is made to the county, received a written certification from the director of the property tax division of the taxation and revenue department that the county assessor of that county has implemented an acceptable program of maintaining current and correct property values for property taxation purposes as required by Section 7-36-16 NMSA 1978 or has submitted to the director an acceptable plan for the implementation of such a program;

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

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

(5) a total valuation for the property tax year preceding the year in which a distribution pursuant to the Small Counties Assistance Act for that county is to be made.

.207939.1
that is no greater than the ceiling valuation for that property
tax year;

G. "tax rate factor" means [a fraction, the
numerator of which is the average rate imposed in Section 7-9-7
NMSA 1978 for the fiscal year one year prior to the fiscal year
in which the distribution is to be made and the denominator of
which is five] one and twenty-five thousandths percent; and

H. "total valuation" means the sum for a
jurisdiction for a property tax year of the net taxable value
determined pursuant to the Property Tax Code, the assessed
value determined pursuant to the Oil and Gas Ad Valorem
Production Tax Act, the assessed value determined pursuant to
the Oil and Gas Production Equipment Ad Valorem Tax Act and the
taxable value determined pursuant to the Copper Production Ad
Valorem Tax Act."

SECTION 9. Section 4-61-3 NMSA 1978 (being Laws 1982,
Chapter 44, Section 3, as amended) is amended to read:

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

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

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

C. On or before September 15, 2003 and on or before September 15 of each subsequent year, the secretary of finance and administration shall certify to the state treasurer with respect to each qualifying county:

(1) its population as certified by the demographer;

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

(3) the distribution amount calculated for it.

D. The distribution amount for each qualifying county shall be determined for 2003 and each subsequent year in accordance with the following table; provided that the bracket amounts in the first two columns of the table shall be adjusted annually after 2003 by the adjustment factor. The bracket amounts in the last column shall be adjusted annually after 2005 by the inflation factor, and, in 2011 [and subsequent years] through 2018 shall also be adjusted by the tax rate factor. The department of finance and administration may round the results of the adjustments made pursuant to this subsection to the nearest one thousand dollars ($1,000).

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

<table>
<thead>
<tr>
<th>at least:</th>
<th>but less than:</th>
<th>and the county population is:</th>
<th>then the distribution amount is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>.207939.1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amounts</td>
<td>Under 1,000</td>
<td>At Least 1,000</td>
<td>But Under 4,000</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>-------------</td>
<td>----------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>$0</td>
<td>$100,000,000</td>
<td>$100,000,000</td>
<td>$100,000,000</td>
</tr>
<tr>
<td>$500,000</td>
<td></td>
<td></td>
<td>$500,000</td>
</tr>
<tr>
<td>$1,000,000</td>
<td></td>
<td>$1,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>$2,000,000</td>
<td></td>
<td></td>
<td>$2,000,000</td>
</tr>
<tr>
<td>$4,000,000</td>
<td></td>
<td>$4,000,000</td>
<td>$4,000,000</td>
</tr>
<tr>
<td>$8,000,000</td>
<td></td>
<td>$8,000,000</td>
<td>$8,000,000</td>
</tr>
<tr>
<td>$16,000,000</td>
<td></td>
<td>$16,000,000</td>
<td>$16,000,000</td>
</tr>
<tr>
<td>$32,000,000</td>
<td></td>
<td>$32,000,000</td>
<td>$32,000,000</td>
</tr>
<tr>
<td>$64,000,000</td>
<td></td>
<td>$64,000,000</td>
<td>$64,000,000</td>
</tr>
</tbody>
</table>

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

1. Fifty thousand dollars ($50,000) if the county has imposed and has in effect on July 1 of the year in which the distribution is to be made, a county sales tax at a rate of at least one-eighth percent the rate determined pursuant to Subsection E of Section 7-1-84 NMSA 1978 and the revenue from those increments is dedicated as follows:

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

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

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

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

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

F. If the balance in the small counties assistance fund as of the preceding August 31 is less than the sum of the distributions determined pursuant to Subsection D of this section plus the distribution increases authorized pursuant to Subsection E of this section, the distribution increases pursuant to Subsection E of this section shall be proportionately reduced.
G. If the balance in the small counties assistance fund as of the preceding August 31 is less than the sum of the distributions to be made to qualifying counties, the department of finance and administration shall reduce each qualifying county's calculated distribution by a percentage computed by dividing the amount by which the fund is insufficient by the sum of all the calculated distributions and shall certify the reduced amounts as the qualifying counties' distributions.

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

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

J. If any date specified in Subsection B, C or I of this section falls on a Saturday, Sunday or legal holiday, any action required to be performed as provided in those subsections is timely if performed on the next day that is not a Saturday, Sunday or legal holiday."
SECTION 10. Section 4-62-1 NMSA 1978 (being Laws 1992, Chapter 95, Section 1, as amended) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(10) acquiring, constructing, extending,
    bettering, repairing or otherwise improving public transit
    systems or any regional transit systems or facilities] any
    county purpose. A county may pledge irrevocably any or all of
    the revenue [from the first one-eighth increment, the third
    one-eighth increment and the one-sixteenth increment of the
    county gross receipts tax and any increment of the county
    infrastructure gross receipts tax and county capital outlay
    gross receipts tax] received by the county pursuant to Section
    7-1-6.13 NMSA 1978 for payment of principal and interest due
    in connection with, and other expenses related to, [gross
    receipts] sales tax revenue bonds [for any of the purposes
    authorized in this section or specific purposes] or for any
    area of county government services. If the revenue [from the
    first one-eighth increment, the third one-eight increment or
    the one-sixteenth increment of the county gross receipts tax

.207939.1

- 34 -
or any increment of the county infrastructure gross receipts
or county capital outlay gross receipts tax] is pledged
for payment of principal and interest as authorized by this
subsection, the pledge shall require the revenues received
[from that increment of the county gross receipts tax or any
increment of the county infrastructure gross receipts tax or
county capital outlay gross receipts tax] to be deposited into
a special bond fund for payment of the principal, interest and
expenses. At the end of each fiscal year, money remaining in
the special bond fund after the annual obligations for the
bonds are fully met may be transferred to any other fund of
the county. Revenues in excess of the annual principal and
interest due on [gross receipts] sales tax revenue bonds
secured by a pledge of [gross receipts] sales tax revenue may
be accumulated in a debt service reserve account. The
governing body of the county may appoint a commercial bank
trust department to act as trustee of the proceeds of the tax
and to administer the payment of principal of and interest on
the bonds.

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

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

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

F.  D. Utility revenue bonds or joint utility
revenue bonds may be issued for acquiring, extending,

enlarging, bettering, repairing or otherwise improving water

facilities, sewer facilities, gas facilities or electric

facilities or for any combination of the foregoing purposes.

A county may pledge irrevocably any or all of the net revenues

from the operation of the utility or joint utility for which

the particular utility or joint utility bonds are issued to

the payment of principal and interest due in connection with,

and other expenses related to, utility or joint utility

revenue bonds.  [These bonds may be referred to in Chapter 4,

Article 62 NMSA 1978 as "utility revenue bonds" or "joint

utility revenue bonds".]

G.] E.  Project revenue bonds may be issued for

acquiring, extending, enlarging, bettering, repairing,

improving, constructing, purchasing, furnishing, equipping or

rehabilitating any revenue-producing project, including, as

applicable, purchasing, otherwise acquiring or improving the

ground therefor and [including but not limited to] acquiring

and improving parking lots, or may be issued for any

combination of the foregoing purposes.  The county may pledge

irrevocably any or all of the net revenues from the operation

of the revenue-producing project for which the particular

project revenue bonds are issued to the payment of the

interest on and principal of the project revenue bonds.  The

net revenues of any revenue-producing project shall not be
pledged to the project revenue bonds issued for any other revenue-producing project that is clearly unrelated in nature; but nothing in this subsection prevents the pledge to any of the project revenue bonds of the revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that facilities or equipment is reasonably related to and constitutes a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds. [As used in Chapter 4, Article 62 NMSA 1978:

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

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

H.F. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any fire district project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, or for any combination of the foregoing purposes. The county may pledge irrevocably any or all of the revenues received by the fire district from the fire
protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of a fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the county that facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district revenue bonds.

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

[J. Hospital emergency gross receipts tax revenue bonds may be issued for acquiring, equipping, remodeling or

.207939.1
improving a county hospital or county health facility. A county may pledge irrevocably to the payment of the interest on and principal of the hospital emergency gross receipts tax revenue bonds any or all of the revenues received by the county from a county hospital emergency gross receipts tax imposed pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to payment of bonds or a loan for acquiring, equipping, remodeling or improving a county hospital or county health facility.

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

L. County education gross receipts tax revenue bonds may be issued for public school or off-campus instruction program capital projects as authorized in Section 7-20E-20 NMSA 1978. A county may pledge irrevocably any or all of the county education gross receipts tax revenue to the payment of interest on and principal of the county education gross receipts tax revenue bonds for the purpose authorized in this section.
PILT revenue bonds may be issued by a county to repay all or part of the principal and interest of an outstanding loan owed by the county to the New Mexico finance authority. A county may pledge irrevocably all or part of PILT revenue to the payment of principal of and interest on new loans or preexisting loans provided by the New Mexico finance authority to finance a public project as "public project" is defined in Subsection E of Section 6-21-3 NMSA 1978.

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

No bonds may be issued by a county, other than an H class county, a class B county as defined in Section 4-36-8 NMSA 1978 or a class A county as described in Section 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better, repair or construct a utility unless the utility is regulated...
by the public regulation commission pursuant to the Public
Utility Act and the issuance of the bonds is approved by the
commission. For purposes of Chapter 4, Article 62 NMSA 1978,
a "utility" includes [but is not limited to] a water,
wastewater, sewer, gas or electric utility or joint utility
serving the public. H class counties shall obtain public
regulation commission approvals required by Section 3-23-3
NMSA 1978.

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

[Q. As used in this section:

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

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

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

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

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

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

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

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

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

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

SECTION 11. A new section of Chapter 4, Article 62 NMSA 1978 is enacted to read:

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

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

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

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

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

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

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

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

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

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

.207939.1
"5-10-3. DEFINITIONS.--As used in the Local Economic Development Act:

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

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

C. "department" means the economic development department;

D. "economic development project" or "project" means the provision of direct or indirect assistance to a qualifying entity by a local or regional government and includes the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure; public works improvements essential to the location or expansion of a qualifying entity; payments for professional services contracts necessary for local or regional governments to implement a plan or project; the provision of direct loans or
grants for land, buildings or infrastructure; technical assistance to cultural facilities; loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from [the municipal infrastructure gross receipts tax or the county infrastructure gross receipts tax] an increment of a local option sales tax imposed by a municipality or county that is dedicated for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity; grants or subsidies to cultural facilities; purchase of land for a publicly held industrial park or a publicly owned cultural facility; and the construction of a building for use by a qualifying entity;

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

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

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

H. "person" means an individual, corporation, association, partnership or other legal entity;
I. "qualifying entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:

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

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

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

(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation;
(5) a telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico;

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

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

(8) a cultural facility; and

(9) a retail business;

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

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

(1) ten thousand or less; or

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

(a) the economic development project is not funded or financed with state government revenues; and
(b) the business created through the project will not directly compete with an existing business that is: 1) in the municipality; and 2) engaged in the sale of the same or similar goods or commodities at retail."

**SECTION 13.** Section 5-10-4 NMSA 1978 (being Laws 1993, Chapter 297, Section 4, as amended) is amended to read:

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

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

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

1. the value of any land or building contributed to any project pursuant to a project participation agreement;

2. revenue generated through the imposition
of [the municipal infrastructure gross receipts tax pursuant to the Municipal Local Option Gross Receipts Taxes Act] a municipal sales tax increment for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars ($50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

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

(4) the proceeds of a revenue bond issue to which municipal [infrastructure gross receipts] sales tax
HFL/HB 412

revenue that is dedicated for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act is pledged;

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

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

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

[D. In order to expend money from an economic development fund for arts and cultural district purposes, cultural facilities or retail businesses, the governing body of a municipality or county that has imposed a municipal or

.207939.1

- 52 -
county local option infrastructure gross receipts tax for
furthering or implementing economic development plans and
projects, as defined in the Local Economic Development Act, or
projects, as defined in the Statewide Economic Development
Finance Act, by referendum of the majority of the voters
voting on the question approving the ordinance imposing the
municipal or county infrastructure gross receipts tax before
July 1, 2013 shall be required to adopt a resolution. The
resolution shall call for an election to approve arts and
cultural districts as a qualifying purpose and cultural
facilities or retail businesses as a qualifying entity before
any revenue generated by the municipal or county local option
gross receipts tax for furthering or implementing economic
development plans and projects, as defined in the Local
Economic Development Act, or projects, as defined in the
Statewide Economic Development Finance Act, can be expended
from the economic development fund for arts and cultural
district purposes, cultural facilities or retail businesses.

E. The governing body shall adopt a resolution
calling for an election within seventy-five days of the date
the ordinance is adopted on the question of approving arts and
cultural districts as a qualifying purpose and cultural
facilities or retail businesses as a qualifying entity
eligible to utilize revenue generated by the Municipal Local
Option Gross Receipts Taxes Act or the County Local Option

.207939.1
Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act.  

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

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

SECTION 14. Section 5-15-3 NMSA 1978 (being Laws 2006, Chapter 75, Section 3) is amended to read:

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

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

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

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

B. "base property taxes" means:

(1) the portion of property taxes produced by the total of all property tax levied at the rate fixed each year by each governing body levying a property tax on the assessed value of taxable property within the tax increment development area last certified for the year ending immediately prior to the year in which a tax increment
development plan is approved for the tax increment development area, or, when an area is added to an existing tax increment development area, "base property taxes" means that portion of property taxes produced by the total of all property tax levied at the rate fixed each year by each governing body levying a property tax upon the assessed value of taxable property within the tax increment development area on the date of the modification of the tax increment development plan and designated by the governing body to be available as part of the property tax increment; and

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

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

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

E. "district board" means a board formed in accordance with the provisions of the Tax Increment for Development Act to govern a [tax increment development] district;
F. "enhanced services" means public services provided by a municipality or county within the district at a higher level or to a greater degree than otherwise available to the land located in the district from the municipality or county, including such services as public safety, fire protection, street or sidewalk cleaning or landscape maintenance in public areas; provided that "enhanced services" does not include the basic operation and maintenance related to infrastructure improvements financed by the district pursuant to the Tax Increment for Development Act;

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

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

[I. "gross receipts tax increment bonds" means bonds issued by a district in accordance with the Tax Increment for Development Act, the pledged revenue for which is a gross receipts tax increment;]
J. "local government" means a municipality or county;

K. "municipal [option gross receipts] sales
taxes" means [these] gross receipts or sales taxes imposed by municipalities [pursuant to the Municipal Local Option Gross Receipts Taxes Act] and designated by the governing body of the municipality to be available as part of the [gross receipts] sales tax increment;

L. "municipality" means an incorporated city, town or village;

M. "owner" means a person owning real property within the boundaries of a district;

N. "person" means an individual, corporation, association, partnership, limited liability company or other legal entity;

O. "project" means a tax increment development project;

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

Q. "property tax increment [bonds] bond" means [bonds] a bond issued by a district in accordance with 207939.1
the Tax Increment for Development Act, the pledged revenue for
which is a property tax increment;

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

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

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

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

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

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

(6) pedestrian and transit facilities, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

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

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

(9) electrical generation, transmission and distribution facilities;

(10) natural gas distribution facilities;

(11) lighting systems;

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

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

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

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

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

(17) inspection, construction management, planning and program management and other professional services costs incidental to the project;

(18) workforce housing; and

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

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

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

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

T. "state [gross receipts] sales tax" means [the] gross receipts or state sales tax imposed pursuant to the [Gross Receipts and Compensating] Sales and Use Tax Act but .207939.1
HFL/HB 412

does not include that portion distributed to municipalities pursuant to [Sections 7-1-6.4 and] Section 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47 NMSA 1978;

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

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

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

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

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

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

(2) demolition and removal of buildings and improvements and installation, construction or reconstruction of streets, utilities, parks, playgrounds and improvements necessary to carry out the objectives of the Tax Increment for Development Act;

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

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

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

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

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

Z. "taxing entity" means the governing body of a political subdivision of the state, the [gross receipts] sales tax increment or property tax increment of which may be used for a [tax increment development] project; and

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

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

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

SECTION 15. Section 5-15-15 NMSA 1978 (being Laws 2006, .207939.1
Chapter 75, Section 15, as amended) is amended to read:

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

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

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

(1) municipal [gross receipts] sales tax authorized pursuant to the Municipal Local Option [Gross .207939.1}
Receipts Taxes] Sales and Use Tax Act;

[(2) municipal environmental services gross receipts tax authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act;

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

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

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

(6) an amount distributed to municipalities pursuant to [Sections 7-1-6.4 and] Section 7-1-1-6.46 NMSA 1978; and

[(7) the state [gross receipts] sales tax.

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

(1) county gross receipts sales tax authorized pursuant to the County Local Option Gross Receipts Taxes Act;

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

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

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

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

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

(7) the state gross receipts sales tax.

[D. The gross receipts tax increment generated by the imposition of municipal or county local option gross receipts taxes specified by statute for particular purposes]
may nonetheless be dedicated for the purposes of the Tax
Increment for Development Act if intent to do so is set forth
in the tax increment development plan approved by the
governing body, if the purpose for which the increment is
intended to be used is consistent with the purposes set forth
in the statute authorizing the municipal or county local
option gross receipts tax.

D. An imposition of a [gross receipts] sales
tax increment attributable to the imposition of a [gross
receipts] sales tax by a taxing entity may be dedicated for
the purpose of securing [gross receipts] sales tax increment
bonds with the agreement of the taxing entity, evidenced by a
resolution adopted by a majority vote of that taxing entity.
A taxing entity shall not agree to dedicate for the purposes
of securing [gross receipts] sales tax increment bonds more
than seventy-five percent of its [gross receipts] sales tax
increment attributable to the imposition of [gross receipts]
sales taxes by the taxing entity. A resolution of the taxing
t entity to dedicate a [gross receipts] sales tax increment or
to increase the dedication of a [gross receipts] sales tax
increment shall become effective only on January 1 or July 1
of the calendar year.

E. An imposition of a [gross receipts] sales
tax increment attributable to the imposition of the state
[gross receipts] sales tax within a district [less the
.207939.1

- 68 -
distributions made pursuant to Section 7-1-6.4 NMSA 1978] may be dedicated for the purpose of securing [gross receipts] sales tax increment bonds with the agreement of the state board of finance, evidenced by a resolution adopted by a majority vote of the state board of finance. The state board of finance shall not agree to dedicate more than seventy-five percent of the [gross receipts] sales tax increment attributable to the imposition of the state [gross receipts] sales tax within the district. The resolution of the state board of finance shall become effective only on January 1 or July 1 of the calendar year and shall find that:

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

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

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

[G-] F. The governing body of the jurisdiction in
which a [tax increment development] district has been
established shall timely notify the assessor of the county in
which the district has been established, the taxation and
revenue department and the local government division of the
department of finance and administration when:

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

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

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

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

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

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

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

[Г-] "bond" means a revenue bond issued by the
authority on behalf of a district;
"combination" means two or more governmental units that exercise joint authority;

"district" means a regional spaceport district that is a political subdivision of the state created pursuant to the Regional Spaceport District Act;

governmental unit" means the state, a county or a municipality of the state or an Indian nation, tribe or pueblo located within the boundaries of the state;

"project" means any land, building or other improvements acquired as part of a spaceport or associated with a spaceport or to aid commerce in connection with a spaceport and all real and personal property deemed necessary in connection with the spaceport;

"revenues" means municipal and county sales tax revenues dedicated to a district for the financing, planning, designing, engineering and construction of a regional spaceport pursuant to the Regional Spaceport District Act; and

"spaceport" means any facility in New Mexico at which space vehicles may be launched or landed, including all facilities and support infrastructure related to launch, landing or payload processing."

SECTION 17. Section 5-16-13 NMSA 1978 (being Laws 2006, Chapter 15, Section 13) is amended to read:
"5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.--Each governmental unit that is a county or municipality and is a member of a combination shall have enacted a municipal [regional spaceport gross receipts tax] or [a] county [regional spaceport gross receipts] sales tax prior to December 31, 2008 that is dedicated to a district for the financing, planning, designing, engineering and construction of a regional spaceport pursuant to the Regional Spaceport District Act. At least seventy-five percent of the dedicated municipal [regional spaceport gross receipts tax] or county [regional spaceport gross receipts] sales tax revenues received by each governmental unit must be used by the district for the financing, planning, designing, engineering and construction of a regional spaceport. No more than twenty-five percent of the dedicated municipal [regional spaceport gross receipts tax] or county [regional spaceport gross receipts] sales tax revenues may be used by the governmental unit enacting the tax for spaceport-related projects as approved by resolution of the governmental unit."

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

"6-6A-3. LEASEHOLD COMMUNITY ASSISTANCE FUND--CREATION--[DISPOSITION] DISPOSITION.--

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

B. The leasehold community assistance fund shall be administered by the local government division of the department of finance and administration. The division shall determine the funds the leasehold community is eligible to receive from the fund by calculating the amount of money a municipality of similar size receives under all appropriate state laws. Such sources shall include [but not be limited to):

- property tax levies;
- the law enforcement protection fund;
- the small cities assistance fund;
- the fire protection fund;
- [gross receipts] sales tax distribution;
- gasoline tax distributions;
- cigarette tax distributions; and
- motor vehicle fees distributions.

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

.207939.1

- 73 -
(1) require each leasehold community to furnish and file with the division, on or before June 1 of each year, a proposed budget for the next fiscal year;

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

(3) hold public hearings on proposed budgets;

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

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

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

(7) with written approval of the secretary of
finance and administration and the attorney general, increase the total budget of any leasehold community in the event the leasehold community undertakes an activity, service, project or construction program [which] that was not contemplated at the time the final budget was adopted and approved and which activity, service, project or construction program will produce sufficient revenue to cover the increase in the budget or the leasehold community has surplus funds on hand not necessary to meet the expenditures provided for in the budget with which to cover the increase in the budget;

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

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

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

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

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

.207939.1
A. "net effective interest rate" means the interest rate of public securities, compounded semiannually, necessary to discount the scheduled debt service payments of principal and interest to the date of the public securities and to the price paid to the public body for the public securities, excluding any interest accrued to the date of delivery and based upon a year with the same number of days as the number of days for which interest is computed on the public securities;

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

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

(1) the Industrial Revenue Bond Act;

(2) the County Improvement District Act;

(3) Sections 3-33-1 through 3-33-43 NMSA 1978;

(4) the Pollution Control Revenue Bond Act;
1 (5) the County Pollution Control Revenue Bond Act;
2 (6) the County Industrial Revenue Bond Act;
3 (7) the Metropolitan Redevelopment Code;
5 (9) the Hospital Equipment Loan Act; or
6 (10) the New Mexico Finance Authority Act."

SECTION 20. Section 6-22-2 NMSA 1978 (being Laws 1992,
Chapter 105, Section 2) is amended to read:

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

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

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

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

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

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

F. "state distributions" means any or all of the funds distributed to local governments pursuant to Section [7-1-6.4] 7-1-6.9 [and Subsection B of Section 7-1-6.11] NMSA 1978."

SECTION 21. Section 6-25-7 NMSA 1978 (being Laws 2003, Chapter 349, Section 7, as amended) is amended to read:

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

A. The authority may issue project revenue bonds on behalf of an eligible entity to provide funds for a project. Project revenue bonds issued pursuant to the Statewide Economic Development Finance Act shall not be a general obligation of the authority or the state within the meaning of any provision of the constitution of New Mexico and shall never give rise to a pecuniary liability of the authority or the state or a charge against the general credit or taxing powers of the state. Project revenue bonds shall be payable from the revenue derived from a project being financed by the bonds and from other revenues pledged by an eligible entity and may be secured in such manner as provided in the Statewide Economic Development Finance Act and as determined by the authority. Project revenue bonds may be executed and delivered at any time, may be in such form and denominations, may be payable in installments and at times not exceeding thirty years from their date of delivery, may bear or accrete
interest at a rate or rates and may contain such provisions not inconsistent with the Statewide Economic Development Finance Act, all as provided in the resolution and proceedings of the authority authorizing issuance of the bonds. Project revenue bonds issued by the authority pursuant to the Statewide Economic Development Finance Act may be sold at public or private sale in such manner and from time to time as may be determined by the authority, and the authority may pay all expenses that the authority may determine necessary in connection with the authorization, sale and issuance of the bonds. All project revenue bonds issued pursuant to the Statewide Economic Development Finance Act shall be negotiable.

B. The principal of and interest on project revenue bonds issued pursuant to the Statewide Economic Development Finance Act shall be secured by a pledge of the revenues of the project being financed with the proceeds of the bonds, may be secured by a mortgage of all or a part of the project being financed or other collateral pledged by an eligible entity and may be secured by the lease of such project, which collateral and lease may be assigned, in whole or in part, by the department to the authority or to third parties to carry out the purposes of the Statewide Economic Development Finance Act. The resolution of the authority pursuant to which the project revenue bonds are authorized to
be issued or any such mortgage may contain any agreement and
provisions customarily contained in instruments securing
bonds, including provisions respecting the fixing and
collection of all revenues from any project to which the
resolution or mortgage pertains, the terms to be incorporated
in the lease of the project, the maintenance and insurance of
the project, the creation and maintenance of special funds
from the revenues of the project and the rights and remedies
available in event of default to the bondholders or to the
trustee under a mortgage, all as determined by the authority
or the department and as shall not be in conflict with the
Statewide Economic Development Finance Act; provided, however,
that, in making any such agreements or provisions, the
authority and the department may not obligate themselves
except with respect to the project and application of the
revenues from the project, and except as expressly permitted
by the Statewide Economic Development Finance Act, and shall
not have the power to incur a pecuniary liability or a charge
or to pledge the general credit or taxing power of the state.
The resolution authorizing the issuance of project revenue
bonds may provide procedures and remedies in the event of
default in payment of the principal of or interest on the
bonds or in the performance of any agreement. No breach of
any such agreement shall impose any pecuniary liability upon
the authority, the department or the state or any charge

.207939.1

- 80 -
against the general credit or taxing powers of the state.

C. The authority may arrange for such other guarantees, insurance or other credit enhancements or additional security provided by an eligible entity as determined by the authority for the project revenue bonds and may provide for the payment of the costs from the proceeds of the bonds or may require payment of the costs by the eligible entity on whose behalf the bonds are issued.

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

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

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

SECTION 22. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended) is amended to read:

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

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

   (1) Income Tax Act;
   (2) Withholding Tax Act;
   (3) Venture Capital Investment Act;
   (4) [Gross Receipts and Compensating] Sales and Use Tax Act, [and any state gross receipts tax] Interstate Telecommunications Sales Tax Act and Leased Vehicle Sales Tax Act;
   (5) Liquor Excise Tax Act;
   (6) Local Liquor Excise Tax Act;
   (7) any municipal local option [gross receipts] sales or use tax;
   (8) any county local option [gross receipts] sales or use tax;
   (9) Special Fuels Supplier Tax Act;
   (10) Gasoline Tax Act;
   (11) petroleum products loading fee, which
fee shall be considered a tax for the purpose of the Tax Administration Act;

(12) Alternative Fuel Tax Act;
(13) Cigarette Tax Act;
(14) Estate Tax Act;
(15) Railroad Car Company Tax Act;
(16) [Investment Credit Act] rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act and Affordable Housing Tax Credit Act [and high-wage jobs tax credit];
(17) Corporate Income and Franchise Tax Act;
(18) Uniform Division of Income for Tax Purposes Act;
(19) Multistate Tax Compact;
(20) Tobacco Products Tax Act; and
(21) the telecommunications relay service surcharge imposed by Section 63-9F-11 NMSA 1978, which surcharge shall be considered a tax for the purposes of the Tax Administration Act;

B. the administration and enforcement of the following taxes, surtaxes, advanced payments or tax acts as they now exist or may hereafter be amended:

(1) Resources Excise Tax Act;
(2) Severance Tax Act;

.207939.1

- 83 -
(3) any severance surtax;
(4) Oil and Gas Severance Tax Act;
(5) Oil and Gas Conservation Tax Act;
(6) Oil and Gas Emergency School Tax Act;
(7) Oil and Gas Ad Valorem Production Tax Act;
(8) Natural Gas Processors Tax Act;
(9) Oil and Gas Production Equipment Ad Valorem Tax Act;
(10) Copper Production Ad Valorem Tax Act;
(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;
(12) Enhanced Oil Recovery Act;
(13) Natural Gas and Crude Oil Production Incentive Act; and
(14) intergovernmental production tax credit and intergovernmental production equipment tax credit;

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:
(1) Weight Distance Tax Act;
(2) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a
HFl/HB 412

1. tax for purposes of the Tax Administration Act;

   (3) Uniform Unclaimed Property Act (1995);

   (4) 911 emergency surcharge and the network

   and database surcharge, which surcharges shall be considered

   taxes for purposes of the Tax Administration Act;

   (5) the solid waste assessment fee authorized

   by the Solid Waste Act, which fee shall be considered a tax

   for purposes of the Tax Administration Act;

   (6) the water conservation fee imposed by

   Section 74-1-13 NMSA 1978, which fee shall be considered a tax

   for the purposes of the Tax Administration Act; and

   (7) the gaming tax imposed pursuant to the

   Gaming Control Act; and

   D. the administration and enforcement of all other

   laws, with respect to which the department is charged with

   responsibilities pursuant to the Tax Administration Act, but

   only to the extent that the other laws do not conflict with

   the Tax Administration Act."

SECTION 23. Section 7-1-3 NMSA 1978 (being Laws 1965,

Chapter 248, Section 3, as amended) is amended to read:

"7-1-3. DEFINITIONS.--Unless the context clearly

indicates a different meaning, the definitions of words and

phrases as they are stated in this section are to be used, and

whenever in the Tax Administration Act these words and phrases

appear, the singular includes the plural and the plural

.207939.1

- 85 -
includes the singular:

A. "automated clearinghouse transaction" means an electronic credit or debit transmitted through an automated clearinghouse payable to the state treasurer and deposited with the fiscal agent of New Mexico;

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

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

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

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

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

   (1) the chief hearing officer;
(2) an employee of the administrative hearings office; or

(3) a contractor of the administrative hearings office;

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

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

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

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

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

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

[L-] M. "overpayment" means an amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by a person to the department or withheld from the person in excess of tax due from the person to the state at the time of the payment or at the time the amount withheld is credited against tax due;
[M-] N. "paid" includes the term "paid over";
[O-] Q. "pay" includes the term "pay over";
[Q-] P. "payment" includes the term "payment over";

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

[R-] R. "property" means property or rights to property;

[S-] S. "property or rights to property" means any tangible property, real or personal, or any intangible property of a taxpayer;

[T-] T. "return" means any tax or information return, declaration of estimated tax or claim for refund, including any amendments or supplements to the return,
required or permitted pursuant to a law subject to
administration and enforcement pursuant to the Tax
Administration Act and filed with the secretary or the
secretary's delegate by or on behalf of any person;

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

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

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

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

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

[Z] Z. "tax" means the total amount of each tax
imposed and required to be paid, withheld and paid or
collected and paid under provision of any law made subject to
administration and enforcement according to the provisions of
the Tax Administration Act and, unless the context otherwise
requires, includes the amount of any interest or civil penalty
relating thereto; "tax" also means any amount of any abatement
of tax made or any credit, rebate or refund paid or credited
by the department under any law subject to administration and
enforcement under the provisions of the Tax Administration Act
to any person contrary to law and includes, unless the context
requires otherwise, the amount of any interest or civil
penalty relating thereto;

[AA] AA. "tax return preparer" means a person who
prepares for others for compensation or who employs one or
more persons to prepare for others for compensation any return
of income tax, a substantial portion of any return of income
tax, any claim for refund with respect to income tax or a
substantial portion of any claim for refund with respect to
income tax; provided that a person shall not be a "tax return
preparer" merely because such person:

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

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

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

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

SECTION 24. Section 7-1-6.2 NMSA 1978 (being Laws 1983,
Chapter 211, Section 7, as amended) is amended to read:

"7-1-6.2. DISTRIBUTION--SMALL CITIES ASSISTANCE FUND.--A
distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
made to the small cities assistance fund in an amount equal to
fifteen percent of the net receipts attributable to the
[compensating] use tax pursuant to Section 7-9-7 NMSA 1978."

SECTION 25. Section 7-1-6.5 NMSA 1978 (being Laws 1983,
Chapter 211, Section 10 and Laws 1983, Chapter 214, Section 6,
as amended) is amended to read:

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

SECTION 26. Section 7-1-6.7 NMSA 1978 (being Laws 1994,
Chapter 5, Section 2, as amended) is amended to read:

"7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--
A. A distribution pursuant to Section 7-1-6.1 NMSA
1978 shall be made to the state aviation fund in an amount
equal to four and seventy-nine hundredths percent of the
taxable gross receipts attributable to the sale of fuel
specially prepared and sold for use in turboprop or jet-type
engines as determined by the department.

B. A distribution pursuant to Section 7-1-6.1 NMSA
.207939.1
1978 shall be made to the state aviation fund in an amount equal to twenty-six hundredths percent of gasoline taxes, exclusive of penalties and interest, collected pursuant to the Gasoline Tax Act.

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

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

1. eighty thousand dollars ($80,000) monthly from July 1, 2007 through June 30, 2008;
2. one hundred sixty-seven thousand dollars ($167,000) monthly from July 1, 2008 through June 30, 2009;
and
3. two hundred fifty thousand dollars ($250,000) [monthly after July 1, 2009]."

SECTION 27. Section 7-1-6.12 NMSA 1978 (being Laws 1983, Chapter 211, Section 17, as amended) is amended to read:

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

A. A transfer pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality for which the department is collecting a local option [gross receipts] sales or use tax imposed by that municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net receipts attributable to the local option [gross receipts] sales or use tax imposed by that municipality, less any deduction for administrative cost determined and made by the department pursuant to the provisions of the act authorizing imposition by that municipality of the local option [gross receipts] sales or use tax and any additional administrative fee withheld pursuant to Subsection C of Section 7-1-6.41 NMSA 1978.

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

SECTION 28. Section 7-1-6.13 NMSA 1978 (being Laws 1983, Chapter 211, Section 18, as amended) is amended to read:

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

A. Except as provided in Subsection B of this section, a transfer pursuant to Section 7-1-6.1 NMSA 1978
shall be made to each county for which the department is
collecting a local option [gross receipts] sales or use tax
imposed by that county in an amount, subject to any increase
or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal
to the net receipts attributable to the local option [gross
receipts] sales or use tax imposed by that county, less any
deduction for administrative cost determined and made by the
department pursuant to the provisions of the act authorizing
imposition by that county of the local option [gross receipts]
sales or use tax and any additional administrative fee
withheld pursuant to Subsection C of Section 7-1-6.41 NMSA
1978.

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

SECTION 29. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,
Section 1 and by Laws 2015, Chapter 100, Section 1) is amended
to read:

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

A. The provisions of this section apply to:

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

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

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

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

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

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

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

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

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

B. Before making a distribution or transfer specified in Subsection A of this section to a municipality or county for the month, amounts comprising the net receipts

.207939.1

- 97 -
shall be segregated into two mutually exclusive categories. One category shall be for amounts relating to the current month, and the other category shall be for amounts relating to prior periods. The total of each category for a municipality or county shall be reported each month to that municipality or county. If the total of the amounts relating to prior periods is less than zero and its absolute value exceeds the greater of one hundred dollars ($100) or an amount equal to twenty percent of the average distribution or transfer amount for that municipality or county, then the following procedures shall be carried out:

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

(2) if the revised total for prior periods determined pursuant to Paragraph (1) of this subsection is negative and its absolute value exceeds the greater of one hundred dollars ($100) or an amount equal to twenty percent of
the average distribution or transfer amount for that
municipality or county, the revised total for prior periods
shall be excluded from the distribution or transfers and the
net receipts to be distributed or transferred to the
municipality or county shall be equal to the amount for the
current month.

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

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

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

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

(3) that if the municipality or county takes
no action within the ninety-day period, the department will
recover the amount from the next six distributions or
transfers following the expiration of the ninety days; and

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

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

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

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

(b) except as provided in Paragraphs
(2) and (3) of this subsection, if the municipality or county
fails to act within the ninety days, decreasing the amount of
the next six distributions or transfers to the municipality or
county following expiration of the ninety-day period in
increments as nearly equal as practicable and sufficient to
recover the amount;
(2) if, pursuant to Subsection B of this section, the secretary determines that the recoverable amount is more than fifty percent of the average distribution or transfer of net receipts for that municipality or county, the secretary:

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

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

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

F. No later than ninety days from the date notice pursuant to Subsection D of this section is given, the department shall provide the municipality or county adequate opportunity to review an application for a claim for refund.
that gave rise to the recoverable amount, exclusive of any amended returns that may be attached to the application, pursuant to Section 7-1-8.9 NMSA 1978.

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

H. The secretary is authorized to decrease a distribution or transfer to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution or transfer to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or transfer or notice to redirect a distribution or transfer to a municipality or county, the secretary shall decrease or redirect the next designated distribution or transfer, and succeeding distributions or transfers as necessary, by the amount of the state distributions intercept authorized by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution or transfer to the New Mexico finance authority.
Aid Intercept Act or by the amount of the state distribution intercept authorized pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement with the New Mexico finance authority. The secretary shall transfer the state distributions intercept amount to the municipal or county treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority. A decrease to or redirection of a distribution or transfer pursuant to this subsection that arose:

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

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

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

J. As used in this section:

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

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

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

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

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

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

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

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

SECTION 30. Section 7-1-6.16 NMSA 1978 (being Laws 1983,
Chapter 213, Section 27, as amended) is amended to read:

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

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

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

.207939.1
(2) the net receipts received by the department during the report year, including any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, attributable to the county [gross receipts] sales tax at [a rate of one-eighth percent] the rate determined pursuant to Subsection G of Section 7-1-84 NMSA 1978; provided that for any month in the report year, if no county [gross receipts] sales tax was in effect in the county in the previous month, the net receipts, for the purposes of this section, for that county for that month shall be zero.

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

C. As used in this section:

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

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

(a)] two and forty-four hundredths percent of the net receipts received by the department in the month attributable to the state [gross receipts tax plus five percent of the total amount of deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month plus five percent of .207939.1
the total amount of deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month; and

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

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

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

SECTION 31. Section 7-1-6.36 NMSA 1978 (being Laws 1992, Chapter 50, Section 13 and also Laws 1992, Chapter 67, Section 12) is amended to read:

"7-1-6.36. DISTRIBUTION--INTERSTATE TELECOMMUNICATIONS [GROSS RECEIPTS] SALES TAX.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to [the product of the quotient of one and thirty-five hundredths percent .207939.1
divided by the tax rate imposed by the Interstate Telecommunications Gross Receipts Tax Act times thirty-one and seventy-seven hundredths percent of the net receipts for the month attributable to the interstate telecommunications sales tax from business locations:

A. within that municipality;

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

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

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

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

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

SECTION 32. Section 7-1-6.38 NMSA 1978 (being Laws 1994, Chapter 145, Section 1, as amended) is amended to read:

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

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

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

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

.207939.1
D. The state pledges to and agrees with the holders of any bonds or notes issued by the New Mexico finance authority or by the energy, minerals and natural resources department and payable from the net receipts attributable to the governmental [gross receipts] sales tax distributed to the New Mexico finance authority or the energy, minerals and natural resources department pursuant to this section that the state will not limit, reduce or alter the distribution of the net receipts attributable to the governmental [gross receipts] sales tax to the New Mexico finance authority or the energy, minerals and natural resources department or limit, reduce or alter the rate of imposition of the governmental [gross receipts] sales tax until the bonds or notes together with the interest thereon are fully met and discharged. The New Mexico finance authority and the energy, minerals and natural resources department are authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds or notes."

SECTION 33. Section 7-1-6.40 NMSA 1978 (being Laws 1997, Chapter 182, Section 1, as amended) is amended to read:

"7-1-6.40. DISTRIBUTION OF LIQUOR EXCISE TAX--LOCAL DWI GRANT FUND--CERTAIN MUNICIPALITIES--LOTTERY TUITION FUND.--

A. Except as provided in Subsection F of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
HFL/HB 412

shall be made to the local DWI grant fund in an amount equal to the following percentages of the net receipts attributable to the liquor excise tax:

(1) prior to July 1, [2015, forty-one and one-half] 2018, forty-six percent;

(2) [from July 1, 2015 through June 30, 2018, forty-six percent; and] beginning July 1, 2018 and prior to July 1, 2019, fifty percent;

(3) beginning July 1, 2019 and prior to July 1, 2020, fifty-two percent;

(4) beginning July 1, 2020 and prior to July 1, 2021, fifty-four percent;

(5) beginning July 1, 2021 and prior to July 1, 2022, fifty-eight percent; and

(6) on and after July 1, [2018, forty-one and one-half] 2022, sixty percent.

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

C. [From July 1, 2015 through June 30, 2017]

Except as provided in Subsection F of this section, a
distribution pursuant to Section 7-1-6.1 NMSA 1978 of [thirty-nine percent] the following percentages of the net receipts attributable to the liquor excise tax shall be made to the lottery tuition fund:

(1) prior to July 1, 2017, thirty-nine percent;

(2) beginning July 1, 2017 and prior to July 1, 2018, thirty-four percent;

(3) beginning July 1, 2018 and prior to July 1, 2019, twenty-eight percent;

(4) beginning July 1, 2019 and prior to July 1, 2020, twenty-two percent;

(5) beginning July 1, 2020 and prior to July 1, 2021, sixteen percent;

(6) beginning July 1, 2021 and prior to July 1, 2022, eight percent; and

(7) on and after July 1, 2022, zero percent.

D. Except as provided in Subsection F of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the administrative office of the courts to support drug court programs in an amount equal to the following percentages of the net receipts attributable to the
liquor excise tax:

(1) beginning July 1, 2018 and prior to July 1, 2019, four percent;
(2) beginning July 1, 2019 and prior to July 1, 2020, six percent;
(3) beginning July 1, 2020 and prior to July 1, 2022, eight percent; and
(4) beginning July 1, 2022 and prior to July 1, 2023, ten percent.

E. Except as provided in Subsection F of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county-supported medicaid fund in an amount equal to the following percentages of the net receipts attributable to the liquor excise tax, less the amount distributed pursuant to Subsection B of this section:

(1) beginning July 1, 2018 and prior to July 1, 2019, eighteen percent;
(2) beginning July 1, 2019 and prior to July 1, 2020, twenty percent;
(3) beginning July 1, 2020 and prior to July 1, 2021, twenty-two percent;
(4) beginning July 1, 2021 and prior to July 1, 2022, twenty-six percent; and
(5) beginning July 1, 2022 and prior to July 1, 2023, thirty percent.
F. If, on or before March 1, 2019, the secretary of finance and administration certifies to the secretary of taxation and revenue that revenue attributable to the state sales tax and distributed to the general fund since July 1, 2018 is projected to be less for fiscal year 2019 than the amount of estimated state sales tax revenue, as that term is defined in Section 7-9-4 NMSA 1978, than the amount of baseline revenue, as that term is used in Section 7-9-4 NMSA 1978, the distributions pursuant to Subsections A and C through E of this section shall not be made beginning July 1, 2019 and prior to January 1, 2020."

SECTION 34. Section 7-1-6.53 NMSA 1978 (being Laws 2005, Chapter 176, Section 11) is amended to read:

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

[A. after the required distribution pursuant to .207939.1]
Section 7-1-6.4 NMSA 1978;

B. A. contemporaneously with other distributions of net receipts attributable to the state sales tax for payment of debt service on outstanding bonds or to a fund dedicated for that purpose; and

[67] B. prior to any other distribution of net receipts attributable to the state sales tax."

SECTION 35. Section 7-1-6.54 NMSA 1978 (being Laws 2006, Chapter 75, Section 29) is amended to read:

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

SECTION 36. A new section of the Tax Administration Act, Section 7-1-6.61 NMSA 1978, is enacted to read:

"7-1-6.61. DISTRIBUTION--STATE SALES TAX TO LOCAL GOVERNMENT TAX STABILIZATION FUND.--

A. Prior to July 1, 2020, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the local government tax stabilization fund in an amount equal to one-twelfth of the excess state sales tax revenue.
B. As used in this section, "excess state sales tax revenue" means that amount of revenue above:

   (1) for fiscal year 2019, the fiscal year 2019 baseline revenue, as that term is defined in Section 7-9-4 NMSA 1978; and

   (2) for fiscal year 2020, the fiscal year 2019 baseline revenue, as that term is defined in Section 7-9-4 NMSA 1978, multiplied by one hundred three percent."

SECTION 37. A new section of the Tax Administration Act, Section 7-1-6.62 NMSA 1978, is enacted to read:

"7-1-6.62. [NEW MATERIAL] LOCAL GOVERNMENT TAX STABILIZATION FUND--DISTRIBUTION TO MUNICIPALITIES AND COUNTIES.--

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

   B. A distribution from the local government tax stabilization fund shall be made to each municipality and county in January 2019, July 2019 and January 2020 in an amount equal to the municipality's or county's monthly baseline revenue multiplied by the number of months that have
passed since July 1, 2018, less the transfers made pursuant to Section 7-1-6.12 or 7-1-6.13 NMSA 1978, less the distributions made pursuant to Sections 7-1-6.46 and 7-1-6.47 NMSA 1978, as appropriate, since July 1, 2018, less all prior distributions made pursuant to this section. The department shall adjust the amount of distributions made pursuant to this section in proportion to the actual money available in the fund.

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

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

SECTION 38. Section 7-1-8.8 NMSA 1978 (being Laws 2009, Chapter 243, Section 10, as amended) is amended to read:

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

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

B. the attorney general, return information acquired pursuant to the Cigarette Tax Act for purposes of Section 6-4-13 NMSA 1978 and the master settlement agreement defined in Section 6-4-12 NMSA 1978;"
C. the commissioner of public lands, return
information for use in auditing that pertains to rentals,
royalties, fees and other payments due the state under land
sale, land lease or other land use contracts;

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

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

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

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

      (b) the names and addresses of
low-income taxpayers for the limited purpose of outreach to
those taxpayers; provided that the human services department
shall pay the department for expenses incurred by the taxation

.207939.1

- 119 -
and revenue department to derive the information requested by
the human services department if the information requested is
not readily available in reports for which the taxation and
revenue department's information systems are programmed;

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

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

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

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

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

J.] I. the gaming control board, tax returns of
license applicants and their affiliates as provided in
Subsection E of Section 60-2E-14 NMSA 1978;

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

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

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

.207939.1  
- 121 -
SECTION 39. Section 7-1-8.9 NMSA 1978 (being Laws 2009, Chapter 243, Section 11, as amended by Laws 2015, Chapter 89, Section 2 and by Laws 2015, Chapter 100, Section 2) is amended to read:

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

A. An employee of the department may reveal to:

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

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

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

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

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

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

(b) a range of taxable gross receipts of registered gross receipts paid by taxpayers from business locations attributable either to that county in the case of a local option [gross receipts] sales tax imposed on a countywide basis or only to the areas of that county outside of any incorporated municipalities within that county in the case of a [county] local option [gross receipts] sales tax imposed only in areas of the county outside of any incorporated municipalities; provided that authorization from the federal internal revenue service to reveal such
information has been received. The department may also reveal
the information described in this subparagraph quarterly or
upon such other periodic basis as the secretary and the county
may agree in writing;

(c) in the case of a local option

[gross receipts] sales tax imposed by a county on a countywide
basis, information indicating whether persons shown on a list
of businesses located within the county furnished by the
county have reported gross receipts to the department but have
not reported gross receipts for that county under the [Gross
Receipts and Compensating] Sales and Use Tax Act or a local
option [gross receipts] sales tax imposed by that county on a
countywide basis; and

(d) in the case of a local option

[gross receipts] sales tax imposed by a county only on persons
engaging in business in that area of the county outside of
incorporated municipalities, information indicating whether
persons on a list of businesses located in that county outside
of the incorporated municipalities but within that county
furnished by the county have reported gross receipts to the
department but have not reported gross receipts for that
county outside of the incorporated municipalities within that
county under the [Gross Receipts and Compensating] Sales and
Use Tax Act or a local option [gross receipts] sales tax
imposed by the county only on persons engaging in business in

.207939.1
that county outside of the incorporated municipalities; and

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

B. The department may require that a municipal or county official or employee satisfactorily complete appropriate training on protecting confidential information prior to receiving the information pursuant to Subsection A of this section.
C. An employee of the department may reveal to a water and sanitation district of a county that has in effect an ordinance that, prior to July 1, 2018, imposed a water and sanitation gross receipts tax for a period specified by that district within the twelve months preceding the request for the information by that water and sanitation district:

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

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

SECTION 40. Section 7-1-10 NMSA 1978 (being Laws 1965, Chapter 248, Section 15, as amended) is amended to read:

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

A. Every person required by the provisions of any statute administered by the department to keep records and

.207939.1

- 127 -
documents and every taxpayer shall maintain books of account or other records in a manner that will permit the accurate computation of state taxes or provide information required by the statute under which the person is required to keep records.

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

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

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

E. Upon the written application of a taxpayer and
at the sole discretion of the secretary or the secretary's
delegate, the secretary or the secretary's delegate may enter
into an agreement with a taxpayer allowing the taxpayer to
report values, gross receipts, deductions or the value of
property on an estimated basis for [gross receipts and
compensating] sales and use tax, oil and gas severance tax,
oil and gas conservation tax, oil and gas emergency school tax
and oil and gas ad valorem production tax purposes for a
limited period of time not to exceed four years. As used in
this section, "estimated basis" means a methodology that is
reasonably expected to approximate the tax that will be due
over the period of the agreement using summary rather than
detail data or alternate valuation applications or methods,
provided that:

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

(2) the agreement [must] shall:

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

(b) state the term of the agreement and
the procedures for terminating the agreement prior to its
expiration;
(c) be signed by the taxpayer or the taxpayer's representative and the secretary or the secretary's delegate; and

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

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

SECTION 41. Section 7-1-13.1 NMSA 1978 (being Laws 1988, Chapter 99, Section 3, as amended) is amended to read:

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

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

(1) Group 1: all taxes due under the Withholding Tax Act, the [Gross Receipts and Compensating] .207939.1

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

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

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

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

C. Taxpayers who are required to make payment in accordance with the provisions of this section shall make payment by one or more of the following means on or before the due date so that funds are immediately available to the state on or before the due date:

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

(2) currency of the United States;

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

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

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

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

SECTION 42. Section 7-1-14 NMSA 1978 (being Laws 1969, Chapter 145, Section 1, as amended) is amended to read:

"7-1-14. SECRETARY MAY DETERMINE WHERE CERTAIN GROSS
RECEIPTS ARE TO BE REPORTED--PLACE OF BUSINESS FOR
CONSTRUCTION PROJECTS, [AND] CERTAIN REAL PROPERTY SALES AND
SALES BY OUT-OF-STATE VENDORS.--

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

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

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

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

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

SECTION 43. Section 7-1-15 NMSA 1978 (being Laws 1969,
Chapter 31, Section 1, as amended) is amended to read:

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

SECTION 44. Section 7-1-15.2 NMSA 1978 (being Laws 1998,
Chapter 105, Section 1) is amended to read:

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

SECTION 45. Section 7-1-21.1 NMSA 1978 (being Laws 2013,
Chapter 87, Section 1) is amended to read:

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

.207939.1

- 134 -
A. To allow the payment of [gross receipts] sales tax by a person who is not the liable taxpayer, the secretary may approve a request by a person to assume the liability for [gross receipts] sales tax or governmental [gross receipts] sales tax owed by another; provided that the person requesting approval agrees to assume the rights and responsibilities as taxpayer pursuant to the Tax Administration Act for:

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

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

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

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

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

(a) allows a person engaged in
HFL/HB 412

manufacturing in New Mexico to pay gross receipts tax or governmental gross receipts tax on behalf of a utility company on receipts from sales of utilities that are: 1) not consumed in the manufacturing process; or 2) not otherwise deductible; and

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

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

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

D. A person approved by the secretary to pay the gross receipts sales tax or governmental gross receipts sales tax pursuant to Subsection A of this section shall be deemed to be the taxpayer with respect to that tax pursuant to the Tax Administration Act with respect to all rights and responsibilities related to that tax, except that the person shall not:

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

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

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

SECTION 46. Section 7-1-26 NMSA 1978 (being Laws 1965, Chapter 248, Section 28, as amended) is amended to read:

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

A. A person who believes that an amount of tax has been paid by or withheld from that person in excess of that
for which the person was liable, who has been denied any credit or rebate claimed or who claims a prior right to property in the possession of the department pursuant to a levy made under authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim a refund by directing to the secretary, within the time limited by the provisions of Subsections D and E of this section, a written claim for refund. Except as provided in Subsection I of this section, a refund claim shall include:

1. the [taxpayer's] person's name, address and identification number;
2. the type of tax for which a refund is being claimed, the credit or rebate denied or the property levied upon;
3. the sum of money or other property being claimed;
4. with respect to refund, the period for which overpayment was made; and
5. a brief statement of the facts and the law on which the claim is based, which may be referred to as the "basis for the refund".

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

1. If the claim is denied in whole or in part in writing, no claim may be refiled with respect to that.
which was denied, but the person, within ninety days after
either the mailing or delivery of the denial of all or any
part of the claim, may elect to pursue one, but not more than
one, of the remedies in Subsection C of this section.

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

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

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

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

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

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

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

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

D. Except as otherwise provided in Subsection E of
this section, no credit or refund of any amount may be allowed
or made to any person unless as the result of a claim made by
that person as provided in this section:
(1) within three years of the end of the calendar year in which:

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

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

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

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

(2) when an amount of a claim for [credit under the provisions of the Investment Credit Act] a laboratory partnership with small business tax credit [Act or], a technology jobs and research and development tax credit .207939.1

- 141 -
[Act or for the], a rural job tax credit [pursuant to Section 7-2E-1.1 NMSA 1978] or similar credit has been denied, the taxpayer may claim a refund of the credit no later than one year after the date of the denial;

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

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

(5) when a taxpayer has been assessed a tax on or after July 1, 1993 under Subsection B, C or D of Section 7-1-18 NMSA 1978 and when the assessment applies to a period ending at least three years prior to the beginning of the year in which the assessment was made, the taxpayer may
claim a refund for the same tax for the period of the
assessment or for any period following that period within one
year of the date of the assessment unless a longer period for
claiming a refund is provided in this section.

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

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

G. Any refund of tax paid under any tax or tax act
administered under Subsection B of Section 7-1-2 NMSA 1978 may
be made, at the discretion of the department, in the form of

.207939.1

- 143 -
credit against future tax payments if future tax liabilities
in an amount at least equal to the credit amount reasonably
may be expected to become due.

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

I. The filing of a fully completed original income
tax return, corporate income tax return, corporate income and
franchise tax return, estate tax return or special fuel excise
tax return that shows a balance due the taxpayer or a fully
completed amended income tax return, an amended corporate
income tax return, an amended corporate income and franchise
tax return, an amended estate tax return, an amended special
fuel excise tax return or an amended oil and gas tax return
that shows a lesser tax liability than the original return
constitutes the filing of a claim for refund for the
difference in tax due shown on the original and amended
returns."

SECTION 47. Section 7-1-29 NMSA 1978 (being Laws 1965,
Chapter 248, Section 31, as amended) is amended to read:

.207939.1
"7-1-29. AUTHORITY TO MAKE REFUNDS OR CREDITS.--

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

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

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

D. In an audit by the department or a managed
audit covering multiple reporting periods in which both
underpayments and overpayments of a tax have been made in
different reporting periods, the department shall credit the
tax overpayments against the underpayments; provided that the
taxpayer files a claim for refund of the overpayments. An
overpayment shall be applied as a credit first to the earliest
underpayment and then to succeeding underpayments. An
underpayment of tax to which an overpayment is credited
pursuant to this section shall be deemed paid in the period in
1 which the overpayment was made or the period to which the
2 overpayment was credited against an underpayment, whichever is
3 later. If the overpayments credited pursuant to this section
4 exceed the underpayments of a tax, the amount of the net
5 overpayment for the periods covered in the audit shall be
6 refunded to the taxpayer.

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

F. If the department determines, upon review of an
19 original or amended income tax return, corporate income and
20 franchise tax return, estate tax return, special fuels excise
tax return or oil and gas tax return, that there has been an
22 overpayment of tax for the taxable period to which the return
23 or amended return relates in excess of the amount due to be
24 refunded to the taxpayer pursuant to the provisions of
25 Subsection I of Section 7-1-26 NMSA 1978, the department may

.207939.1

- 147 -
refund that excess amount to the taxpayer without requiring
the taxpayer to file a refund claim.

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

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

SECTION 48. Section 7-1-55 NMSA 1978 (being Laws 1975,
Chapter 251, Section 3, as amended) is amended to read:
"7-1-55. CONTRACTOR'S BOND FOR GROSS RECEIPTS--TAX--
  PENALTY.--

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

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

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

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

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

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

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

F. A municipality or other political subdivision
of the state or any agency of the state shall not issue a
building or other construction permit to any person subject to
the requirements of Subsection A of this section without first
having been furnished by the construction contractor with the
certificate from the secretary or the secretary's delegate
specified in Subsection A of this section. Any person who
issues any such permit before receiving the certificate shall
be deemed guilty of a misdemeanor and, upon conviction, be
fined not less than fifty dollars ($50.00) nor more than one
hundred dollars ($100) for each offense."

SECTION 49. A new section of the Tax Administration Act,
Section 7-1-69.3 NMSA 1978, is enacted to read:

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

SECTION 50. A new section of the Tax Administration Act,
Section 7-1-84 NMSA 1978, is enacted to read:

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

A. For the purpose of determining the municipal
share pursuant to Subsection B of Section 3-37A-2 NMSA 1978,
the department shall estimate the municipal sales tax rates that will, in fiscal years 2019 and 2020, produce an amount equivalent to what would have been produced by a municipal gross receipts tax rate of one and thirty-five hundredths percent, if that tax was still in effect in those fiscal years. The department shall use data from fiscal year 2017 to estimate the rate for fiscal year 2019 and data from fiscal year 2018 to estimate the rate for fiscal year 2020. The estimated municipal sales tax rates shall be used to determine the municipal share pursuant to Subsection B of Section 3-37A-2 NMSA 1978 as follows:

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

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

B. For the purpose of determining the local tax effort and a qualifying municipality pursuant to Subsections G and H of Section 3-37A-2 NMSA 1978, the department shall estimate the municipal sales tax rates that will, in fiscal years 2019 and 2020, produce an amount equivalent to what would have been produced by a municipal gross receipts tax rate of one and one-fourth percent if that tax was still in effect in those fiscal years. The department shall use data from fiscal year 2017 to estimate the rate for fiscal year .207939.1
2019 and data from fiscal year 2018 to estimate the rate for fiscal year 2020. The estimated municipal sales tax rates shall be used to determine the local tax effort and a qualifying municipality pursuant to Subsections G and H of Section 3-37A-2 NMSA 1978 as follows:

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

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

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

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

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

D. For the purpose of determining a qualifying county pursuant to Paragraph (4) of Subsection F of Section 4-61-2 NMSA 1978, the department shall estimate the county sales tax rates that will, in fiscal years 2019 and 2020, produce an amount equivalent to what would have been produced by a county gross receipts tax rate of three-eighths percent if that tax was still in effect in those fiscal years. The department shall use data from fiscal year 2017 to estimate the rate for fiscal year 2019 and data from fiscal year 2018 to estimate the rate for fiscal year 2020. The estimated county sales tax rates shall be used to determine a qualifying county pursuant to Paragraph (4) of Subsection F of Section 4-61-2 NMSA as follows:

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

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

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

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

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

F. For the purpose of determining the distribution pursuant to Subsection C of Section 7-1-6.7 NMSA 1978, the department shall estimate the state sales tax rates that will, in fiscal years 2019 and 2020, produce an amount equivalent to what would have been produced by a gross receipts tax rate of forty-six thousandths percent, if that tax was still in effect in those fiscal years. The department shall use data from fiscal year 2017 to estimate the rate for fiscal year 2019 and data from fiscal year 2018 to estimate the rate for fiscal year 2020. The estimated state sales tax rates shall be used
HFL/HB 412

to determine the distribution pursuant to Subsection C of
Section 7-1-6.7 NMSA 1978 as follows:

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

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

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

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

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

.207939.1
   - 156 -
H. For the purpose of determining the dedication pursuant to Subsection A of Section 27-5-6.2 NMSA 1978, the department shall estimate the county sales tax rates that will, in fiscal years 2019 and 2020, produce an amount equivalent to what would have been produced by a county gross receipts tax rate of one-twelfth percent if that tax was still in effect in those fiscal years. The department shall use data from fiscal year 2017 to estimate the rate for fiscal year 2019 and data from fiscal year 2018 to estimate the rate for fiscal year 2020. The estimated county sales tax rates shall be used to determine the dedication pursuant to Subsection A of Section 27-5-6.2 NMSA 1978 as follows:

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

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

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

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

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

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

SECTION 51. Section 7-2-18.4 NMSA 1978 (being Laws 1994, Chapter 115, Section 1) is amended to read:

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

A. To stimulate the creation of new jobs and revitalize economically depressed areas within New Mexico enterprise zones, any taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who is the owner of a qualified business facility may claim a credit in an amount equal to one-half of the cost, not to exceed fifty thousand dollars ($50,000), incurred to restore, rehabilitate or renovate a qualified business facility."
B. A taxpayer may claim the credit provided in this section for each taxable year in which restoration, rehabilitation or renovation is carried out. Except as provided in Subsection E of this section, claims for the credit provided in this section shall be limited to three consecutive years, and the maximum aggregate credit allowable shall not exceed fifty thousand dollars ($50,000) for any single restoration, rehabilitation or renovation project for any qualified business facility. Each claim for a qualified business facility rehabilitation credit shall be accompanied by documentation and certification as the department may require by regulation or instruction.

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

D. [A husband and wife] Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

E. A taxpayer who otherwise qualifies and claims a credit on a restoration, rehabilitation or renovation project on a building owned by a partnership or other business association of which the taxpayer is a member may claim a
credit only in proportion to [his] the taxpayer's interest in
the partnership or association. The total credit claimed by
all members of the partnership or association shall not exceed
fifty thousand dollars ($50,000) in the aggregate for any
single restoration, rehabilitation or renovation project for a
qualified business facility.

F. The credit provided in this section may only be
deducted from the taxpayer's income tax liability. Any
portion of the maximum tax credit provided by this section
that remains unused at the end of the taxpayer's taxable year
may be carried forward for four consecutive taxable years;
provided the total tax credits claimed under this section
shall not exceed fifty thousand dollars ($50,000) for any
single restoration, rehabilitation or renovation project for a
qualified business facility.

G. As used in this section:

(1) "qualified business facility" means a
building located in a New Mexico enterprise zone that is
suitable for use and is put into service by a person in the
manufacturing, distribution or service industry immediately
following the restoration, rehabilitation or renovation
project; provided the building [must] shall have been vacant
for the twenty-four-month period immediately preceding the
commencement of the restoration, rehabilitation or renovation
project; and
(2) "restoration, rehabilitation or renovation" includes:

(a) the construction services necessary to ensure that a building is in compliance with applicable zoning codes, is safe for occupancy and meets the operating needs of a person in the manufacturing, distribution or service industry; and

(b) expansion of or an addition to a building if the expansion or addition does not increase the usable square footage of the building by more than ten percent of the usable square footage of the building prior to the restoration, rehabilitation or renovation project."

SECTION 52. Section 7-2-18.25 NMSA 1978 (being Laws 2009, Chapter 279, Section 1) is amended to read:

"7-2-18.25. ADVANCED ENERGY INCOME TAX CREDIT.--

A. The tax credit that may be claimed pursuant to this section may be referred to as the "advanced energy income tax credit".

B. A taxpayer who holds an interest in a qualified generating facility located in New Mexico and who files an individual New Mexico income tax return may claim an advanced energy income tax credit in an amount equal to six percent of the eligible generation plant costs of a qualified generating facility, subject to the limitations imposed in this section. The tax credit claimed shall be verified and approved by the
C. An entity that holds an interest in a qualified generating facility may request a certificate of eligibility from the department of environment to enable the requester to apply for an advanced energy income tax credit. The department of environment:

(1) shall determine if the facility is a qualified generating facility;

(2) shall require that the requester provide the department of environment with the information necessary to assess whether the requester's facility meets the criteria to be a qualified generating facility;

(3) shall issue a certificate to the requester stating that the facility is or is not a qualified generating facility within one hundred eighty days after receiving all information necessary to make a determination;

(4) shall:

   (a) issue a schedule of fees in which no fee exceeds one hundred fifty thousand dollars ($150,000); and

   (b) deposit fees collected pursuant to this paragraph in the state air quality permit fund created pursuant to Section 74-2-15 NMSA 1978; and

(5) shall report annually to the appropriate interim legislative committee information that will allow the
legislative committee to analyze the effectiveness of the advanced energy tax credits, including the identity of qualified generating facilities, the energy production means used, the amount of emissions identified in this section reduced and removed by those qualified generating facilities and whether any requests for certificates of eligibility could not be approved due to program limits.

D. A taxpayer who holds an interest in a qualified generating facility may be allocated the right to claim the advanced energy income tax credit without regard to the taxpayer's relative interest in the qualified generating facility if:

(1) the business entity making the allocation provides notice of the allocation and the taxpayer's interest in the qualified generating facility to the department on forms prescribed by the department;

(2) allocations to the taxpayer and all other taxpayers allocated a right to claim the advanced energy tax credit shall not exceed one hundred percent of the advanced energy tax credit allowed for the qualified generating facility; and

(3) the taxpayer and all other taxpayers allocated a right to claim the advanced energy tax credits collectively own at least a five percent interest in the qualified generating facility.
E. To claim the advanced energy income tax credit, a taxpayer shall submit with the taxpayer's New Mexico income tax return a certificate of eligibility from the department of environment stating that the taxpayer may be eligible for advanced energy tax credits. The taxation and revenue department shall provide credit claims forms. A credit claim form shall accompany any return in which the taxpayer wishes to apply for an approved credit, and the claim shall specify the amount of credit intended to apply to each return. The taxation and revenue department shall determine the amount of advanced energy income tax credit for which the taxpayer may apply.

F. Upon receipt of the notice of an allocation of the right to claim all or a portion of the advanced energy income tax credit, the department shall verify the allocation due to the recipient.

G. [A husband and wife] Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the advanced energy income tax credit that would have been allowed on a joint return.

H. The total amount of all advanced energy tax credits claimed shall not exceed the total amount determined by the department to be allowable pursuant to this section and the Corporate Income and Franchise Tax Act [and Section 7-9C-2.207939.1].
I. Any balance of the advanced energy income tax credit that the taxpayer is approved to claim may be claimed by the taxpayer as an advanced energy combined reporting tax credit allowed pursuant to Section 7-9G-2 NMSA 1978. If the advanced energy income tax credit exceeds the amount of the taxpayer's tax liabilities pursuant to the Income Tax Act and Section 7-9G-2 NMSA 1978 in the taxable year in which it is claimed, the balance of the unpaid credit may be carried forward for ten years and claimed as an advanced energy income tax credit or an advanced energy combined reporting tax credit. The advanced energy income tax credit is not refundable.

J. A taxpayer claiming the advanced energy income tax credit pursuant to this section is ineligible for credits pursuant to the Investment Credit Act or any other credit that may be taken pursuant to the Income Tax Act or credits that may be taken against the gross receipts tax, compensating tax or withholding tax for the same expenditures.

K. The aggregate amount of all advanced energy tax credits that may be claimed with respect to a qualified generating facility shall not exceed sixty million dollars ($60,000,000).

L. As used in this section:

(1) "advanced energy tax credit" means the
advanced energy income tax credit and the advanced energy
corporate income tax credit [and the advanced energy combined
reporting tax credit];

(2) "coal-based electric generating facility"
means a new or repowered generating facility and an associated
coal gasification facility, if any, that uses coal to generate
electricity and that meets the following specifications:

(a) emits the lesser of: 1) what is
achievable with the best available control technology; or 2)
thirty-five thousandths pound per million British thermal
units of sulfur dioxide, twenty-five thousandths pound per
million British thermal units of oxides of nitrogen and one
hundredth pound per million British thermal units of total
particulates in the flue gas;

(b) removes the greater of: 1) what is
achievable with the best available control technology; or 2)
ninety percent of the mercury from the input fuel;

(c) captures and sequesters or controls
carbon dioxide emissions so that by the later of January 1,
2017 or eighteen months after the commercial operation date of
the coal-based electric generating facility, no more than one
thousand one hundred pounds per megawatt-hour of carbon
dioxide is emitted into the atmosphere;

(d) all infrastructure required for
sequestration is in place by the later of January 1, 2017 or
eighteen months after the commercial operation date of the coal-based electric generating facility;

(e) includes methods and procedures to monitor the disposition of the carbon dioxide captured and sequestered from the coal-based electric generating facility; and

(f) does not exceed a name-plate capacity of seven hundred net megawatts;

(3) "eligible generation plant costs" means expenditures for the development and construction of a qualified generating facility, including permitting; site characterization and assessment; engineering; design; carbon dioxide capture, treatment, compression, transportation and sequestration; site and equipment acquisition; and fuel supply development used directly and exclusively in a qualified generating facility;

(4) "entity" means an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other association or a gas, water or electric utility owned or operated by a county or municipality;

(5) "geothermal electric generating facility" means a facility with a name-plate capacity of one megawatt or more that uses geothermal energy to generate electricity,
including a facility that captures and provides geothermal energy to a preexisting electric generating facility using other fuels in part;

(6) "interest in a qualified generating facility" means title to a qualified generating facility; a leasehold interest in a qualified generating facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in a qualified generating facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in a qualified generating facility;

(7) "name-plate capacity" means the maximum rated output of the facility measured as alternating current or the equivalent direct current measurement;

(8) "qualified generating facility" means a facility that begins construction not later than December 31, 2015 and is:

(a) a solar thermal electric generating facility that begins construction on or after July 1, 2007 and that may include an associated renewable energy storage facility;

(b) a solar photovoltaic electric generating facility that begins construction on or after July
1, 2009 and that may include an associated renewable energy
storage facility;

(c) a geothermal electric generating
facility that begins construction on or after July 1, 2009;

(d) a recycled energy project if that
facility begins construction on or after July 1, 2007; or

(e) a new or repowered coal-based
electric generating facility and an associated coal
gasification facility;

(9) "recycled energy" means energy produced
by a generation unit with a name-plate capacity of not more
than fifteen megawatts that converts the otherwise lost energy
from the exhaust stacks or pipes to electricity without
combustion of additional fossil fuel;

(10) "sequester" means to store, or
chemically convert, carbon dioxide in a manner that prevents
its release into the atmosphere and may include the use of
geologic formations and enhanced oil, coalbed methane or
natural gas recovery techniques; and

(11) "solar photovoltaic electric generating
facility" means an electric generating facility with a
name-plate capacity of one megawatt or more that uses solar
photovoltaic energy to generate electricity [and

(12) "solar thermal generating facility"
means an electric generating facility with a name-plate
capacity of one megawatt or more that uses solar thermal
energy to generate electricity, including a facility that
captures and provides solar energy to a preexisting electric
generating facility using other fuels in part]."

SECTION 53. Section 7-2A-2 NMSA 1978 (being Laws 1986,
Chapter 20, Section 33, as amended) is amended to read:

"7-2A-2. DEFINITIONS.--For the purpose of the Corporate
Income and Franchise Tax Act and unless the context requires
otherwise:

A. "affiliated group" means that term as it is
used in the Internal Revenue Code;

B. "bank" means any national bank, national
banking association, state bank or bank holding company;

C. "base income" means that part of the taxpayer's
income defined as taxable income and upon which the federal
income tax is calculated in the Internal Revenue Code for
income tax purposes plus, for taxable years beginning on or
after January 1, 1991, the amount of the net operating loss
deduction allowed by Section 172(a) of the Internal Revenue
Code, as that section may be amended or renumbered, and
claimed by the taxpayer for that year; "base income" also
includes interest received on a state or local bond;

D. "corporation" means corporations, joint stock
companies, real estate trusts organized and operated under the
Real Estate Trust Act, financial corporations and banks, other
business associations and, for corporate income tax purposes, partnerships and limited liability companies taxed as corporations under the Internal Revenue Code;

E. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

F. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;

G. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

H. "net income" means base income adjusted to exclude:

   (1) income from obligations of the United States less expenses incurred to earn that income;

   (2) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States;

   (3) for taxable years that began prior to January 1, 1991, an amount equal to the sum of:

      (a) net operating loss carryback deductions to that year from taxable years beginning prior to January 1, 1991 claimed and allowed, as provided by the Internal Revenue Code; and

   .207939.1  

   - 171 -
(b) net operating loss carryover
deductions to that year claimed and allowed;

(4) for taxable years beginning on or after
January 1, 1991 and prior to January 1, 2013, an amount equal
to the sum of any net operating loss carryover deductions to
that year claimed and allowed; provided that the amount of any
net operating loss carryover from a taxable year beginning on
or after January 1, 1991 and prior to January 1, 2013 may be
excluded only as follows:

(a) in the case of a timely filed
return, in the taxable year immediately following the taxable
year for which the return is filed; or

(b) in the case of amended returns or
original returns not timely filed, in the first taxable year
beginning after the date on which the return or amended return
establishing the net operating loss is filed; and

(c) in either case, if the net
operating loss carryover exceeds the amount of net income
exclusive of the net operating loss carryover for the taxable
year to which the exclusion first applies, in the next four
succeeding taxable years in turn until the net operating loss
carryover is exhausted for any net operating loss carryover
from a taxable year prior to January 1, 2013; in no event may
a net operating loss carryover from a taxable year beginning
prior to January 1, 2013 be excluded in any taxable year after

.207939.1

- 172 -
the fourth taxable year beginning after the taxable year to
which the exclusion first applies; [and]

(5) for taxable years beginning on or after
January 1, 2013, an amount equal to the sum of any net
operating loss carryover deductions to that year claimed and
allowed; provided that the amount of any net operating loss
carryover may be excluded only as follows:

(a) in the case of a timely filed
return, in the taxable year immediately following the taxable
year for which the return is filed; or

(b) in the case of amended returns or
original returns not timely filed, in the first taxable year
beginning after the date on which the return or amended return
establishing the net operating loss is filed; and

(c) in either case, if the net
operating loss carryover exceeds the amount of net income
exclusive of the net operating loss carryover for the taxable
year to which the exclusion first applies, in the next
nineteen succeeding taxable years in turn until the net
operating loss carryover is exhausted for any net operating
loss carryover from a taxable year beginning on or after
January 1, 2013; in no event shall a net operating loss
carryover from a taxable year beginning: 1) prior to January
1, 2013 be excluded in any taxable year after the fourth
taxable year beginning after the taxable year to which the
exclusion first applies; and 2) on or after January 1, 2013 be
excluded in any taxable year after the nineteenth taxable year
beginning after the taxable year to which the exclusion first
applies; and

(6) income on which the premium tax pursuant
to Section 59A-6-2 NMSA 1978 is assessed and income of
authorized insurers from eligible investments, as those terms
are used in the New Mexico Insurance Code;

I. "net operating loss" means any net operating
loss, as defined by Section 172(c) of the Internal Revenue
Code, as that section may be amended or renumbered, for a
taxable year as further increased by the income, if any, from
 obligations of the United States for that year less related
expenses;

J. "net operating loss carryover" means the
amount, or any portion of the amount, of a net operating loss
for any taxable year that, pursuant to Paragraph (3), (4) or
(5) of Subsection H of this section, may be excluded from base
income;

K. "person" means any individual, estate, trust,
receiver, cooperative association, club, corporation, company,
firm, partnership, limited liability company, joint venture,
syndicate or other association; "person" also means, to the
extent permitted by law, any federal, state or other
governmental unit or subdivision or agency, department or
instrumentality thereof;

L. "secretary" means the secretary of taxation and
revenue or the secretary's delegate;

M. "state" means any state of the United States,
the District of Columbia, the commonwealth of Puerto Rico, any
territory or possession of the United States or political
subdivision thereof or any political subdivision of a foreign
country;

N. "state or local bond" means a bond issued by a
state other than New Mexico or by a local government other
than one of New Mexico's political subdivisions, the interest
from which is excluded from income for federal income tax
purposes under Section 103 of the Internal Revenue Code, as
that section may be amended or renumbered;

O. "taxable year" means the calendar year or
fiscal year upon the basis of which the net income is computed
under the Corporate Income and Franchise Tax Act and includes,
in the case of the return made for a fractional part of a year
under the provisions of that act, the period for which the
return is made;

P. "taxpayer" means any corporation subject to the
taxes imposed by the Corporate Income and Franchise Tax Act;
and

Q. "unitary corporations" means two or more
integrated corporations, other than any foreign corporation

.207939.1

- 175 -
incorporated in a foreign country and not engaged in trade or business in the United States during the taxable year, that are owned in the amount of more than fifty percent and controlled by the same person and for which at least one of the following conditions exists:

(1) there is a unity of operations evidenced by central purchasing, advertising, accounting or other centralized services;

(2) there is a centralized management or executive force and centralized system of operation; or

(3) the operations of the corporations are dependent upon or contribute property or services to one another individually or as a group."

SECTION 54. Section 7-2A-4 NMSA 1978 (being Laws 1981, Chapter 37, Section 37, as amended) is amended to read:

"7-2A-4. EXEMPTIONS.--No corporate income or franchise tax shall be imposed upon:

[A. insurance companies reciprocal or inter-insurance exchanges which pay a premium tax to the state;]

[B. A. a trust organized or created in the United States and forming part of a stock bonus, pension or profit-sharing plan of an employer for the exclusive benefit of [his] the employer's employees or their beneficiaries, which trust is exempt from taxation under the provisions of the Internal Revenue Code; or

.207939.1 - 176 -
religious, educational, benevolent or other organizations not organized for profit that are exempt from income taxation under the Internal Revenue Code, unless the organization receives income that is subject to federal income taxation as "unrelated business income" under the Internal Revenue Code, in which case the organization is subject to the corporate franchise tax, and the corporate income tax applies to the unrelated business income."

SECTION 55. Section 7-2A-15 NMSA 1978 (being Laws 1994, Chapter 115, Section 2) is amended to read:

"7-2A-15. QUALIFIED BUSINESS FACILITY REHABILITATION CREDIT--CORPORATE INCOME TAX CREDIT.--

A. To stimulate the creation of new jobs and revitalize economically distressed areas within New Mexico enterprise zones, any taxpayer who files a corporate income tax return and who is the owner of a qualified business facility may claim a credit in an amount equal to one-half of the cost, not to exceed fifty thousand dollars ($50,000), incurred to restore, rehabilitate or renovate a qualified business facility.

B. A taxpayer may claim the credit provided in this section for each taxable year in which restoration, rehabilitation or renovation is carried out. Except as provided in Subsection [D] E of this section, claims for the
credit provided in this section shall be limited to three 
consecutive years, and the maximum aggregate credit allowable 
shall not exceed fifty thousand dollars ($50,000) for any 
single restoration, rehabilitation or renovation project for 
any qualified business facility. Each claim for a qualified 
business facility rehabilitation credit shall be accompanied 
by documentation and certification as the department may 
require by regulation or instruction.

C. No credit may be claimed or allowed pursuant to 
the provisions of this section for any costs incurred for a 
restoration, rehabilitation or renovation project for which a 
credit may be claimed pursuant to the provisions of Section 
7-2A-8.6 [or Section 7-9A-1] NMSA 1978.

D. A taxpayer who otherwise qualifies and claims a 
credit on a restoration, rehabilitation or renovation project 
on a building owned by a partnership or other business 
association of which the taxpayer is a member may claim a 
credit only in proportion to [his] the taxpayer's interest in 
the partnership or association. The total credit claimed by 
all members of the partnership or association shall not exceed 
fifty thousand dollars ($50,000) in the aggregate for any 
single restoration, rehabilitation or renovation project for a 
qualified business facility.

E. The credit provided in this section may only be 
deducted from the taxpayer's corporate income tax liability.
Any portion of the maximum tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for four consecutive taxable years; provided the total tax credits claimed under this section shall not exceed fifty thousand dollars ($50,000) for any single restoration, rehabilitation or renovation project for a qualified business facility.

F. As used in this section:

(1) "qualified business facility" means a building located in a New Mexico enterprise zone that is suitable for use and is put into service by a person in the manufacturing, distribution or service industry immediately following the restoration, rehabilitation or renovation project; provided the building [must] shall have been vacant for the twenty-four-month period immediately preceding the commencement of the restoration, rehabilitation or renovation project; and

(2) "restoration, rehabilitation or renovation" includes:

(a) the construction services necessary to ensure that a building is in compliance with applicable zoning codes, is safe for occupancy and meets the operating needs of a person in the manufacturing, distribution or service industry; and

(b) expansion of or additions to a
building if the expansion or addition does not increase the
usable square footage of the building by more than ten percent
of the usable square footage of the building prior to the
restoration, rehabilitation or renovation."

SECTION 56. Section 7-2A-25 NMSA 1978 (being Laws 2009,
Chapter 279, Section 2) is amended to read:

"7-2A-25. ADVANCED ENERGY CORPORATE INCOME TAX CREDIT.--
A. The tax credit that may be claimed pursuant to
this section may be referred to as the "advanced energy
corporate income tax credit".

B. A taxpayer that holds an interest in a
qualified generating facility located in New Mexico and that
files a New Mexico corporate income tax return may claim an
advanced energy corporate income tax credit in an amount equal
to six percent of the eligible generation plant costs of a
qualified generating facility, subject to the limitations
imposed in this section. The tax credit claimed shall be
verified and approved by the department.

C. An entity that holds an interest in a qualified
generating facility may request a certificate of eligibility
from the department of environment to enable the requester to
apply for an advanced energy corporate income tax credit. The
department of environment:

(1) shall determine if the facility is a
qualified generating facility;
(2) shall require that the requester provide
the department of environment with the information necessary
to assess whether the requester's facility meets the criteria
to be a qualified generating facility;

(3) shall issue a certificate to the
requester stating that the facility is or is not a qualified
generating facility within one hundred eighty days after
receiving all information necessary to make a determination;

(4) shall:

(a) issue a schedule of fees in which
no fee exceeds one hundred fifty thousand dollars ($150,000);
and

(b) deposit fees collected pursuant to
this paragraph in the state air quality permit fund created
pursuant to Section 74-2-15 NMSA 1978; and

(5) shall report annually to the appropriate
interim legislative committee information that will allow the
legislative committee to analyze the effectiveness of the
advanced energy tax credits, including the identity of
qualified generating facilities, the energy production means
used, the amount of emissions identified in this section
reduced and removed by those qualified generating facilities
and whether any requests for certificates of eligibility could
not be approved due to program limits.

D. A taxpayer that holds an interest in a
qualified generating facility may be allocated the right to claim the advanced energy corporate income tax credit without regard to the taxpayer's relative interest in the qualified generating facility if:

- (1) the business entity making the allocation provides notice of the allocation and the taxpayer's interest in the qualified generating facility to the department on forms prescribed by the department;

- (2) allocations to the taxpayer and all other taxpayers allocated a right to claim the advanced energy tax credit shall not exceed one hundred percent of the advanced energy tax credit allowed for the qualified generating facility; and

- (3) the taxpayer and all other taxpayers allocated a right to claim the advanced energy tax credits collectively own at least a five percent interest in the qualified generating facility.

E. Upon receipt of the notice of an allocation of the right to claim all or a portion of the advanced energy corporate income tax credit, the department shall verify the allocation due to the recipient.

F. To claim the advanced energy corporate income tax credit, a taxpayer shall submit with the taxpayer's New Mexico corporate income tax return a certificate of eligibility from the department of environment stating that
the taxpayer may be eligible for advanced energy tax credits. The taxation and revenue department shall provide credit claim forms. A credit claim form shall accompany any return in which the taxpayer wishes to apply for an approved credit, and the claim shall specify the amount of credit intended to apply to each return. The taxation and revenue department shall determine the amount of advanced energy corporate income tax credit for which the taxpayer may apply.

G. The total amount of all advanced energy tax credits claimed shall not exceed the total amount determined by the department to be allowable pursuant to this section and the Income Tax Act [and Section 7-9G-2 NMSA 1978].

H. [Any balance of the advanced energy corporate income tax credit that the taxpayer is approved to claim may be claimed by the taxpayer as an advanced energy combined reporting tax credit allowed pursuant to Section 7-9G-2 NMSA 1978.] If the advanced energy corporate income tax credit exceeds the amount of the taxpayer's tax liabilities pursuant to the Corporate Income and Franchise Tax Act [and Section 7-9G-2 NMSA 1978] in the taxable year in which it is claimed, the balance of the unpaid credit may be carried forward for ten years [and claimed as an advanced energy corporate income tax credit or an advanced energy combined reporting tax credit]. The advanced energy corporate income tax credit is not refundable.
I. A taxpayer claiming the advanced energy corporate income tax credit pursuant to this section is ineligible for credits pursuant to the Investment Credit Act or any other credit that may be taken pursuant to the Corporate Income and Franchise Tax Act or credits that may be taken against the gross receipts tax, compensating tax or withholding tax for the same expenditures.

J. The aggregate amount of all advanced energy tax credits that may be claimed with respect to a qualified generating facility shall not exceed sixty million dollars ($60,000,000).

K. As used in this section:
   (1) "advanced energy tax credit" means the advanced energy income tax credit and the advanced energy corporate income tax credit and the advanced energy combined reporting tax credit;
   (2) "coal-based electric generating facility" means a new or repowered generating facility and an associated coal gasification facility, if any, that uses coal to generate electricity and that meets the following specifications:
      (a) emits the lesser of: 1) what is achievable with the best available control technology; or 2) thirty-five thousandths pound per million British thermal units of sulfur dioxide, twenty-five thousandths pound per million British thermal units of oxides of nitrogen and one
hundredth pound per million British thermal units of total particulates in the flue gas;

(b) removes the greater of: 1) what is achievable with the best available control technology; or 2) ninety percent of the mercury from the input fuel;

(c) captures and sequesters or controls carbon dioxide emissions so that by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility, no more than one thousand one hundred pounds per megawatt-hour of carbon dioxide is emitted into the atmosphere;

(d) all infrastructure required for sequestration is in place by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility;

(e) includes methods and procedures to monitor the disposition of the carbon dioxide captured and sequestered from the coal-based electric generating facility; and

(f) does not exceed a name-plate capacity of seven hundred net megawatts;

(3) "eligible generation plant costs" means expenditures for the development and construction of a qualified generating facility, including permitting; site characterization and assessment; engineering; design; carbon
dioxide capture, treatment, compression, transportation and
sequestration; site and equipment acquisition; and fuel supply
development used directly and exclusively in a qualified
generating facility;

(4) "entity" means an individual, estate,
trust, receiver, cooperative association, club, corporation,
company, firm, partnership, limited liability company, limited
liability partnership, joint venture, syndicate or other
association or a gas, water or electric utility owned or
operated by a county or municipality;

(5) "geothermal electric generating facility"
means a facility with a name-plate capacity of one megawatt or
more that uses geothermal energy to generate electricity,
including a facility that captures and provides geothermal
energy to a preexisting electric generating facility using
other fuels in part;

(6) "interest in a qualified generating
facility" means title to a qualified generating facility; a
leasehold interest in a qualified generating facility; an
ownership interest in a business or entity that is taxed for
federal income tax purposes as a partnership that holds title
to or a leasehold interest in a qualified generating facility;
or an ownership interest, through one or more intermediate
entities that are each taxed for federal income tax purposes
as a partnership, in a business that holds title to or a
leasehold interest in a qualified generating facility;

(7) "name-plate capacity" means the maximum rated output of the facility measured as alternating current or the equivalent direct current measurement;

(8) "qualified generating facility" means a facility that begins construction not later than December 31, 2015 and is:

(a) a solar thermal electric generating facility that begins construction on or after July 1, 2007 and that may include an associated renewable energy storage facility;

(b) a solar photovoltaic electric generating facility that begins construction on or after July 1, 2009 and that may include an associated renewable energy storage facility;

(c) a geothermal electric generating facility that begins construction on or after July 1, 2009;

(d) a recycled energy project if that facility begins construction on or after July 1, 2007; or

(e) a new or repowered coal-based electric generating facility and an associated coal gasification facility;

(9) "recycled energy" means energy produced by a generation unit with a name-plate capacity of not more than fifteen megawatts that converts the otherwise lost energy
from the exhaust stacks or pipes to electricity without
combustion of additional fossil fuel;

(10) "sequester" means to store, or
chemically convert, carbon dioxide in a manner that prevents
its release into the atmosphere and may include the use of
geologic formations and enhanced oil, coalbed methane or
natural gas recovery techniques; and

(11) "solar photovoltaic electric generating
facility" means an electric generating facility with a name-
plate capacity of one megawatt or more that uses solar
photovoltaic energy to generate electricity [and

(12) "solar thermal electric generating
facility" means an electric generating facility with a name-
plate capacity of one megawatt or more that uses solar thermal
energy to generate electricity, including a facility that
captures and provides solar energy to a preexisting electric
generating facility using other fuels in part]."

SECTION 57. Section 7-2E-1.1 NMSA 1978 (being Laws 2007,
Chapter 172, Section 2, as amended) is amended to read:

"7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

A. The tax credit created by this section may be
referred to as the "rural job tax credit". Every eligible
employer may apply for, and the taxation and revenue
department may allow, a tax credit for each qualifying job the
employer creates. The maximum tax credit amount with respect

.207939.1
- 188 -
to each qualifying job is equal to:

(1) twenty-five percent of the first sixteen thousand dollars ($16,000) in wages paid for the qualifying job if the job is performed or based at a location in a tier one area; or

(2) twelve and one-half percent of the first sixteen thousand dollars ($16,000) in wages paid if the qualifying job is performed or based at a location in a tier two area.

B. The purpose of the rural job tax credit is to encourage businesses to start new businesses in rural areas of the state.

C. The amount of the rural job tax credit shall be six and one-fourth percent of the first sixteen thousand dollars ($16,000) in wages paid for the qualifying job in a qualifying period. The rural job tax credit may be claimed for each qualifying job for a maximum of:

(1) four qualifying periods for each qualifying job performed or based at a location in a tier one area; and

(2) two qualifying periods for each qualifying job performed or based at a location in a tier two area.

D. With respect to each qualifying job for which an eligible employer seeks the rural job tax credit, the
employer shall certify the amount of wages paid to each eligible employee during each qualifying period, the number of weeks during the qualifying period the position was occupied and whether the qualifying job was in a tier one or tier two area.

E. The economic development department shall determine which employers are eligible employers and shall report the listing of eligible businesses to the taxation and revenue department in a manner and at times the departments shall agree upon.

F. To receive a rural job tax credit with respect to any qualifying period, an eligible employer must apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification made pursuant to Subsection D of this section. If all the requirements of this section have been complied with, the taxation and revenue department may issue to the applicant a document granting a tax credit for the appropriate qualifying period. The tax credit document shall be numbered for identification and declare its date of issuance and the amount of rural job tax credit allowed for the respective jobs created. The tax credit documents may be sold, exchanged or otherwise transferred and may be carried forward for a period of three years from the date of issuance. The parties to such a transaction to sell, exchange or transfer a rural job tax credit.
credit document shall notify the department of the transaction within ten days of the sale, exchange or transfer.

G. The holder of the tax credit document may apply all or a portion of the rural job tax credit granted by the document against the holder's [modified combined tax liability] personal income tax liability or corporate income tax liability. Any balance of rural job tax credit granted by the document may be carried forward for up to three years from the date of issuance of the tax credit document. [No amount of rural job tax credit may be applied against a gross receipts tax imposed by a municipality or county.]

H. Notwithstanding the provisions of Section 7-1-8 NMSA 1978, the taxation and revenue department may disclose to any person the balance of rural job tax credit remaining on any tax credit document and the balance of credit remaining on that document for any period.

I. The secretary of economic development, the secretary of taxation and revenue and the secretary of workforce solutions or their designees shall annually evaluate the effectiveness of the rural job tax credit in stimulating economic development in the rural areas of New Mexico and make a joint report of their findings to each session of the legislature so long as the rural job tax credit is in effect.

J. An eligible employer that creates a qualifying job in the period beginning on or after July 1, 2006 but
before July 1, 2007 or creates a qualifying job, the qualifying period of which includes a part of the period between July 1, 2006 and July 1, 2007, for which the eligible employer has not received a rural job tax credit document pursuant to this section may submit an application for, and the taxation and revenue department may issue to the eligible employer applying, a document granting a tax credit for the appropriate qualifying period. Claims for a rural job tax credit submitted pursuant to the provisions of this subsection shall be submitted within three years from the date of issuance of the rural job tax credit document.

K. A qualifying job shall not be eligible for a rural job credit pursuant to this section if:

(1) the job is created due to a business merger, acquisition or other change in organization;

(2) the eligible employee was terminated from employment in New Mexico by another employer involved in the merger, acquisition or other change in organization; and

(3) the job is performed by:

   (a) the person who performed the job or its functional equivalent prior to the business merger, acquisition or other change in organization; or

   (b) a person replacing the person who performed the job or its functional equivalent prior to the business merger, acquisition or other change in organization.
L. Notwithstanding the provisions of Subsection K of this section, a qualifying job that was created by another employer and for which the rural job tax credit claim was received by the taxation and revenue department prior to July 1, 2013 and is under review or has been approved shall remain eligible for the rural job tax credit for the balance of the qualifying periods for which the job qualifies by the new employer that results from a business merger, acquisition or other change in the organization.

M. A job shall not be eligible for a rural job tax credit pursuant to this section if the job is created due to an eligible employer entering into a contract or becoming a subcontractor to a contract with a governmental entity that replaces one or more entities performing functionally equivalent services for the governmental entity in New Mexico unless the job is a qualifying job that was not being performed by an employee of the replaced entity.

N. As used in this section:

   (1) "eligible employee" means any individual other than an individual who:

       (a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the

.207939.1
corporation or, if the employer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is an individual who bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust; or

(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of any individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust;

(2) "eligible employer" means an employer who is eligible for in-plant training assistance pursuant to Section 21-19-7 NMSA 1978;

(3) "metropolitan statistical area" means a metropolitan statistical area in New Mexico as determined by .207939.1
the United States bureau of the census;

[(4)] "modified combined tax liability" means
the total liability for the reporting period for the gross
receipts tax imposed by Section 7-9-4 NMSA 1978 together with
any tax collected at the same time and in the same manner as
that gross receipts tax, such as the compensating tax, the
withholding tax, the interstate telecommunications gross
receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
1978 and the surcharge imposed by Section 63-9F-11 NMSA-1978,
minus the amount of any credit other than the rural job tax
credit applied against any or all of these taxes or
surcharges; but "modified combined tax liability" excludes all
amounts collected with respect to local option gross receipts
taxes;

[(5)] (4) "qualifying job" means a job
established by the employer that is occupied by an eligible
employee for at least forty-eight weeks of a qualifying
period;

[(6)] (5) "qualifying period" means the
period of twelve months beginning on the day an eligible
employee begins working in a qualifying job or the period of
twelve months beginning on the anniversary of the day an
eligible employee began working in a qualifying job;

[(7)] (6) "rural area" means any part of the
state other than:
(a) an H class county;
(b) the state fairgrounds;
(c) an incorporated municipality within a metropolitan statistical area if the municipality's population is thirty thousand or more according to the most recent federal decennial census; and
(d) any area within ten miles of the exterior boundaries of a municipality described in Subparagraph (c) of this paragraph;

[(8)] (7) "tier one area" means:
(a) any municipality within the rural area if the municipality's population according to the most recent federal decennial census is fifteen thousand or less; or
(b) any part of the rural area that is not within the exterior boundaries of a municipality;

[(9)] (8) "tier two area" means any municipality within the rural area if the municipality's population according to the most recent federal decennial census is more than fifteen thousand; and

[(10)] (9) "wages" means all compensation paid by an eligible employer to an eligible employee through the employer's payroll system, including those wages the employee elects to defer or redirect, such as the employee's contribution to 401(k) or cafeteria plan programs, but not
including benefits or the employer's share of payroll taxes."

SECTION 58. Section 7-9-1 NMSA 1978 (being Laws 1966, Chapter 47, Section 1, as amended) is amended to read:

"7-9-1. SHORT TITLE.--Chapter 7, Article 9 NMSA 1978 may be cited as the "[Gross Receipts and Compensating] Sales and Use Tax Act"."

SECTION 59. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

"7-9-3. DEFINITIONS.--As used in the [Gross Receipts and Compensating] Sales and Use Tax Act:

A. "buying" or "selling" means a transfer of property for consideration or the performance of service for consideration;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "financial corporation" means a savings and loan association or an incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

D. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

(1) observation of tests conducted by the
performer of services;

(2) participation in progress reviews,
briefings, consultations and conferences conducted by the
performer of services;

(3) review of preliminary drafts, drawings
and other materials prepared by the performer of the services;

(4) inspection of preliminary prototypes
developed by the performer of services; or

(5) similar activities;

E. "leasing" means an arrangement whereby, for a
consideration, property is employed for or by any person other
than the owner of the property, except that the granting of a
license to use property is licensing and is not a lease;

F. "local option [gross receipts] sales tax" means
a tax authorized to be imposed by a county or municipality
upon the taxpayer's gross receipts and required to be
collected by the department at the same time and in the same
manner as the [gross receipts] state sales tax; "local option
[gross receipts] sales tax" includes the taxes imposed
pursuant to the Municipal Local Option [Gross Receipts Taxes]
Sales and Use Tax Act, [Supplemental Municipal Gross Receipts
Tax Act] the County Local Option [Gross Receipts Taxes] Sales
and Use Tax Act [Local Hospital Gross Receipts Tax Act, County
Correctional Facility Gross Receipts Tax Act] and such other
acts as may be enacted authorizing counties or municipalities
to impose taxes on gross receipts, which taxes are to be
collected by the department;

   G. "manufactured home" means a movable or portable
housing structure for human occupancy that exceeds either a
width of eight feet or a length of forty feet constructed to
be towed on its own chassis and designed to be installed with
or without a permanent foundation;

   H. "manufacturing" means combining or processing
components or materials to increase their value for sale in
the ordinary course of business, but does not include
construction;

   I. "person" means:

   (1) an individual, estate, trust, receiver,
cooperative association, club, corporation, company, firm,
partnership, limited liability company, limited liability
partnership, joint venture, syndicate or other entity,
including any gas, water or electric utility owned or operated
by a county, municipality or other political subdivision of
the state; or

   (2) a national, federal, state, Indian or
other governmental unit or subdivision, or an agency,
department or instrumentality of any of the foregoing;

   J. "property" means real property, tangible
personal property, licenses other than the licenses of
copyrights, trademarks or patents and franchises. Tangible
personal property includes electricity and manufactured homes;

K. "research and development services" means an
activity engaged in for other persons for consideration, for
one or more of the following purposes:

(1) advancing basic knowledge in a recognized
field of natural science;

(2) advancing technology in a field of
technical endeavor;

(3) developing a new or improved product,
process or system with new or improved function, performance,
reliability or quality, whether or not the new or improved
product, process or system is offered for sale, lease or other
transfer;

(4) developing new uses or applications for
an existing product, process or system, whether or not the new
use or application is offered as the rationale for purchase,
lease or other transfer of the product, process or system;

(5) developing analytical or survey
activities incorporating technology review, application,
trade-off study, modeling, simulation, conceptual design or
similar activities, whether or not offered for sale, lease or
other transfer; or

(6) designing and developing prototypes or
integrating systems incorporating the advances, developments
or improvements included in Paragraphs (1) through (5) of this
subsection;

  L. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

  M. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

  N. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state."

SECTION 60. Section 7-9-3.2 NMSA 1978 (being Laws 1991, Chapter 8, Section 1, as amended) is amended to read:
"7-9-3.2. ADDITIONAL DEFINITION.--[A.] As used in the [Gross Receipts and Compensating] Sales and Use Tax Act, "governmental gross receipts":

A. means receipts of the state or an agency, institution, instrumentality or political subdivision from:

(1) the sale of tangible personal property other than water from facilities open to the general public;

(2) the performance of or admissions to recreational, athletic or entertainment services or events in facilities open to the general public;

(3) refuse collection or refuse disposal or both;

(4) sewage services;

(5) the sale of water by a utility owned or operated by a county, municipality or other political subdivision of the state; and

(6) the renting of parking, docking or tie-down spaces or the granting of permission to park vehicles, tie down aircraft or dock boats;

[B. includes receipts from the sale of tangible personal property handled on consignment when sold from facilities open to the general public, [but excludes cash discounts taken and allowed, governmental gross receipts tax payable on transactions reportable for the period and any type of time price
B. As used in this section, "facilities open to the general public" does not include point of sale registers or electronic devices at a bookstore owned or operated by a public post-secondary educational institution when the registers or devices are utilized in the sale of textbooks or other materials required for courses at the institution to a student enrolled at the institution who displays a valid student identification card; and

C. excludes cash discounts taken and allowed, governmental sales tax payable on transactions reportable for the period and any type of time-price differential."

SECTION 61. Section 7-9-3.3 NMSA 1978 (being Laws 2003, Chapter 272, Section 4) is amended to read:

"7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in the Gross Receipts and Compensating Tax Act, "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit, without regard to having physical presence, including the presence of a representative acting on behalf of the person, in the state, except that "engaging in business" does not include:

A. ["engaging in business" does not include] having a worldwide [web site] website as a third-party content provider on a computer physically located in New Mexico but
owned by another nonaffiliated person; [and]

B. ["engaging in business" does not include] using
a nonaffiliated third-party call center to accept and process
telephone or electronic orders of tangible personal property
or licenses primarily from non-New Mexico buyers, which orders
are forwarded to a location outside New Mexico for filling, or
to provide services primarily to non-New Mexico customers; and

C. the activities of a person without physical
presence in this state if the person and the person's
affiliates have less than one hundred thousand dollars
($100,000) of gross receipts in the state, based on receipts
during the prior calendar year. As used in this subsection,
"affiliate" means a person that directly or indirectly,
through one or more intermediaries controls, is controlled by
or is under common control with another person."

SECTION 62. Section 7-9-3.3 NMSA 1978 (being Laws 2003,
Chapter 272, Section 4, as amended by Section 61 of this act)
is repealed and new Section 7-9-3.3 NMSA 1978 is enacted to
read:

"7-9-3.3. [NEW MATERIAL] DEFINITION--ENGAGING IN
BUSINESS.--As used in the Sales and Use Tax Act, "engaging in
business" means carrying on or causing to be carried on any
activity with the purpose of direct or indirect benefit,
without regard to having physical presence, including the
presence of a representative acting on behalf of the person,
in the state, except that "engaging in business" does not include:

A. having a worldwide website as a third-party content provider on a computer physically located in New Mexico but owned by another nonaffiliated person;

B. using a nonaffiliated third-party call center to accept and process telephone or electronic orders of tangible personal property or licenses primarily from non-New Mexico buyers, which orders are forwarded to a location outside New Mexico for filling, or to provide services primarily to non-New Mexico customers; and

C. the activities of a person without physical presence in this state if the person and the person's affiliates have less than one hundred thousand dollars ($100,000) of gross receipts in the state, based on receipts during the prior calendar year. As used in this subsection, "affiliate" means a business entity that directly or indirectly, through one or more intermediaries controls, is controlled by or is under common control with another business entity."

SECTION 63. Section 7-9-3.4 NMSA 1978 (being Laws 2003, Chapter 272, Section 5) is amended to read:

"7-9-3.4. DEFINITIONS--CONSTRUCTION AND CONSTRUCTION MATERIALS.--As used in the [Gross Receipts and Compensating Sales and Use Tax Act]

.207939.1
A. "construction" means:

(1) the building, altering, repairing or demolishing in the ordinary course of business any:

(a) road, highway, bridge, parking area or related project;
(b) building, stadium or other structure;
(c) airport, subway or similar facility;
(d) park, trail, athletic field, golf course or similar facility;
(e) dam, reservoir, canal, ditch or similar facility;
(f) sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station, gas processing plant, coal gasification plant, refinery, distillery or similar facility;
(g) sewerage, water, gas or other pipeline;
(h) transmission line;
(i) radio, television or other tower;
(j) water, oil or other storage tank;
(k) shaft, tunnel or other mining appurtenance;
(l) microwave station or similar
facility;

  (m) retaining wall, wall, fence, gate
or similar structure; or

  (n) similar work;

(2) the leveling or clearing of land;

(3) the excavating of earth;

(4) the drilling of wells of any type,
including seismograph shot holes or core drilling; or

(5) similar work; and

B. "construction material" means tangible personal
property that becomes or is intended to become an ingredient
or component part of a construction project, but "construction
material" does not include a replacement fixture when the
replacement is not construction or a replacement part for a
fixture."

SECTION 64. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
Chapter 272, Section 3, as amended) is amended to read:

"7-9-3.5. DEFINITION--GROSS RECEIPTS.--

A. As used in the Gross Receipts and Compensating
Tax Act, "gross receipts":

  (1) ["gross receipts"] means the total amount
of money or the value of other consideration received from
selling property in New Mexico, from leasing or licensing
property employed in New Mexico, from granting a right to use
a franchise employed in New Mexico, from selling services
performed outside New Mexico, the product of which is
initially used in New Mexico, or from performing services in
New Mexico. In an exchange in which the money or other
consideration received does not represent the value of the
property or service exchanged, "gross receipts" means the
reasonable value of the property or service exchanged;

(2) ["gross receipts"] includes:

(a) any receipts from sales of tangible
personal property handled on consignment, including
third-party sales made over a multi-vendor marketplace
platform that acts as the intermediary, typically as the
processor of the transaction, between the seller and the
purchaser;

(b) the total commissions or fees
derived from the business of buying, selling or promoting the
purchase, sale or lease, as an agent or broker on a commission
or fee basis, of any property, service, stock, bond or
security;

(c) amounts paid by members of any
cooperative association or similar organization for sales or
leases of personal property or performance of services by such
organization;

(d) amounts received from transmitting
messages or conversations by persons providing telephone or
telegraph services;
(e) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with the New Mexico florist that are filled and delivered outside New Mexico by an out-of-state florist; and

(f) the receipts of a home service provider from providing mobile telecommunications services to customers whose place of primary use is in New Mexico if: 1) the mobile telecommunications services originate and terminate in the same state, regardless of where the services originate, terminate or pass through; and 2) the charges for mobile telecommunications services are billed by or for a customer's home service provider and are deemed provided by the home service provider. For the purposes of this section, "home service provider", "mobile telecommunications services", "customer" and "place of primary use" have the meanings given in the federal Mobile Telecommunications Sourcing Act; and

(3) ["gross receipts"] excludes:

(a) cash discounts allowed and taken;

(b) New Mexico gross receipts tax, governmental gross receipts tax and leased vehicle gross receipts tax payable on transactions for the reporting period;

(c) taxes imposed pursuant to the provisions of any local option gross receipts tax that is
payable on transactions for the reporting period;

(d) any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo; provided that the tax is approved, if approval is required by federal law or regulation, by the secretary of the interior of the United States; and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions;

(e) any type of time-price differential;

(f) amounts received solely on behalf of another in a disclosed agency capacity; and

(g) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with an out-of-state florist for filling and delivery in New Mexico by a New Mexico florist.

B. When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are
actually received. If the seller or lessor transfers the
seller's or lessor's interest in any such contract to a third
person, the seller or lessor shall pay the gross receipts tax
upon the full sale or leasing contract amount, excluding any
type of time-price differential."

SECTION 65. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
Chapter 272, Section 3, as amended by Section 64 of this act)
is repealed and a new Section 7-9-3.5 NMSA 1978 is enacted to
read:

"7-9-3.5. [NEW MATERIAL] DEFINITION--GROSS RECEIPTS.--

A. As used in the Sales and Use Tax Act, "gross
receipts":

(1) means the total amount of money or the
value of other consideration received from selling property in
New Mexico, from leasing or licensing property employed in New
Mexico, from granting a right to use a franchise employed in
New Mexico, from selling services performed outside New
Mexico, the product of which is initially used in New Mexico,
or from performing services in New Mexico. In an exchange in
which the money or other consideration received does not
represent the value of the property or service exchanged,
"gross receipts" means the reasonable value of the property or
service exchanged;

(2) includes:

(a) any receipts from sales of tangible
personal property handled on consignment, including third-party sales made over a multi-vendor marketplace platform that acts as the intermediary, typically as the processor of the transaction, between the seller and the purchaser;

(b) the total commissions or fees derived from the business of buying, selling or promoting the purchase, sale or lease, as an agent or broker on a commission or fee basis, of any property, service, stock, bond or security;

(c) amounts paid by members of any cooperative association or similar organization for sales or leases of personal property or performance of services by such organization;

(d) amounts received from transmitting messages or conversations by persons providing telephone or telegraph services;

(e) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with the New Mexico florist that are filled and delivered outside New Mexico by an out-of-state florist; and

(f) the receipts of a home service provider from providing mobile telecommunications services to
customers whose place of primary use is in New Mexico if: 1) the mobile telecommunications services originate and terminate in the same state, regardless of where the services originate, terminate or pass through; and 2) the charges for mobile telecommunications services are billed by or for a customer's home service provider and are deemed provided by the home service provider. For the purposes of this section, "home service provider", "mobile telecommunications services", "customer" and "place of primary use" have the meanings given in the federal Mobile Telecommunications Sourcing Act; and

(3) excludes:

(a) cash discounts allowed and taken;

(b) state and local option sales tax, governmental sales tax and leased vehicle sales tax payable on transactions for the reporting period;

(c) taxes imposed pursuant to the provisions of any local option sales tax that is payable on transactions for the reporting period;

(d) any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo; provided that the tax is approved, if approval is required by federal law or regulation, by the secretary of the interior of the United States; and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross

.207939.1

- 213 -
receipts-based excise taxes imposed by the state or its political subdivisions;

(e) any type of time-price differential;

(f) amounts received solely on behalf of another in a disclosed agency capacity; and

(g) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with an out-of-state florist for filling and delivery in New Mexico by a New Mexico florist.

B. When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers the seller's or lessor's interest in any such contract to a third person, the seller or lessor shall pay the state and local option sales tax upon the full sale or leasing contract amount, excluding any type of time-price differential."

SECTION 66. Section 7-9-4 NMSA 1978 (being Laws 1966, Chapter 47, Section 4, as amended) is amended to read:

"7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS

..."
"[GROSS RECEIPTS] STATE SALES TAX".--

A. For the privilege of engaging in business, an excise tax equal to [five and one-eighth percent] the rates determined pursuant to Subsection B of this section of gross receipts is imposed on any person engaging in business in New Mexico. [B] The tax imposed by this section shall be referred to as the "[gross receipts] state sales tax".

B. The rate of the state sales tax shall be determined as follows:

(1) on and after July 1, 2018 and prior to January 1, 2020, the rate shall be the quotient of the estimated state sales tax revenue divided by the estimated fiscal year 2019 state sales tax base, rounded up to the nearest one-hundredth percent; and

(2) on and after January 1, 2020, the rate shall be the quotient of the product of the fiscal year 2019 baseline revenue multiplied by one hundred three percent, divided by the fiscal year 2019 state sales tax base and rounded up to the nearest one-hundredth percent.

C. If, on or before March 1, 2019, the secretary of finance and administration certifies to the secretary of taxation and revenue that revenue attributable to the state sales tax and distributed to the general fund since July 1, 2018 is projected to be less for fiscal year 2019 than the amount of estimated state sales tax revenue, the secretary may
increase the rate determined pursuant to Paragraph (1) of
Subsection B of this section in one-tenth increments, up to a
maximum of three-tenths, to be effective July 1, 2019.

D. As used in this section:

(1) "baseline revenue" means the average
total net receipts attributable to the gross receipts tax, the
compensating tax, the motor vehicle excise tax and the liquor
excise tax for fiscal years 2015 through 2017;

(2) "consensus revenue estimating group"
means the professional economists of the department of finance
and administration, the taxation and revenue department, the
department of transportation and the legislative finance
committee;

(3) "estimated fiscal year 2019 state sales
tax base" means the gross receipts of all persons expected to
engage in business in the state in fiscal year 2019 that will
be subject to the state sales tax, as conservatively estimated
by the consensus revenue estimating group, to ensure that
revenue from the state sales tax will exceed the baseline
revenue;

(4) "estimated state sales tax revenue" means
the fiscal year 2019 baseline revenue less the projected
fiscal year 2019 revenue from the use tax, motor vehicle
excise tax and liquor excise tax, as estimated by the
consensus revenue estimating group;
(5) "fiscal year 2019 baseline revenue" means baseline revenue multiplied by one hundred six and nine-hundredths percent; and

(6) "fiscal year 2019 state sales tax base" means the gross receipts of all persons engaging in business in the state in fiscal year 2019 that are subject to the state sales tax, as determined by the consensus revenue estimating group."

SECTION 67. Section 7-9-4.3 NMSA 1978 (being Laws 1991, Chapter 8, Section 2, as amended by Laws 1993, Chapter 332, Section 1 and by Laws 1993, Chapter 352, Section 1) is amended to read:

"7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS "GOVERNMENTAL [GROSS RECEIPTS] SALES TAX".--For the privilege of engaging in certain activities by governments, there is imposed on every agency, institution, instrumentality or political subdivision of the state [except any school district and any entity licensed by the department of health that is principally engaged in providing health care services] an excise tax of five percent of governmental gross receipts. The tax imposed by this section shall be referred to as the "governmental [gross receipts] sales tax"."

SECTION 68. Section 7-9-5 NMSA 1978 (being Laws 1966, Chapter 47, Section 5, as amended) is amended to read:

"7-9-5. PRESUMPTION OF TAXABILITY.--

.207939.1
A. To prevent evasion of the [gross receipts] state sales tax and to aid in its administration, it is presumed that all receipts of a person engaging in business are subject to the [gross receipts] state sales tax. Any A person engaged solely in transactions specifically exempt under the provisions of the [Gross Receipts and Compensating] Sales and Use Tax Act shall not be required to register or file a return under that act.

B. If receipts from nontaxable charges for mobile telecommunications services are aggregated with and not separately stated from taxable charges for mobile telecommunications services, [then] the charges for nontaxable mobile telecommunications services shall be subject to [gross receipts] state sales tax unless the home service provider can reasonably identify nontaxable charges in its books and records that are kept in the regular course of business. For the purposes of this subsection, "charges for mobile telecommunications services", "home service provider" and "mobile telecommunications services" have the meanings given in the federal Mobile Telecommunications Sourcing Act."

SECTION 69. Section 7-9-6 NMSA 1978 (being Laws 1966, Chapter 47, Section 6, as amended) is amended to read:

"7-9-6. SEPARATELY STATING THE [GROSS RECEIPTS] STATE SALES TAX.--When the [gross receipts] state sales tax is stated separately on the books of the seller or lessor, and if

.207939.1

- 218 -
the total amount of tax that is stated separately on
transactions reportable within one reporting period is in
excess of the amount of [gross receipts] state sales tax
otherwise payable on the transactions on which the tax was
stated separately, the excess amount of tax stated on the
transactions within that reporting period shall be included in
gross receipts."

SECTION 70. Section 7-9-7 NMSA 1978 (being Laws 1966,
Chapter 47, Section 7, as amended) is amended to read:

"7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
"[COMPENSATING] USE TAX".--

A. For the privilege of using tangible property in
New Mexico, there is imposed on the person using the property
an excise tax [equal to five and one eighth percent] at the
rate in effect and imposed pursuant to Section 7-9-4 NMSA 1978
of the value of tangible property that was:

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

(2) acquired inside or outside of this state
as the result of a transaction with a person located outside
this state that would have been subject to the [gross
receipts] state sales tax had the tangible personal property
been acquired from a person with nexus with New Mexico [or

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

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

C. For the privilege of using a license or franchise in New Mexico, there is imposed on the person using the property an excise tax at the rate provided in Subsection A of this section against the value of the property in its use in New Mexico. For use of a license or franchise to be taxable under this subsection, the property must have been sold, leased or licensed by a person outside this state and the receipts from the sale, lease or licensing of the license or franchise must not have been subject to the state sales tax.

[D.] D. For the privilege of using services rendered in New Mexico, there is imposed on the person using
such services an excise tax [equal to five percent] at the
rate provided in Subsection A of this section of the value of
the services at the time they were rendered. [The services,
to be taxable under this subsection, must have been rendered
as the result of a transaction that was not initially subject
to the gross receipts tax but which transaction, because of
the buyer's subsequent use of the services, should have been
subject to the gross receipts tax.] For use of services to be
taxable under this subsection, the services must have been
performed by a person outside this state and receipts from the
performance or sale of the services not subject to the state
sales tax.

[D-] E. The tax imposed by this section shall be
referred to as the "[compensating] use tax".

SECTION 71. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
Chapter 45, Section 1, as amended) is amended to read:

"7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION
ACTIONS WITH RESPECT TO CERTAIN COMPENSATING AND GROSS
RECEIPTS TAX LIABILITIES.--

A. The department shall take no action to enforce
collection of compensating tax due on purchases made by an
individual if:

(1) the property is used only for nonbusiness
purposes;

(2) the property is not a manufactured home;
and

(3) the individual is not an agent for collection of compensating tax pursuant to Section 7-9-10 NMSA 1978.

B. The department shall take no action to enforce collection of gross receipts tax for a tax period prior to July 1, 2017 on persons engaging in business if, for those tax periods, those persons:

(1) lacked physical presence in the state;

and

(2) did not report taxable gross receipts.

[C.] C. The prohibition in Subsection A of this section does not prevent the department from enforcing collection of compensating tax on purchases from persons who are not individuals, who are agents for collection pursuant to Section 7-9-10 NMSA 1978 or who use the property in the course of engaging in business in New Mexico or from enforcing collection of compensating tax due on purchase of manufactured homes.

SECTION 72. Section 7-9-7.1 NMSA 1978 (being Laws 1993, Chapter 45, Section 1, as amended by Section 71 of this act) is repealed and a new Section 7-9-7.1 NMSA 1978 is enacted to read:

"7-9-7.1. [NEW MATERIAL] DEPARTMENT BARRED FROM TAKING COLLECTION ACTIONS WITH RESPECT TO CERTAIN SALES AND USE TAX
LIABILITIES.--

A. The department shall take no action to enforce collection of use tax due on purchases made by an individual if:

(1) the property is used only for nonbusiness purposes;

(2) the property is not a manufactured home; and

(3) the individual is not an agent for collection of use tax pursuant to Section 7-9-10 NMSA 1978.

B. The department shall take no action to enforce collection of gross receipts tax for a tax period prior to July 1, 2017 on persons engaging in business if, for those tax periods, those persons:

(1) lacked physical presence in the state; and

(2) did not report taxable gross receipts.

C. The prohibition in Subsection A of this section does not prevent the department from enforcing collection of use tax on purchases from persons who are not individuals, who are agents for collection pursuant to Section 7-9-10 NMSA 1978 or who use the property in the course of engaging in business in New Mexico or from enforcing collection of use tax due on purchase of manufactured homes."

SECTION 73. Section 7-9-8 NMSA 1978 (being Laws 1966, .207939.1
Chapter 47, Section 8, as amended) is amended to read:

"7-9-8. PRESUMPTION OF TAXABILITY AND VALUE.--

A. To prevent evasion of the [compensating] use tax and the duty to collect it, it is presumed that property bought or sold by any person for delivery into this state is bought or sold for a taxable use in this state.

B. In determining the amount of [compensating] use tax due on the use of property, it is presumed, in the absence of preponderant evidence of another value, that the value means the total amount of money or the reasonable value of other consideration paid for property exclusive of any type of time-price differential. However, in an exchange in which the amount of money paid does not represent the value of the property or property and service purchased, the [compensating] use tax shall be imposed on the reasonable value of the property or property and service purchased.

C. In determining the amount of [compensating] use tax due on the use of a service, it is presumed, in the absence of preponderant evidence of another value, that the value means the total amount of money or the reasonable value of other consideration paid for the service exclusive of any type of time-price differential. However, in an exchange in which the amount paid does not represent the value of the service purchased, the [compensating] use tax shall be imposed on the reasonable value of the service purchased."
SECTION 74. Section 7-9-9 NMSA 1978 (being Laws 1966, Chapter 47, Section 9, as amended) is amended to read:

"7-9-9. LIABILITY OF USER FOR PAYMENT OF [COMPENSATING] USE TAX.--Any person in New Mexico using property on the value of which [compensating] use tax is payable but has not been paid is liable to the state for payment of the [compensating] use tax, but this liability is discharged if the buyer has paid the [compensating] use tax to the seller for payment over to the department."

SECTION 75. Section 7-9-10 NMSA 1978 (being Laws 1966, Chapter 47, Section 10, as amended) is amended to read:

"7-9-10. AGENTS FOR COLLECTION OF [COMPENSATING] USE TAX--DUTIES.--

A. Every person carrying on or causing to be carried on any activity within this state attempting to exploit New Mexico's markets who sells property or sells property and service for use in this state and who is not subject to [the gross receipts] state sales tax on receipts from these sales shall collect the [compensating] use tax from the buyer and pay the tax collected to the department.

["Activity", for the purposes of this section, includes but is not limited to]

B. As used in this section, "activity":

(1) means engaging in any of the following in New Mexico:

.207939.1
(a) maintaining an office or other
place of business;

(b) soliciting orders through employees
or independent contractors;

(c) soliciting orders through
advertisements placed in newspapers or magazines published in
New Mexico or advertisements broadcast by New Mexico radio or
television stations;

(d) soliciting orders through programs
broadcast by New Mexico radio or television stations or
transmitted by cable systems in New Mexico; and

(e) canvassing, demonstrating,
collecting money, warehousing or storing merchandise or
delivering or distributing products as a consequence of an
advertising or other sales program directed at potential
customers; ["Activity", for the purposes of this section] and

(2) does not include:

(a) having a [world-wide-web-site]
worldwide website as a third-party provider on a computer
physically located in New Mexico but owned by another
nonaffiliated person; [and "activity" does not include] or

(b) using a nonaffiliated third-party
call center to accept and process telephone or electronic
orders of tangible personal property or licenses primarily
from non-New Mexico buyers, which orders are forwarded to a
location outside New Mexico for filling, or to provide services primarily to non-New Mexico customers.

[B-] C. To ensure orderly and efficient collection of the public revenue, if any application of this section is held invalid, the section's application to other situations or persons shall not be affected."

SECTION 76. Section 7-9-11 NMSA 1978 (being Laws 1966, Chapter 47, Section 11, as amended) is amended to read:

"7-9-11. DATE PAYMENT DUE.--The taxes imposed by the [Gross Receipts and Compensating Sales and Use Tax Act are to be paid on or before the twenty-fifth day of the month following the month in which the taxable event occurs."

SECTION 77. Section 7-9-12 NMSA 1978 (being Laws 1969, Chapter 144, Section 5, as amended) is amended to read:

"7-9-12. EXEMPTIONS.--[Exempted from the gross receipts or compensating tax are those receipts or uses exempted in Sections 7-9-13 through 7-9-42 NMSA 1978.] Exemptions from either the [gross receipts] state sales tax or the [compensating] use tax are not exemptions from both taxes unless explicitly stated otherwise by law."

SECTION 78. Section 7-9-13.1 NMSA 1978 (being Laws 1989, Chapter 262, Section 4) is amended to read:

"7-9-13.1. EXEMPTION--[GROSS RECEIPTS] STATE SALES TAX--SERVICES PERFORMED OUTSIDE THE STATE THE PRODUCT OF WHICH IS INITIALLY USED IN NEW MEXICO--EXCEPTIONS.--
A. [Except as provided otherwise in Subsection B of this section] Exempted from the [gross receipts] state sales tax are the receipts from selling services, other than research and development services, performed outside New Mexico the product of which is initially used in New Mexico.

B. [The exemption provided by this section does not apply to research and development services other than] Exempted from the state sales tax are receipts from selling research and development services performed outside New Mexico, the product of which is initially used in New Mexico when the services are sold:

(1) [sold] between affiliated corporations;

(2) [sold] to the United States by persons [other than organizations described in Subsection A of Section 7-9-29 NMSA 1978] who are prime contractors operating facilities in New Mexico designated as national laboratories by act of congress; or

(3) [sold] to persons [other than organizations described in Subsection A of Section 7-9-29 NMSA 1978] who are prime contractors operating facilities in New Mexico designated as national laboratories by act of congress.

C. An "affiliated corporation" means a corporation that directly or indirectly, through one or more intermediaries controls, is controlled by or is under common control with the subject corporation. "Control" means...
ownership of stock in a corporation [which] that represents at least eighty percent of the total voting power of that corporation and has a stated or par value equal to at least eighty percent of the total stated or par value of the stock of that corporation."

SECTION 79. Section 7-9-24 NMSA 1978 (being Laws 1969, Chapter 144, Section 17, as amended) is amended to read:

"7-9-24. EXEMPTION--[GROSS RECEIPTS] STATE SALES TAX--[INSURANCE COMPANIES] RECEIPTS ON WHICH PREMIUM TAX IS ASSESSED.--Exempted from the [gross receipts] state sales tax are the receipts [of insurance companies or any agent thereof from premiums and any consideration received by a property bondsman, as that person is defined in Section 59A-51-2 NMSA 1978, as security or surety for a bail bond in connection with a judicial proceeding):

A. on which the premium tax, pursuant to Section 59A-6-2 NMSA 1978, is assessed; and

B. of authorized insurers from eligible investments, as those terms are used in the New Mexico Insurance Code."

SECTION 80. Section 7-9-40 NMSA 1978 (being Laws 1970, Chapter 60, Section 2, as amended) is amended to read:

"7-9-40. EXEMPTION--GROSS RECEIPTS TAX--PURSES AND JOCKEY REMUNERATION AT NEW MEXICO RACETRACKS [RECEIPTS FROM GROSS AMOUNTS WAGERED].--[A.] Exempted from the gross receipts .207939.1 - 229 -
tax are the receipts of horsemen, jockeys and trainers from
race purses at New Mexico horse racetracks subject to the
jurisdiction of the state racing commission.

[B. Exempted from the gross receipts tax are the
receipts of a racetrack from the commissions and other amounts
authorized by Section 60-1-10 NMSA 1978 to be retained by a
racetrack conducting horse races under the authority of a
license from the state racing commission.]

SECTION 81. Section 7-9-43 NMSA 1978 (being Laws 1966,
Chapter 47, Section 13, as amended) is repealed and a new
Section 7-9-43 NMSA 1978 is enacted to read:

"7-9-43. [NEW MATERIAL] NONTAXABLE TRANSACTION
CERTIFICATE AND ALTERNATIVE EVIDENCE REQUIRED TO ENTITLE
PERSONS TO DEDUCTIONS.--

A. Except as provided in Subsection B of this
section, a person may establish entitlement to a deduction
from gross receipts allowed pursuant to the Sales and Use Tax
Act by obtaining a properly executed nontaxable transaction
certificate from the purchaser.

B. Except as provided in Subsection C of this
section, a person who does not comply with Subsection A of
this section may establish entitlement to a deduction from
gross receipts by presenting alternative evidence that
demonstrates the facts necessary to support entitlement to the
deduction, but the burden of proof is on that person.
Alternative evidence includes:

(1) invoices or contracts that identify the nature of the transaction;

(2) documentation as to the purchaser's use or disposition of the property or service;

(3) a statement from the purchaser indicating that the purchaser sold or intends to resell the property or service purchased from the seller, either by itself or in combination with other property or services, in the ordinary course of business; or

(4) other evidence that demonstrates the facts necessary to establish entitlement to the deduction or specified by department rule or instruction.

C. A statement from the purchaser summarizing the purchaser's use or disposition of the property or service purchased from the seller that includes the following information shall constitute prima facie evidence of entitlement to the deduction:

(1) the seller's name;

(2) the date of the invoice or date of the transaction;

(3) the invoice number or a copy of the invoice;

(4) a copy of the purchase order, if available;
(5) the amount from purchase; and

(6) a description of the property or service purchased or leased.

D. When a person accepts in good faith a properly executed nontaxable transaction certificate from the purchaser, the properly executed nontaxable transaction certificate shall be conclusive evidence that the proceeds from the transaction are deductible from the person's gross receipts.

E. If a person has accepted in good faith a properly executed nontaxable transaction certificate, but the purchaser has not employed the property or service purchased in the nontaxable manner or has provided false or inaccurate information on the nontaxable transaction certificate, the purchaser shall be liable for an amount equal to any tax, penalty and interest that the seller would have been required to pay if the seller had not complied with Subsection A of this section.

F. Any person who knowingly or willfully provides false or inaccurate information on a nontaxable transaction certificate may be subject to prosecution under Sections 7-1-72 and 7-1-73 NMSA 1978."

SECTION 82. Section 7-9-44 NMSA 1978 (being Laws 1969, Chapter 144, Section 34, as amended) is amended to read:

"7-9-44. SUSPENSION OF THE RIGHT TO USE A NONTAXABLE
TRANSACTION CERTIFICATE.--

A. The secretary may suspend for not more than one year the privilege of a person to execute nontaxable transaction certificates if that person [(1)] fails to pay, within one year of the date [(the tax is due, the compensating tax on the)] in which the transaction subject to the nontaxable transaction certificate occurred, the penalty provided by Section 7-1-69.3 NMSA 1978 with respect to the person's subsequent use of property or services purchased through the execution of a nontaxable transaction certificate. [or

(2) executes with the seller or lessor a nontaxable transaction certificate inapplicable to the transaction when no compensating tax is due on that buyer's or lessee's use of the property or service.

B. The secretary may suspend for not more than six months the privilege of a person to execute nontaxable transaction certificates to claim deductions on the basis of nontaxable transaction certificates accepted by that person, or both, if that person fails to account in the manner and time required by the department, in accordance with Subsection E of Section 7-9-43 NMSA 1978, for the certificates executed or accepted by that person.

C. B. A suspension under this section voids the department's approval of the person's application for the privilege of executing nontaxable transaction certificates.
HFL/HB 412

and, prior to resumption of the privilege, the person whose
privilege to execute nontaxable transaction certificates has
been suspended shall reapply for the privilege of executing
such certificates in accordance with Section 7-9-43 NMSA 1978.

[D-C] C. Notwithstanding the provisions of Section
7-1-8 NMSA 1978, the department may notify the public or
provide for notice to the public of the suspension of a
person's privilege to execute nontaxable transaction
certificates."

SECTION 83. Section 7-9-45 NMSA 1978 (being Laws 1969,
Chapter 144, Section 35, as amended) is amended to read:

"7-9-45. DEDUCTIONS.--

A. [In computing the gross receipts tax or
governmental gross receipts tax due, only those receipts
specified in Sections 7-9-46 through 7-9-76.2, 7-9-77.1,
7-9-83, 7-9-85 through 7-9-87 and 7-9-89 NMSA 1978 may be
deducted. Receipts, whether specified once or several times
in those sections, may be deducted only once from gross
receipts or governmental gross] Receipts may only be deducted
once from gross receipts tax or governmental gross receipts
when computing the state sales tax or governmental sales tax
due.

B. The same receipts [that are exempted from the
gross receipts tax may] shall not be both exempt from the
state sales tax and deducted from gross receipts. [Receipts

.207939.1

- 234 -
that are deducted from gross receipts may not be exempted from the gross receipts tax.]

C. The same receipts [that are exempted from the governmental gross receipts tax] shall not be both exempt from the governmental sales tax and deducted from governmental gross receipts. [Receipts that are deducted from governmental gross receipts shall not be exempted from the governmental gross receipts tax.]

SECTION 84. Section 7-9-46 NMSA 1978 (being Laws 1969, Chapter 144, Section 36, as amended) is amended to read:

"7-9-46. DEDUCTION--GROSS RECEIPTS [TAX]--GOVERNMENTAL GROSS RECEIPTS--SALES TO MANUFACTURERS.--

A. Receipts from selling tangible personal property may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as an ingredient or component part of the product that the buyer is in the business of manufacturing.

B. Receipts from selling tangible personal property that is a consumable and used in such a way that it is consumed in the manufacturing process of a product, provided that the tangible personal property is not a tool or
equipment used to create the manufactured product, to a person engaged in the business of manufacturing that product and who delivers a nontaxable transaction certificate to the seller may be deducted [in the following percentages] from gross receipts or from governmental gross receipts

\[(1)\text{ twenty percent of receipts received prior to January 1, 2014;}\]
\[(2)\text{ forty percent of receipts received in calendar year 2014;}\]
\[(3)\text{ sixty percent of receipts received in calendar year 2015;}\]
\[(4)\text{ eighty percent of receipts received in calendar year 2016;}\] and
\[(5)\text{ one hundred percent of receipts received on or after January 1, 2017}.\]

C. Receipts from selling qualified equipment may be deducted from gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller.

D. The purpose of the deductions provided in this section is to encourage manufacturing businesses to locate in New Mexico and to reduce the tax burden, including reducing pyramiding, on the tangible personal property that is consumed in the manufacturing process and that is purchased by manufacturing businesses in New Mexico.
[D.] E. The department shall annually report to the revenue stabilization and tax policy committee the aggregate amount of deductions taken pursuant to this section, the number of taxpayers claiming each of the deductions and any other information that is necessary to determine that the deductions are performing the purposes for which they are enacted.

[E.] F. A taxpayer deducting gross receipts pursuant to this section shall report the amount deducted separately for each deduction provided in this section and attribute the amount of the deduction to the appropriate authorization provided in this section in a manner required by the department that facilitates the evaluation by the legislature of the benefit to the state of these deductions.

[F.] G. As used in [Subsection B of] this section:

1. "consumable" means tangible personal property that is incorporated into, destroyed, depleted or transformed in the process of manufacturing a product:
   (a) including electricity, fuels, water, manufacturing aids and supplies, chemicals, gases, repair parts, spares and other tangibles used to manufacture a product; but
   (b) excluding tangible personal property used in:
      (1) the generation of power; (2) the processing of natural resources, including hydrocarbons;
and [(c)] 3) the preparation of meals for immediate
consumption on- or off-premises;

(2) "manufacturing operation" means a plant
employing personnel to perform production tasks, in
conjunction with equipment not previously existing at the
site, to produce goods; and

(3) "qualified equipment" means an essential
machine, mechanism or tool, or a component or fitting thereof,
used directly and exclusively in a manufacturing operation and
subject to depreciation for purposes of the Internal Revenue
Code of 1986 by the taxpayer carrying on the manufacturing
operation that:

(a) was not previously used in New
Mexico and that is owned by the taxpayer, the United States or
an agency or instrumentality thereof or the state or a
political subdivision thereof and leased or subleased to the
taxpayer if the equipment is in New Mexico and is incorporated
or is to be incorporated within one year into a manufacturing
operation;

(b) includes electricity, fuels, water,
manufacturing aids and supplies, chemicals, gases, repair
parts, spares and other tangibles used to manufacture a
product; and

(c) does not include: 1) tangible
personal property used in the generation of power; 2) the
processing of natural resources, including hydrocarbons; 3) the preparation of meals for immediate consumption on- or off-premises; or 4) any vehicle that leaves the site of the manufacturing operation for purposes of transporting persons or property or any property for which the taxpayer claims the credit pursuant to Section 7-9-79 NMSA 1978."

SECTION 85. Section 7-9-48 NMSA 1978 (being Laws 1969, Chapter 144, Section 38, as amended) is amended to read:

"7-9-48. DEDUCTION--GROSS RECEIPTS [TAX]--GOVERNMENTAL GROSS RECEIPTS--SALE OF A SERVICE FOR RESALE.--Receipts from selling a service for resale may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must resell the service in the ordinary course of business [and the resale must be subject to the gross receipts tax or governmental gross receipts tax]."

SECTION 86. A new Section 7-9-48.1 NMSA 1978 is enacted to read:

"7-9-48.1. [NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--QUALIFIED BUSINESS SERVICES.--

A. Receipts from the sale of qualified business services to a qualified taxpayer may be deducted from gross receipts if the sale is made to a qualified taxpayer who
delivers a nontaxable transaction certificate to the seller.

B. The purpose of the deduction provided by this section is to reduce the tax burden on businesses that results from multiple impositions of transactional taxes upon the sale or use of services that businesses purchase.

C. As used in this section:

(1) "qualified business services" means services that are deductible for purposes of determining net income pursuant to Section 162 of the Internal Revenue Code of 1986, as that section may be amended or renumbered, and for which receipts from performance of that service are subject to the state sales tax and are not otherwise eligible for a deduction or exemption from the state sales tax; and

(2) "qualified taxpayer" means a person who purchases qualified business services, but does not include a federal, state, tribal or other governmental unit or subdivision or an agency, department, institution or instrumentality of a federal, state, tribal or other governmental unit or subdivision."

SECTION 87. Section 7-9-54 NMSA 1978 (being Laws 1969, Chapter 144, Section 44, as amended by Laws 2003, Chapter 272, Section 6 and by Laws 2003, Chapter 330, Section 2) is amended to read:

"7-9-54. DEDUCTION--GROSS RECEIPTS [TAX]--GOVERNMENTAL GROSS RECEIPTS [TAX]--SALES TO [GOVERNMENTAL AGENCIES] LOCAL

.207939.1

- 240 -
GOVERNMENTS FOR BOND PROJECTS.--

A. Receipts from selling tangible personal property to [the United States or New Mexico or a governmental unit, subdivision, agency, department or instrumentality thereof] a local government for a bond project may be deducted from gross receipts or from governmental gross receipts.

Unless contrary to federal law, the deduction provided by this subsection does not apply to:

1. receipts from selling metalliferous mineral ore;
2. (1) receipts from selling tangible personal property that is or will be incorporated into a metropolitan redevelopment project created under the Metropolitan Redevelopment Code;
3. (2) receipts from selling construction material; or
4. (3) that portion of the receipts from performing a "service" that reflects the value of tangible personal property utilized or produced in performance of such service.

B. Receipts from selling tangible personal property for any purpose to an Indian tribe, nation or pueblo or a governmental unit, subdivision, agency, department or instrumentality thereof for use on Indian reservations or pueblo grants may be deducted from gross receipts or from

.207939.1

- 241 -
When a seller, in good faith, deducts receipts for tangible personal property sold to the state or a governmental unit, subdivision, agency, department or instrumentality thereof, after receiving written assurances from the buyer's representative that the property sold is not construction material, the department shall not assert in a later assessment or audit of the seller that the receipts are not deductible pursuant to Paragraph (3) of Subsection A of this section.

B. For the purposes of this section, "bond project" means an arrangement entered into pursuant to the Industrial Revenue Bond Act, the County Industrial Revenue Bond Act or similar act in which:

(1) a private person agrees to:

(a) arrange for the constructing and equipping of a facility for a local government by acting as agent for the government in procuring construction services; other services; tangible personal property that becomes an ingredient or component part of a construction project; and other tangible personal property necessary for constructing and equipping the facility;

(b) lease the completed facility from the government; and

(c) buy the facility upon repayment of
the bonds; and

(2) the local government agrees to own the facility, finance the project in whole or in part through the issuance of bonds, designate the private person as its agent in procuring the necessary property and services, lease the facility to the private person and sell the facility to the private person upon repayment of the bonds."

SECTION 88. Section 7-9-55 NMSA 1978 (being Laws 1969, Chapter 144, Section 45, as amended) is amended to read:

"7-9-55. [DEDUCTION--GROSS RECEIPTS] EXEMPTION--STATE SALES TAX--[GOVERNMENTAL GROSS RECEIPTS TAX] EXPORTS-- TRANSACTION IN INTERSTATE COMMERCE.--

A. Exempted from the state sales tax and the governmental sales tax are receipts from transactions in interstate or foreign commerce [may be deducted from gross receipts] to the extent that the imposition of the [gross receipts] state sales tax would be unlawful under the United States constitution.

[B. Receipts from transactions in interstate commerce may be deducted from governmental gross receipts.

C. Receipts from transmitting messages or conversations by radio other than from one point in this state to another point in this state and receipts from the sale of radio or television broadcast time when the advertising message is supplied by or on behalf of a national or regional

.207939.1

- 243 -
seller or advertiser not having its principal place of
business in or being incorporated under the laws of this state
may be deducted from gross receipts. Commissions of
advertising agencies from performing services in this state
may not be deducted from gross receipts under this section]

B. Exempted from the state sales tax are receipts
from selling tangible personal property in interstate or
foreign commerce when the seller ships or delivers the
tangible personal property to a location outside New Mexico
for use outside New Mexico.

C. Exempted from the state sales tax are receipts
from leasing or licensing personal property in interstate or
foreign commerce when the property is employed outside New
Mexico.

D. Exempted from the state sales tax are receipts
from granting a right to use a franchise in interstate or
foreign commerce when the franchise is employed outside New
Mexico.

E. Exempted from the state sales tax are receipts
from selling in interstate or foreign commerce a service
performed in New Mexico and the seller ships or delivers the
product of the service to a location outside New Mexico for
use outside New Mexico."

SECTION 89. Section 7-9-57.1 NMSA 1978 (being Laws 1998,
Chapter 92, Section 3) is amended to read:
"7-9-57.1.  [DEDUCTION--GROSS RECEIPTS] EXEMPTION--STATE SALES TAX--SALES THROUGH [WORLD-WIDE WEB SITES] WORLDWIDE WEBSITES.--Exempted from the state sales tax are receipts of any person derived from the sale of a service or property made through a [world-wide-web-site] worldwide website to a person with a billing address outside New Mexico [may be deducted from gross receipts]."

SECTION 90.  Section 7-9-62 NMSA 1978 (being Laws 1969, Chapter 144, Section 52, as amended) is amended to read:

"7-9-62.  DEDUCTION--GROSS RECEIPTS [TAX]--AGRICULTURAL IMPLEMENTS--AIRCRAFT MANUFACTURERS--VEHICLES THAT ARE NOT REQUIRED TO BE REGISTERED--AIRCRAFT PARTS AND MAINTENANCE SERVICES--REPORTING REQUIREMENTS.--

A.  Except for receipts deductible under Subsection B of this section, prior to July 1, 2032, fifty percent of the receipts from selling agricultural implements, farm tractors, aircraft or vehicles that are not required to be registered under the Motor Vehicle Code may be deducted from gross receipts; provided that, with respect to agricultural implements, the sale is made to a person who states in writing that the person is regularly engaged in the business of farming or ranching.  [Any deduction allowed under Section 7-9-71 NMSA 1978 must be taken before the deduction allowed by this subsection is computed.]

B.  Prior to July 1, 2032, receipts of an aircraft
HFL/HB 412

1 manufacturer or affiliate from selling aircraft or from
2 selling aircraft flight support, pilot training or maintenance
3 training services may be deducted from gross receipts. [Any
4 deduction allowed under Section 7-9-71 NMSA 1978 must be taken
5 before the deduction allowed by this subsection is computed.]
6
7 C. Prior to July 1, 2032, receipts from selling
8 aircraft parts or maintenance services for aircraft or
9 aircraft parts may be deducted from gross receipts. [Any
10 deduction allowed under Section 7-9-71 NMSA 1978 must be taken
11 before the deduction allowed by this subsection is computed.]
12
13 D. A taxpayer allowed a deduction pursuant to this
14 section shall report the amount of the deduction separately in
15 a manner required by the department.
16
17 E. The department shall compile an annual report
18 on the deductions provided by this section that shall include
19 the number of taxpayers approved by the department to receive
20 the deductions, the aggregate amount of deductions approved
21 and any other information necessary to evaluate the
22 effectiveness of the deductions. [Beginning in 2019 and every
23 five years thereafter] Each year that the deductions are in
24 effect, the department shall compile and present the annual
25 reports to the revenue stabilization and tax policy committee
26 and the legislative finance committee with an analysis of the
27 effectiveness and cost of the deductions.
28
29 F. As used in this section:
(1) "affiliate" means a business entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the aircraft manufacturer;

(2) "agricultural implement" means a tool, utensil or instrument that is depreciable for federal income tax purposes and that is:
   (a) designed to irrigate agricultural crops above ground or below ground at the place where the crop is grown; or
   (b) designed primarily for use with a source of motive power, such as a tractor, in planting, growing, cultivating, harvesting or processing agricultural crops at the place where the crop is grown; in raising poultry or livestock; or in obtaining or processing food or fiber, such as eggs, milk, wool or mohair, from living poultry or livestock at the place where the poultry or livestock are kept for this purpose;

(3) "aircraft manufacturer" means a business entity that in the ordinary course of business designs and builds private or commercial aircraft certified by the federal aviation administration;

(4) "business entity" means a corporation, limited liability company, partnership, limited partnership, limited liability partnership or real estate investment trust,
but does not mean an individual or a joint venture;

(5) "control" means equity ownership in a business entity that:

(a) represents at least fifty percent of the total voting power of that business entity; and

(b) has a value equal to at least fifty percent of the total equity of that business entity; and

(6) "flight support" means providing navigation data, charts, weather information, online maintenance records and other aircraft or flight-related information and the software needed to access the information."

SECTION 91. Section 7-9-62.1 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 4, Section 2, as amended) is amended to read:

"7-9-62.1. DEDUCTION--GROSS RECEIPTS [TAX]--AIRCRAFT SALES AND SERVICES--REPORTING REQUIREMENTS.--

A. Prior to July 1, 2032, receipts from the sale of or from maintaining, refurbishing, remodeling or otherwise modifying a commercial or military carrier over ten thousand pounds gross landing weight may be deducted from gross receipts.

B. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department.

.207939.1

- 248 -
C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers approved by the department to receive the deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the effectiveness of the deduction. [Beginning in 2019 and every five years thereafter] Each year that the deduction is in effect, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deduction."

SECTION 92. Section 7-9-67 NMSA 1978 (being Laws 1969, Chapter 144, Section 58, as amended) is amended to read:


A. Exempted from the state sales tax are refunds and allowances made to buyers or amounts written off the books as an uncollectible debt by a person reporting [gross receipts] state sales tax on an accrual basis [may be deducted from gross receipts]. If debts reported uncollectible are subsequently collected, such receipts shall be included in gross receipts in the month of collection.

B. Exempted from the governmental sales tax are refunds and allowances made to buyers or amounts written off
the books as an uncollectible debt by a person reporting
governmental [gross receipts] sales tax on an accrual basis
[may be deducted from governmental gross receipts]. If debts
reported uncollectible are subsequently collected, such
receipts shall be included in governmental gross receipts in
the month of collection."

SECTION 93. Section 7-9-71 NMSA 1978 (being Laws 1969,
Chapter 144, Section 63, as amended) is amended to read:

"7-9-71. [DEDUCTION--GROSS RECEIPTS] EXEMPTION--STATE
SALES TAX--TRADE-IN ALLOWANCE.--Exempted from the state sales
tax is that portion of the receipts of a seller that is
represented by a trade-in of tangible personal property of the
same type being sold, except for the receipts represented by a
trade-in of a manufactured home [may be deducted from gross
receipts]."

SECTION 94. Section 7-9-77 NMSA 1978 (being Laws 1966,
Chapter 47, Section 15, as amended) is amended to read:

"7-9-77. [DEDUCTIONS] DEDUCTION--[COMPENSATING] USE
TAX--TRADE-IN VALUE OF TANGIBLE PERSONAL PROPERTY.--[A.] Fifty
percent of [the value of agricultural implements, farm
tractors, aircraft not exempted under Section 7-9-30 NMSA 1978
or vehicles that are not required to be registered under the
Motor Vehicle Code] may be deducted from the value in computing
the compensating tax due; provided that, with respect to use
of agricultural implements, the person using the property is
regularly engaged in the business of farming or ranching. Any
deduction allowed under Subsection B of this section is to be
taken before the deduction allowed by this subsection is
computed. As used in this subsection, "agricultural
implement" means a tool, utensil or instrument that is:

(1) designed primarily for use with a source
of motive power, such as a tractor, in planting, growing,
cultivating, harvesting or processing agricultural produce at
the place where the produce is grown; in raising poultry or
livestock; or in obtaining or processing food or fiber, such
as eggs, milk, wool or mohair, from living poultry or
livestock at the place where the poultry or livestock are kept
for this purpose; and

(2) depreciable for federal income tax
purposes.

B.] that portion of the value of tangible personal
property on which an allowance was granted to the buyer for a
trade-in of tangible personal property of the same type that
was bought may be deducted from the value in computing the
[compensating] use tax due."

SECTION 95. Section 7-9-85 NMSA 1978 (being Laws 1994,
Chapter 43, Section 1) is amended to read:

"7-9-85. DEDUCTION--GROSS RECEIPTS [TAX]--CERTAIN
ORGANIZATION FUNDRAISERS.--Receipts from not more than two
fundraising events annually conducted by an organization that

is exempt from the federal income tax as an organization
described in Section 501(c) [other than an organization
described in Section 501(c)(3)] of the United States Internal
Revenue Code of 1986, as amended, may be deducted from gross
receipts."

SECTION 96. Section 7-9-110.1 NMSA 1978 (being Laws
2011, Chapter 60, Section 1 and Laws 2011, Chapter 61, Section
1) is amended to read:

"7-9-110.1. DEDUCTION--[GROSS RECEIPTS] STATE SALES
TAX--USE TAX--LOCOMOTIVE ENGINE FUEL.--

A. Prior to July 1, 2047, receipts from the sale
of fuel to a common carrier to be loaded or used in a
locomotive engine may be deducted from gross receipts. [For
the purposes of this section, "locomotive engine" means a
wheeled vehicle consisting of a self-propelled engine that is
used to draw trains along railway tracks.]

B. Prior to July 1, 2047, the value of fuel to be
loaded or used by a common carrier in a locomotive engine may
be deducted in computing the use tax due.

C. The purpose of the deductions provided by this
section is to encourage the construction, renovation,
maintenance and operation of railroad locomotive refueling
facilities and other railroad capital investments in New
Mexico.

D. To be eligible for a deduction on fuel loaded

.207939.1
or used by a common carrier in a locomotive engine from the
use tax, the fuel shall be used or loaded by a common carrier
that:

(1) after July 1, 2011, made a capital
investment of one hundred million dollars ($100,000,000) or
more in new construction or renovations at the railroad
locomotive refueling facility in which the fuel is loaded or
used; or

(2) on or after July 1, 2012, made a capital
investment of fifty million dollars ($50,000,000) or more in
new railroad infrastructure improvements, including railroad
facilities, track, signals and supporting railroad network,
located in New Mexico; provided that the new railroad
infrastructure improvements are not required by a regulatory
agency to correct problems, such as regular or preventive
maintenance, specifically identified by that agency as
requiring necessary corrective action.

E. To be eligible for the deduction on fuel loaded
or used by a common carrier in a locomotive engine from gross
receipts, a common carrier shall deliver an appropriate
nontaxable transaction certificate to the seller and the sale
shall be made to a common carrier that:

(1) after July 1, 2011, made a capital
investment of one hundred million dollars ($100,000,000) or
more in new construction or renovations at the railroad
locomotive refueling facility in which the fuel is sold; or

(2) on or after July 1, 2012, made a capital investment of fifty million dollars ($50,000,000) or more in new railroad infrastructure improvements, including railroad facilities, track, signals and supporting railroad network, located in New Mexico; provided that the new railroad infrastructure improvements are not required by a regulatory agency to correct problems, such as regular or preventative maintenance, specifically identified by that agency as requiring necessary corrective action.

F. The economic development department shall promulgate rules for the issuance of a certificate of eligibility for the purposes of claiming a deduction pursuant to this section. A common carrier may request a certificate of eligibility from the economic development department to provide to the taxation and revenue department to establish eligibility for a nontaxable transaction certificate for the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts. The taxation and revenue department shall issue nontaxable transaction certificates to a common carrier upon the presentation of a certificate of eligibility obtained from the economic development department pursuant to this subsection.

G. The economic development department shall keep a record of temporary and permanent jobs from all railroad
activity where a capital investment is made by a common carrier that claims a deduction pursuant to this section. The economic development department and the taxation and revenue department shall estimate the amount of state revenue that is attributable to all railroad activity where a capital investment is made by a common carrier that claims a deduction pursuant to this section.

H. The economic development department and the taxation and revenue department shall compile an annual report with the number of taxpayers who claim a deduction pursuant to this section, the number of jobs created as a result of that deduction, the amount of that deduction approved, the net revenue to the state as a result of that deduction and any other information required by the legislature to aid in evaluating the effectiveness of that deduction. A taxpayer who claims a deduction pursuant to this section shall provide the economic development department and the taxation and revenue department with the information required to compile that report. The economic development department and the taxation and revenue department shall present that report before the legislative interim revenue stabilization and tax policy committee and the legislative finance committee by November of each year. Notwithstanding any other section of law to the contrary, the economic development department and the taxation and revenue department may disclose the number of
applicants for a deduction pursuant to this section, the
amount of the deduction approved, the number of employees of
the taxpayer and any other information required by the
legislature or the taxation and revenue department to aid in
evaluating the effectiveness of that deduction.

I. An appropriate legislative committee shall
review the effectiveness of the deduction for each taxpayer
who claims the deduction pursuant to this section every six
years beginning in 2019.

J. For the purposes of this section, "locomotive
engine" means a wheeled vehicle consisting of a self-propelled
engine that is used to draw trains along railway tracks."

SECTION 97. Section 7-9-115 NMSA 1978 (being Laws 2015
(1st S.S.), Chapter 2, Section 9) is amended to read:

"7-9-115. DEDUCTION--GROSS RECEIPTS [TAX]--GOODS AND
SERVICES FOR THE DEPARTMENT OF DEFENSE RELATED TO DIRECTED
ENERGY AND SATELLITES.--

A. Prior to January 1, 2021, receipts from the
sale by a qualified contractor of qualified research and
development services and qualified directed energy and
satellite-related inputs may be deducted from gross receipts
when sold pursuant to a contract with the United States
department of defense.

B. The purposes of the deduction allowed in this
section are to promote new and sophisticated technology,
enhance the viability of directed energy and satellite projects, attract new projects and employers to New Mexico and increase high-technology employment opportunities in New Mexico.

C. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department.

D. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. Beginning in 2017 and each year thereafter that the deduction is in effect, the department and the economic development department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deduction and whether the deduction is performing the purpose for which it was created.

E. As used in this section:

(1) "directed energy" means a system, including related services, that enables the use of the frequency spectrum, including radio waves, light and x-rays;

(2) "inputs" means systems, subsystems, components, prototypes and demonstrators or products and

.207939.1

- 257 -
services involving optics, photonics, electronics, advanced
materials, nanoelectromechanical and microelectromechanical
systems, fabrication materials and test evaluation and
computer control systems related to directed energy or
satellites;

(3) "qualified contractor" means a person
other than an organization designated as a national laboratory
by act of congress or an operator of national laboratory
facilities in New Mexico; provided that the operator may be a
qualified contractor with respect to the operator's receipts
not connected with operating the national laboratory;

(4) "qualified directed energy and satellite-
related inputs" means inputs supplied to the department of
defense pursuant to a contract with that department entered
into on or after January 1, 2016;

(5) "qualified research and development
services" means research and development services related to
directed energy or satellites provided to the department of
defense pursuant to a contract with that department entered
into on or after January 1, 2016; and

(6) "satellite" means composite systems
assembled and packaged for use in space, including launch
vehicles and related products and services."

SECTION 98. Section 7-9C-1 NMSA 1978 (being Laws 1992,
Chapter 50, Section 1 and also Laws 1992, Chapter 67, Section}

.207939.1
"7-9C-1. SHORT TITLE.--Chapter 7, Article 9C NMSA 1978 may be cited as the "Interstate Telecommunications [Gross Receipts] Sales Tax Act".

SECTION 99. Section 7-9C-7 NMSA 1978 (being Laws 1992, Chapter 50, Section 7 and also Laws 1992, Chapter 67, Section 7, as amended) is amended to read:

"7-9C-7. DEDUCTION--SALE OF A SERVICE FOR RESALE.--[A] Receipts from providing an interstate telecommunications service in this state that will be used by other persons in providing telephone or telegraph services to the final user may be deducted from interstate telecommunications gross receipts if the sale is made to a person who is subject to the interstate telecommunications [gross receipts tax or to the gross receipts tax or the compensating] sales tax, the state sales tax or the use tax.

[B. Receipts during the period July 1, 1998 through June 30, 2000 from providing leased telephone lines, telecommunications services, internet access services or computer programming that will be used by other persons in providing internet access and related services to the final user may be deducted from interstate telecommunications gross receipts if the sale is made to a person who is subject to the interstate telecommunications gross receipts tax, the gross receipts tax or the compensating tax.]"
SECTION 100. Section 7-9F-3 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to read:

"7-9F-3. DEFINITIONS.--As used in the Technology Jobs and Research and Development Tax Credit Act:

A. "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by or is under common ownership or control with another person through ownership of voting securities or other ownership interests representing a majority of the total voting power of the entity;

B. "annual payroll expense" means the wages paid or payable to employees in the state by the taxpayer in the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act;

C. "base payroll expense" means the wages paid or payable by the taxpayer in the taxable year prior to the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act, adjusted for any increase from the preceding taxable year in the consumer price index for the United States for all items as published by the United States department of labor in the taxable year for which the additional credit is claimed. In a taxable year during which
a taxpayer has been part of a business merger or acquisition
or other change in business organization, the taxpayer's base
payroll expense shall include the payroll expense of all
entities included in the reorganization for all positions that
are included in the business entity resulting from the
reorganization;

D. "department" means the taxation and revenue
department, the secretary of taxation and revenue or any
employee of the department exercising authority lawfully
delegated to that employee by the secretary;

E. "facility" means a factory, mill, plant,
refinery, warehouse, dairy, feedlot, building or complex of
buildings located within the state, including the land on
which it is located and all machinery, equipment and other
real and tangible personal property located at or within it
and used in connection with its operation;

[F. "local option gross receipts tax" means a tax
authorized to be imposed by a county or municipality upon the
taxpayer's gross receipts, as that term is defined in the
Gross Receipts and Compensating Tax Act, and required to be
collected by the department at the same time and in the same
manner as the gross receipts tax; "local option gross receipts
tax" includes the taxes imposed pursuant to the Municipal
Local Option Gross Receipts Taxes Act, Supplemental Municipal
Gross Receipts Tax Act, County Local Option Gross Receipts
Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department in the same time and in the same manner as it collects the gross receipts tax;

"qualified expenditure" means an expenditure or an allocated portion of an expenditure by a taxpayer in connection with qualified research at a qualified facility, including expenditures for depletable land and rent paid or incurred for land, improvements, the allowable amount paid or incurred to operate or maintain a facility, buildings, equipment, computer software, computer software upgrades, consultants and contractors performing work in New Mexico, payroll, technical books and manuals and test materials, but not including any expenditure on property that is owned by a municipality or county in connection with an industrial revenue bond project, property for which the taxpayer has received any credit pursuant to the Investment Credit Act, property that was owned by the taxpayer or an affiliate before July 3, 2000 or research and development expenditures reimbursed by a person who is not an affiliate of the taxpayer. If a "qualified expenditure" is an allocation of an expenditure, the cost accounting methodology used for the allocation of the expenditure shall be the same cost.
accounting methodology used by the taxpayer in its other business activities;

[H.] G. "qualified facility" means a facility in New Mexico at which qualified research is conducted other than a facility operated by a taxpayer for the United States or any agency, department or instrumentality thereof;

[I.] H. "qualified research" means research:

(1) that is undertaken for the purpose of discovering information:

(a) that is technological in nature;

and

(b) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer; and

(2) substantially all of the activities of which constitute elements of a process of experimentation related to a new or improved function, performance, reliability or quality, but not related to style, taste or cosmetic or seasonal design factors;

[J.] I. "qualified research and development small business" means a taxpayer that:

(1) employed no more than fifty employees as determined by the number of employees for which the taxpayer was liable for unemployment insurance coverage in the taxable year for which an additional credit is claimed;
(2) had total qualified expenditures of no more than five million dollars ($5,000,000) in the taxable year for which an additional credit is claimed; and

(3) did not have more than fifty percent of its voting securities or other equity interest with the right to designate or elect the board of directors or other governing body of the business owned directly or indirectly by another business;

[K.] J. "rural area" means any area of the state other than the state fairgrounds, an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census and any area within three miles of the external boundaries of an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census;

[L.] K. "taxpayer" means any of the following persons, other than a federal, state or other governmental unit or subdivision or an agency, department, institution or instrumentality thereof:

(1) a person liable for payment of any tax;

(2) a person responsible for withholding and payment or collection and payment of any tax;

(3) a person to whom an assessment has been made if the assessment remains unabated or the assessed amount has not been paid; or
(4) for purposes of the additional credit against the taxpayer's income tax pursuant to the Technology Jobs and Research and Development Tax Credit Act and to the extent of their respective interest in that entity, the shareholders, members, partners or other owners of:

(a) a small business corporation that has elected to be treated as an S corporation for federal income tax purposes; or

(b) an entity treated as a partnership or disregarded entity for federal income tax purposes; and

[M. L. "wages" means remuneration for services performed by an employee in New Mexico for an employer."

SECTION 101. Section 7-9F-9 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22, Section 9, as amended) is amended to read:

"7-9F-9. CLAIMING THE BASIC CREDIT.--

A. A taxpayer may apply for approval of a credit within one year following the end of the reporting period in which the qualified expenditure was made.

B. A taxpayer having applied for and been granted approval for a basic credit by the department pursuant to the Technology Jobs and Research and Development Tax Credit Act may claim the amount of the approved basic credit against the taxpayer's [compensating tax, withholding tax or gross receipts tax, excluding local option gross receipts tax]
income tax or corporate income tax liability due to the state of New Mexico; provided that no taxpayer may claim an amount of approved basic credit for a taxable year in which the basic credit is being claimed that exceeds the amount of the taxpayer's compensating tax, withholding tax and gross receipts tax, excluding local option gross receipts tax, due for that taxable year.

C. Any amount of approved basic credit not claimed against the taxpayer's compensating tax, withholding tax or gross receipts tax, excluding local option gross receipts tax income tax or corporate income tax liability due may be claimed in subsequent taxable years for a period of up to three years from the date of the original claim.

SECTION 102. Section 7-9F-11 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22, Section 11) is amended to read:

"7-9F-11. RECAPTURE.--If the taxpayer or a successor in business of the taxpayer ceases operations in New Mexico for at least one hundred eighty consecutive days within a two-year period after the taxpayer has claimed a basic credit or an additional credit at a facility with respect to which the taxpayer has claimed the basic credit or the additional credit, the department shall grant no further basic credit or additional credit to the taxpayer with respect to that
facility. In addition, any amount of approved basic credit
not claimed against the taxpayer's gross receipts tax,
compensating tax or withholding tax and any amount of
approved] or additional credit not claimed against the
taxpayer's income tax or corporate income tax shall be
extinguished, and within thirty days after the one hundred
eightieth day of the cessation of operations, the taxpayer
shall pay the amount of any [gross receipts tax, compensating
tax or withholding tax for which an approved basic credit was
taken and any] income tax or corporate income tax against
which an approved additional credit was taken. For purposes
of this section, a taxpayer shall not be deemed to have ceased
operations during reasonable periods for maintenance or
retooling or for the repair or replacement of facilities
damaged or destroyed or during the continuance of labor
disputes."

SECTION 103. Section 7-9I-2 NMSA 1978 (being Laws 2005,
Chapter 104, Section 18, as amended) is amended to read:

"7-9I-2. DEFINITIONS.--As used in the Affordable Housing
Tax Credit Act:

A. "affordable housing project" means land
acquisition, construction, building acquisition, remodeling,
 improvement, rehabilitation, conversion or weatherization for
residential housing that is approved by the authority and that
includes single-family housing or multifamily housing;
B. "authority" means the New Mexico mortgage finance authority;

C. "department" means the taxation and revenue department; and

[D. "modified combined tax liability" means the total liability for the reporting period for the gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as the gross receipts tax, such as the compensating tax, the withholding tax, the interstate telecommunications gross receipts tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the affordable housing tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes and governmental gross receipts taxes; and

E. D. "person" means an individual, tribal government, housing authority, corporation, limited liability company, partnership, joint venture, syndicate, association or nonprofit organization."

SECTION 104. Section 7-9I-5 NMSA 1978 (being Laws 2005, Chapter 104, Section 21) is amended to read:

"7-9I-5. AFFORDABLE HOUSING TAX CREDIT.--

A. The tax credit provided in this section may be
referred to as the "affordable housing tax credit". Except as otherwise provided by the Affordable Housing Tax Credit Act, a holder of an investment voucher that submits the investment voucher to the department may apply for, and the department may allow, a tax credit in an amount not to exceed the value of the investment voucher during the tax year in which the authority certifies to the department:

(1) completion of a service for which an investment voucher has been issued pursuant to the Affordable Housing Tax Credit Act; or

(2) approval by the authority or completion of an affordable housing project for which a land, building or cash donation has been made and for which an investment voucher has been issued pursuant to the Affordable Housing Tax Credit Act.

B. A holder of an investment voucher may apply all or a portion of the affordable housing tax credit against the holder's modified combined tax liability personal income tax liability or corporate income tax liability. Any balance of the affordable housing tax credit claimed may be carried forward for up to five years from the calendar year during which the authority certifies to the department approval of the affordable housing project for which the investment voucher used to claim the affordable housing tax credit is issued. [No amount of the affordable housing tax credit may
be applied against a local option gross receipts tax imposed
by a municipality or county or against the government gross
receipts tax.]

C. Notwithstanding the provisions of Section 7-1-8
NMSA 1978, the department may disclose to a person the balance
of the affordable housing tax credit remaining with respect to
any investment voucher submitted by that person."

SECTION 105. Section 7-10-1 NMSA 1978 (being Laws 1970,
Chapter 26, Section 1, as amended) is amended to read:

"7-10-1. SHORT TITLE.--Chapter 7, Article 10 NMSA 1978
may be cited as the "[Gross Receipts] Sales Tax Registration
Act"."

SECTION 106. Section 7-10-3 NMSA 1978 (being Laws 1970,
Chapter 26, Section 3, as amended) is amended to read:

"7-10-3. DEFINITIONS.--As used in the [Gross Receipts]
Sales Tax Registration Act:

A. "department" means the taxation and revenue
department, the secretary of taxation and revenue or any
employee of the department exercising authority lawfully
delegated to that employee by the secretary;

B. "person" means any individual, estate, trust,
receiver, cooperative association, club, corporation, company,
firm, partnership, joint venture, syndicate or other entity;
and

C. "state" means any state agency, department or
office that has authority to contract in the name of the state or to make payments from state funds."

SECTION 107. Section 7-10-4 NMSA 1978 (being Laws 1970, Chapter 26, Section 4, as amended) is amended to read:

"7-10-4. PERSONS DOING BUSINESS WITH THE STATE--REGISTRATION TO PAY THE [GROSS RECEIPTS] STATE SALES TAX REQUIRED.--Any person leasing or selling property to the state or performing services for the state, as those terms are used in the [Gross Receipts and Compensating] Sales and Use Tax Act, shall be registered with the department to pay [the gross receipts] state sales tax unless that person has no business location, employees or property in New Mexico and does not conduct business in New Mexico through agents or contractors."

SECTION 108. Section 7-10-5 NMSA 1978 (being Laws 1970, Chapter 26, Section 5, as amended) is amended to read:

"7-10-5. PENALTY FOR NONCOMPLIANCE.--If any person required to register under the provisions of Section 7-10-4 NMSA 1978 is not registered to pay the [gross receipts] state sales tax, the state shall withhold payment of the amount due until the person has presented evidence of registration with the department to pay the [gross receipts] state sales tax."

SECTION 109. Section 7-14-10 NMSA 1978 (being Laws 1988, Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--

A. Except as provided in Subsection B of this
section, the receipts from the tax and any associated interest and penalties shall be deposited in the "motor vehicle suspense fund", hereby created in the state treasury. As of the end of each month, the net receipts attributable to the tax and associated penalties and interest shall be distributed [to the general fund] as follows:

(1) fifty percent to the state road fund; and
(2) fifty percent to the local governments road fund.

B. If, on or before March 1, 2019, the secretary of finance and administration certifies to the secretary of taxation and revenue that revenue attributable to the state sales tax and distributed to the general fund since July 1, 2018 is projected to be less for fiscal year 2019 than the amount of estimated state sales tax revenue, as that term is defined in Section 7-9-4 NMSA 1978, the distributions pursuant to Paragraphs (1) and (2) of Subsection A of this section shall be made to the general fund beginning July 1, 2019 and prior to January 1, 2020."

SECTION 110. Section 7-14A-1 NMSA 1978 (being Laws 1991, Chapter 197, Section 5, as amended) is amended to read:

"7-14A-1. SHORT TITLE.--Chapter 7, Article 14A NMSA 1978 may be cited as the "Leased Vehicle [Gross Receipts] Sales Tax Act"."

SECTION 111. Section 7-14A-2 NMSA 1978 (being Laws 1991,
Chapter 197, Section 6, as amended) is amended to read:

"7-14A-2. DEFINITIONS.--As used in the Leased Vehicle [Gross Receipts] Sales Tax Act:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "engaging in business" means carrying on or causing to be carried on the leasing of vehicles with the purpose of direct or indirect benefit;

C. "gross receipts" means the total amount of money or the value of other consideration received from leasing vehicles used in New Mexico, but excludes cash discounts allowed and taken, leased vehicle [gross receipts] sales tax payable on transactions for the reporting period, [gross receipts] state sales tax payable pursuant to the [Gross Receipts and Compensating] Sales and Use Tax Act on transactions for the reporting period and taxes imposed pursuant to the provisions of any local option [gross receipts] sales tax, as that term is defined in the Tax Administration Act, that is payable on transactions for the reporting period and any type of time-price differential. Also excluded from "gross receipts" are any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo; provided that the tax is approved, if approval is required by .207939.1
federal law or regulation, by the secretary of the interior of
the United States; and provided further that the gross
receipts or sales tax imposed by the Indian nation, tribe or
pueblo provides a reciprocal exclusion for gross receipts,
sales or gross receipts-based excise taxes imposed by the
state or its political subdivisions. In an exchange in which
the money or other consideration received does not represent
the value of the lease of the vehicle, "gross receipts" means
the reasonable value of the lease of the vehicle. When the
leasing of vehicles is made under a leasing contract, the
seller or lessor may elect to treat all receipts under those
contracts as gross receipts as and when the payments are
actually received. "Gross receipts" also includes amounts
paid by members of any cooperative association or similar
organization for the lease of vehicles by that organization;

D. "leasing" means any arrangement whereby, for a
consideration, a vehicle without a driver furnished by the
lessor or owner is employed for or by any person other than
the owner of the vehicle for a period of not more than six
months;

E. "person" means any individual, estate, trust,
receiver, cooperative association, club, corporation, company,
firm, partnership, joint venture, syndicate or other entity;
and

F. "vehicle" means a passenger automobile designed
to accommodate six or fewer adult human beings that is part of a fleet of five or more passenger automobiles owned by the same person."

SECTION 112. Section 7-14A-3 NMSA 1978 (being Laws 1991, Chapter 197, Section 7) is amended to read:

"7-14A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS "LEASED VEHICLE [GROSS RECEIPTS] SALES TAX".--

A. For the privilege of engaging in business, an excise tax equal to five percent of gross receipts is imposed on any person engaging in business in New Mexico.

B. The tax imposed by this section shall be referred to as the "leased vehicle [gross receipts] sales tax"."

SECTION 113. Section 7-14A-3.1 NMSA 1978 (being Laws 1993, Chapter 359, Section 1, as amended) is amended to read:

"7-14A-3.1. IMPOSITION AND RATE--LEASED VEHICLE SURCHARGE.--

A. Except as provided in Subsection B of this section, there is imposed a surcharge on the leasing of a vehicle to another person by a person engaging in business in New Mexico if the lease is subject to the leased vehicle [gross receipts] sales tax. The amount of this surcharge is two dollars ($2.00) for each day the vehicle is leased by the person. The surcharge may be referred to as the "leased vehicle surcharge".
B. The leased vehicle surcharge imposed in Subsection A of this section shall not apply to the lease of a temporary replacement vehicle if the lessee signs a statement that the temporary replacement vehicle is to be used as a replacement for another vehicle that is being repaired, serviced or replaced. For the purposes of this section, "temporary replacement vehicle" means a vehicle that is:

1. used by an individual in place of another vehicle that is unavailable for use by the individual due to loss, damage, mechanical breakdown or need for servicing; and
2. leased temporarily by or on behalf of the individual or loaned temporarily to the individual by a vehicle repair facility or dealer while the other vehicle is being repaired, serviced or replaced."

SECTION 114. Section 7-14A-4 NMSA 1978 (being Laws 1991, Chapter 197, Section 8, as amended) is amended to read:

"7-14A-4. PRESUMPTION OF TAXABILITY.--To prevent evasion of the leased vehicle [gross receipts] sales tax and the leased vehicle surcharge and to aid in their administration, it is presumed that all receipts of a person engaging in business are subject to the leased vehicle [gross receipts] sales tax and that all vehicles leased by that person are subject to the leased vehicle surcharge."

SECTION 115. Section 7-14A-5 NMSA 1978 (being Laws 1991, Chapter 197, Section 9) is amended to read:

.207939.1

- 276 -
"7-14A-5. SEPARATELY STATING THE LEASED VEHICLE [GROSS RECEIPTS] SALES TAX.--When the leased vehicle [gross receipts] sales tax is stated separately on the books of the lessor and if the total amount of tax that is stated separately on transactions reportable within one reporting period is in excess of the amount of leased vehicle [gross receipts] sales tax otherwise payable on the transactions on which the tax was separately stated, the excess amount of tax stated on the transactions within that reporting period shall be included in gross receipts."

SECTION 116. Section 7-14A-6 NMSA 1978 (being Laws 1991, Chapter 197, Section 10, as amended) is amended to read:

"7-14A-6. DATE PAYMENT DUE.--The tax and the surcharge imposed by the Leased Vehicle [Gross Receipts] Sales Tax Act are to be paid on or before the twenty-fifth day of the month following the month in which the taxable event occurs."

SECTION 117. Section 7-14A-7 NMSA 1978 (being Laws 1991, Chapter 197, Section 11) is amended to read:

"7-14A-7. DEDUCTION--TRANSACTIONS IN INTERSTATE COMMERCE.--Receipts from transactions in interstate commerce may be deducted from gross receipts to the extent that the imposition of the leased vehicle [gross receipts] sales tax would be unlawful under the United States constitution."

SECTION 118. Section 7-14A-10 NMSA 1978 (being Laws 1991, Chapter 197, Section 14, as amended) is amended to read:

.207939.1
"7-14A-10. DISTRIBUTION OF PROCEEDS.--At the end of each month, the net receipts attributable to the leased vehicle [gross receipts] sales tax and any associated penalties and interest shall be distributed as follows:

A. one-fourth to the local governments road fund;

and

B. three-fourths to the highway infrastructure fund."

SECTION 119. Section 7-14A-11 NMSA 1978 (being Laws 1991, Chapter 197, Section 15, as amended) is amended to read:

"7-14A-11. ADMINISTRATION.--


B. The department shall administer and enforce the collection of the leased vehicle [gross receipts] sales tax and the leased vehicle surcharge, and the Tax Administration Act applies to the administration and enforcement of the tax and the surcharge."

SECTION 120. Section 7-19D-1 NMSA 1978 (being Laws 1993, Chapter 346, Section 1) is amended to read:

"7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA 1978 may be cited as the "Municipal Local Option [Gross Receipts Taxes] Sales and Use Tax Act"."

SECTION 121. Section 7-19D-2 NMSA 1978 (being Laws 1993, Chapter 346, Section 2) is amended to read: .207939.1  

- 278 -
"7-19D-2. DEFINITIONS.--As used in the Municipal Local
Option [Gross Receipts Taxes] Sales and Use Tax Act:

A. "department" means the taxation and revenue
department, the secretary of taxation and revenue or any
employee of the department exercising authority lawfully
delegated to that employee by the secretary;

B. "governing body" means the city council or city
commission of a city, the board of trustees of a town or
village and the board of county commissioners of an H-class
[counties] county;

C. "municipality" means any incorporated city,
town or village, whether incorporated under general act,
special act or special charter, and an H-class county;

D. "person" means an individual or any other legal
entity; and

E. "state [gross receipts] sales tax" means the
[gross receipts] state sales tax imposed [under the Gross
Receipts and Compensating] pursuant to the Sales and Use Tax
Act."

SECTION 122. Section 7-19D-3 NMSA 1978 (being Laws 1993,
Chapter 346, Section 3) is amended to read:

"7-19D-3. EFFECTIVE DATE OF ORDINANCE.--An ordinance
imposing, amending or repealing a tax or an increment of tax
authorized by the Municipal Local Option [Gross Receipts
Taxes] Sales and Use Tax Act shall be effective on July 1 or
January 1, whichever date occurs first after the expiration of
at least three months from the date the adopted ordinance is
mailed or delivered to the department. The ordinance shall
include that effective date."

SECTION 123. Section 7-19D-4 NMSA 1978 (being Laws 1993,
Chapter 346, Section 4) is amended to read:

"7-19D-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS
OF THE [GROSS RECEIPTS AND COMPENSATING] SALES AND USE TAX ACT
AND REQUIREMENTS OF THE DEPARTMENT.--

A. An ordinance imposing a tax [under] pursuant to
the provisions of the Municipal Local Option [Gross Receipts
Taxes] Sales and Use Tax Act shall adopt by reference the same
definitions and the same provisions relating to exemptions and
deductions as are contained in the [Gross Receipts and
Compensating] Sales and Use Tax Act then in effect and as it
may be amended from time to time.

B. The governing body of any municipality imposing
a tax [under] pursuant to provisions of the Municipal Local
Option [Gross Receipts Taxes] Sales and Use Tax Act shall
impose the tax by adopting the model ordinance with respect to
the tax furnished to the municipality by the department. An
ordinance that does not conform substantially to the model
ordinance of the department is not valid."

SECTION 124. Section 7-19D-5 NMSA 1978 (being Laws 1993,
Chapter 346, Section 5, as amended) is amended to read:

.207939.1

- 280 -
"7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the provisions of the Municipal Local Option [Gross Receipts Taxes] Sales and Use Tax Act shall be imposed on the gross receipts arising from [A.] transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality [or

B. a business located outside the boundaries of a municipality on land owned by that municipality for which a state gross receipts tax distribution is made pursuant to Section 7-1-6.4 NMSA 1978]."

SECTION 125. Section 7-19D-6 NMSA 1978 (being Laws 1993, Chapter 346, Section 6) is amended to read:

"7-19D-6. COPY OF ORDINANCE TO BE SUBMITTED TO DEPARTMENT.--A certified copy of the ordinance imposing or repealing a tax authorized [under] by the Municipal Local Option [Gross Receipts Taxes] Sales and Use Tax Act or changing the tax rate imposed shall be mailed or delivered to the department within five days after the later of the date the ordinance is adopted or the date the results of any election held with respect to the ordinance are certified to be in favor of the ordinance."

SECTION 126. Section 7-19D-7 NMSA 1978 (being Laws 1993, Chapter 346, Section 7, as amended) is amended to read:

"7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF
PROCEEDS--DEDUCTIONS.--

A. The department shall collect each tax imposed pursuant to the provisions of the Municipal Local Option [Gross Receipts Taxes] Sales and Use Tax Act in the same manner and at the same time it collects the state [gross receipts tax] sales and use taxes.

B. Except as provided in Subsection C of this section, the department shall withhold an administrative fee pursuant to Section [1 of this 1997 act] 7-1-6.41 NMSA 1978. The department shall transfer to each municipality for which it is collecting a tax pursuant to the provisions of the Municipal Local Option [Gross Receipts Taxes] Sales and Use Tax Act the amount of each tax collected for that municipality, less the administrative fee withheld and less any disbursements for tax credits, refunds and the payment of interest applicable to the tax. The transfer to the municipality shall be made within the month following the month in which the tax is collected.

C. With respect to the municipal [gross receipts] sales tax imposed by a municipality pursuant to Section 7-19D-9 NMSA 1978, the department shall withhold the administrative fee pursuant to Section [1 of this 1997 act] 7-1-6.41 NMSA 1978 only on that portion of the municipal [gross receipts] sales tax arising from a municipal [gross receipts] sales tax rate in excess of one-half [of one] .207939.1
SECTION 127. Section 7-19D-8 NMSA 1978 (being Laws 1993, Chapter 346, Section 8) is amended to read:

"7-19D-8. INTERPRETATION OF ACT--ADMINISTRATION AND ENFORCEMENT OF ACT.--


B. The department shall administer and enforce the collection of each tax authorized [under] by the provisions of the Municipal Local Option [Gross Receipts Taxes] Sales and Use Tax Act, and the Tax Administration Act applies to the administration and enforcement of each tax."

SECTION 128. Section 7-19D-9 NMSA 1978 (being Laws 1978, Chapter 151, Section 1, as amended) is amended to read:

"7-19D-9. MUNICIPAL [GROSS RECEIPTS] SALES TAX--AUTHORITY TO IMPOSE RATE.--

A. The majority of the members of the governing body of any municipality may impose by ordinance an excise tax [not to exceed a rate of one and one half percent of] on the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances [each imposing any number of municipal gross receipts tax rate .207939.1]
increments, but the total municipal gross receipts tax rate imposed by all ordinances shall not exceed an aggregate rate of one and one half percent of the gross receipts of a person engaging in business. Municipalities may impose increments of one-eighth of one percent in increments measured by hundredths of a percent. [B.] The tax imposed pursuant to [Subsection A of] this section may be referred to as the "municipal gross receipts sales tax.

B. The maximum rate of the municipal sales tax on the gross receipts of any person engaging in business in a municipality shall be determined as follows for each municipality:

(1) on and after July 1, 2018, and prior to January 1, 2020, the rate shall be the quotient of baseline revenue divided by estimated fiscal year 2019 base revenue, multiplied by one hundred three percent and rounded up to the nearest one-hundredth percent; and

(2) on and after January 1, 2020, the rate shall be the quotient of baseline revenue divided by fiscal year 2019 base revenue, multiplied by one hundred three percent and rounded up to the nearest one-hundredth percent; but a municipality may change the rate of municipal sales tax in effect for the municipality on or after July 1, 2020, by imposing or repealing municipal sales tax increments; provided that:
(a) the total municipal sales tax in effect for the municipality may not exceed the maximum rate applicable to the municipality. For municipalities that, on July 1, 2018, had a municipal sales tax in effect at a rate greater than two and two-tenths percent, the maximum rate is three percent. For all other municipalities, the maximum rate is two and two-tenths percent; and

(b) if imposing an additional increment authorized by Subparagraph (a) of this paragraph would cause the total municipal sales tax rate in effect for the municipality to exceed one and four-tenths percent, imposition of the additional increment shall be subject to an election pursuant to Subsection D of this section.

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

D. An election shall be called on the questions of
disapproval or approval of any ordinance enacted pursuant to
[Subsection A] Subparagraph (b) of Paragraph (2) of Subsection
B of this section or any ordinance amending such ordinance.

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

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

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

(b) in all other municipalities, with
the municipal clerk within thirty days after the adoption of
such ordinance and the petition has been signed by a number of
registered voters in the municipality equal to at least five
percent of the number of the voters in the municipality who
were registered to vote in the most recent regular municipal
election.

E. The signatures on the petition filed in

accordance with Subsection D of this section shall be verified

by the municipal clerk. If the petition is verified by the

municipal clerk as containing the required number of

signatures of registered voters, the governing body shall

adopt an election resolution calling for the holding of a

special election on the question of approving or disapproving

the ordinance unless the ordinance is repealed before the

adoption of the election resolution. An election held

pursuant to Subparagraph (a) or (b) of Paragraph (2) of

Subsection D of this section shall be called, conducted and

canvassed as provided in the Municipal Election Code for

special elections, and the election shall be held within

seventy-five days after the date the petition is verified by

the municipal clerk or it may be held in conjunction with a

regular municipal election if such election occurs within

seventy-five days after the date of verification by the

municipal clerk.

F. If at an election called pursuant to

Subsection D of this section a majority of the registered
voters voting on the question approves the ordinance imposing
the tax, the ordinance shall become effective in accordance
with the provisions of the Municipal Local Option [Gross
Receipts Taxes] Sales and Use Tax Act. If at such an election
a majority of the registered voters voting on the question
disapproves the ordinance, the ordinance imposing the tax
shall be deemed repealed and the question of imposing any
increment of the municipal [gross receipts] sales tax
authorized in this section shall not be considered again by
the governing body for a period of one year from the date of
the election.

[G.] Any municipality that has lawfully imposed by
the requirements of the Special Municipal Gross Receipts Tax
Act a rate of at least one-fourth of one percent shall be
deemed to have imposed one-fourth of one percent municipal
gross receipts tax pursuant to this section. Any rate of tax
deemed to be imposed pursuant to this subsection shall
continue to be dedicated to the payment of outstanding bonds
issued by the municipality that pledged the tax revenues by
ordinance until such time as the bonds are fully paid. A
municipality may by ordinance change the purpose for any rate
of tax deemed to be imposed at any time the revenues are not
committed to payment of bonds.

H.r] F. Any law that imposes or authorizes the
imposition of a municipal [gross receipts] sales tax or that

.207939.1

- 288 -
affects the municipal [gross receipts] sales tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal [gross receipts] sales tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

G. As used in this section:

(1) "baseline revenue" means, for each municipality, the greater of the combined revenue for the municipality in fiscal year 2018 or the annual average of the combined revenue for the municipality in fiscal years 2015 through 2017;

(2) "combined revenue" means:

(a) any distribution to a municipality pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;

(b) any transfer to a municipality with respect to any local option gross receipts tax imposed by that municipality; and

(c) any distribution to a municipality of compensating taxes pursuant to Section 7-1-6.55 NMSA 1978;

(3) "estimated fiscal year 2019 base revenue" means, for each municipality, the gross receipts of all persons expected to engage in business in the municipality in .207939.1
fiscal year 2019 that will be subject to the state sales tax, as conservatively estimated by the department, in consultation with the department of finance and administration, the legislative finance committee and the executive directors of the New Mexico municipal league and the New Mexico association of counties, or their designees, to ensure that revenue from the municipal sales tax will exceed the baseline revenue; and

(4) "fiscal year 2019 base revenue" means, for each municipality, the gross receipts of all persons engaging in business in the municipality in fiscal year 2019 that are subject to the state sales tax, as determined by the department, in consultation with the department of finance and administration, the legislative finance committee and the executive directors of the New Mexico municipal league and the New Mexico association of counties, or their designees."

SECTION 129. A new section of the Municipal Local Option Sales and Use Tax Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL USE TAX.--

A. The majority of the members of the governing body of a municipality shall impose by ordinance an excise tax on a person using tangible personal property in the municipality, for the privilege of using the tangible property in the municipality, at a rate equal to the rate imposed and in effect pursuant to Section 7-19D-9 NMSA 1978 of the value of tangible property that was: 

.207939.1
(1) manufactured by the person using the property in the state; or

(2) acquired inside or outside of this state as the result of a transaction with a person located outside this state that would have been subject to the state sales tax had the tangible personal property been acquired from a person with nexus with New Mexico.

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

C. For the privilege of using a license or franchise in a municipality, there is imposed on the person using the property an excise tax equal to the tax rate provided in Subsection A of this section against the value of the property in its use in the municipality. For use of a license or franchise to be taxable under this subsection, the property must have been sold, leased or licensed by a person outside this state and the receipts from the sale, lease or licensing of the license or franchise must not have been subject to the state sales tax.
D. For the privilege of using services rendered in 
a municipality, there is imposed on the person using such 
services an excise tax at the rate provided in Subsection A of 
this section of the value of the services at the time they 
were rendered. For use of services to be taxable under this 
subsection, the services must have been performed by a person 
outside this state and receipts from the performance or sale 
of the services not subject to the state sales tax.

E. The tax imposed by this section may be cited as 
the "municipal use tax".

SECTION 130. Section 7-20E-1 NMSA 1978 (being Laws 1993, 
Chapter 354, Section 1) is amended to read:

"7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA 1978 
may be cited as the "County Local Option [Gross Receipts 
Taxes] Sales and Use Tax Act"."

SECTION 131. Section 7-20E-2 NMSA 1978 (being Laws 1993, 
Chapter 354, Section 2, as amended by Laws 1994, Chapter 93, 
Section 1 and also by Laws 1994, Chapter 97, Section 1) is 
amended to read:

"7-20E-2. DEFINITIONS.--As used in the County Local 
Option [Gross Receipts Taxes] Sales and Use Tax Act:

A. "county" means, unless specifically defined 
otherwise in the County Local Option [Gross Receipts Taxes] 
Sales and Use Tax Act, a county, including an H class county;

B. "county area" means that portion of a county
located outside the boundaries of any municipality, except that for H class counties, "county area" means the entire county;

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

D. "governing body" means the county commission of the county or the county council of an H class county;

E. "person" means an individual or any other legal entity; and


SECTION 132. Section 7-20E-3 NMSA 1978 (being Laws 1993, Chapter 354, Section 3, as amended) is amended to read: "7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE OF ORDINANCE.--

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

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

   (a) an election shall be called when:

1) in a county having a referendum provision in its charter, a petition requesting such an election is filed pursuant to the requirements of that provision in the charter and signed by the number of registered voters in the county equal to the number of registered voters required in its charter to seek a referendum; and

2) in all other counties, a petition requesting such an election is filed with the county clerk within sixty days of enactment of the ordinance by the governing body and the petition has been signed by a number of registered voters in the county equal to at least five percent of the number of the voters in the county who were registered to vote in the most recent general election;

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

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

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

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

SECTION 133. Section 7-20E-4 NMSA 1978 (being Laws 1993, Chapter 354, Section 4) is amended to read:

"7-20E-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS OF THE [GROSS RECEIPTS AND COMPENSATING] SALES AND USE TAX ACT AND REQUIREMENTS OF THE DEPARTMENT.--

A. An ordinance imposing a tax [under] pursuant to the provisions of the County Local Option [Gross Receipts Taxes] Sales and Use Tax Act shall adopt by reference the same definitions and the same provisions relating to exemptions and
deductions as are contained in the [Gross Receipts and
Compensating] Sales and Use Tax Act then in effect and as it
may be amended from time to time.

B. The governing body of any county imposing a tax
[under] authorized by the County Local Option [Gross Receipts
Taxes] Sales and Use Tax Act shall impose the tax by adopting
the model ordinance with respect to the tax furnished to the
county by the department. An ordinance that does not conform
substantially to the model ordinance of the department is not
valid."

SECTION 134. Section 7-20E-5 NMSA 1978 (being Laws 1993,
Chapter 354, Section 5, as amended) is amended to read:

"7-20E-5. SPECIFIC EXEMPTIONS.--No tax authorized under
the provisions of the County Local Option [Gross Receipts
Taxes] Sales and Use Tax Act shall be imposed on the gross
receipts arising from transporting persons or property for
hire by railroad, motor vehicle, air transportation or any
other means from one point within the county to another point
outside the county."

SECTION 135. Section 7-20E-6 NMSA 1978 (being Laws 1993,
Chapter 354, Section 6) is amended to read:

"7-20E-6. COPY OF ORDINANCE TO BE SUBMITTED TO
DEPARTMENT.--A certified copy of any ordinance imposing or
repealing a tax or an increment of a tax authorized [under] by
the County Local Option [Gross Receipts Taxes] Sales and Use
SECTION 136. Section 7-20E-7 NMSA 1978 (being Laws 1993, Chapter 354, Section 7, as amended) is amended to read:

"7-20E-7. COLLECTION BY DEPARTMENT--TRANSFER OF PROCEEDS--DEDUCTIONS.--

A. The department shall collect each tax imposed pursuant to the provisions of the County Local Option [Gross Receipts Taxes] Sales and Use Tax Act in the same manner and at the same time it collects the state [gross receipts tax] sales and use taxes.

B. The department shall withhold an administrative fee pursuant to Section 7-1-6.41 NMSA 1978. The department shall transfer to each county for which it is collecting a tax pursuant to the provisions of the County Local Option [Gross Receipts Taxes] Sales and Use Tax Act the amount of each tax collected for that county, less the administrative fee withheld and less any disbursements for tax credits, refunds and the payment of interest applicable to the tax. The transfer to the county shall be made within the month following the month in which the tax is collected."

SECTION 137. Section 7-20E-8 NMSA 1978 (being Laws 1993, .207939.1
Chapter 354, Section 8) is amended to read:

"7-20E-8. INTERPRETATION OF ACT--ADMINISTRATION AND ENFORCEMENT OF ACT.--

A. The department shall interpret the provisions of the County Local Option [Gross Receipts Taxes] Sales and Use Tax Act.

B. The department shall administer and enforce the collection of each tax authorized [under] by the provisions of the County Local Option [Gross Receipts Taxes] Sales and Use Tax Act, and the Tax Administration Act applies to the administration and enforcement of each tax."

SECTION 138. Section 7-20E-9 NMSA 1978 (being Laws 1983, Chapter 213, Section 30, as amended) is amended to read:

"7-20E-9. COUNTY [GROSS RECEIPTS] SALES TAX--AUTHORITY TO IMPOSE RATE--COUNTY HEALTH CARE ASSISTANCE FUND REQUIREMENTS.--

A. [Except as provided in Subsection E of this section] A majority of the members of the governing body of a county may enact an ordinance imposing an excise tax [not to exceed a rate of seven-sixteenths percent of] on the gross receipts of any person engaging in business in the county or county area for the privilege of engaging in business in the county or county area. [An ordinance imposing an excise tax pursuant to this subsection shall impose the tax in three independent increments of one eighth percent and one .207939.1

- 299 -
HFL/HB 412

independent increment of one-sixteenth percent, which shall be separately denominated as "the first one-eighth increment", "the second one-eighth increment", "the third one-eighth increment" and "the one-sixteenth increment", respectively, not to exceed an aggregate amount of seven-sixteenths percent.

B. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances in increments measured by hundredths of a percent. The tax authorized by this section is to be referred to as the "county [gross receipts] sales tax".

B. The maximum rate of the county sales tax on the gross receipts of any person engaging in business in a county or county area shall be determined as follows for each county and county area:

(1) on and after July 1, 2018, and prior to January 1, 2020, the rate shall be the quotient of the county's or county area's baseline revenue divided by estimated fiscal year 2019 base revenue of the county or county area, multiplied by one hundred three percent and rounded up to the nearest one-hundredth percent; and

(2) on and after January 1, 2020, the rate shall be the quotient of the county's or county area's baseline revenue divided by fiscal year 2019 base revenue of the county or county area, multiplied by one hundred three percent and rounded up to the nearest one-hundredth percent;
but a county may change the rate of county sales tax in effect for the county on or after July 1, 2020, by imposing or repealing county sales tax increments; provided that the total county sales tax in effect for the county may not exceed the maximum rate applicable to the county. For counties that on July 1, 2018:

(a) had a county sales tax in effect at a rate greater than one percent on the gross receipts of any person engaging in business in the county, the maximum rate is one and thirty-five hundredths percent. For all other counties, the maximum rate is one percent; provided further that if imposing an additional increment authorized pursuant to this subparagraph would cause the total county sales tax rate in effect for the county to exceed six-tenths percent, imposition of the increment shall be subject to an election pursuant to Subsection A of Section 7-20E-3 NMSA 1978; and

(b) had a county sales tax in effect at a rate greater than one and four-tenths percent on the gross receipts of any person engaging in business in the county area, the maximum rate is one and seventy-five hundredths percent. For all other counties, the maximum rate is one and four-tenths percent; provided further that if imposing an additional increment authorized pursuant to this subparagraph would cause the total county sales tax rate in effect for the county area to exceed eight-tenths percent, imposition of the
increment shall be subject to an election pursuant to Subsection A of Section 7-20E-3 NMSA 1978.

C. A class A county with a county hospital operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico enacting an increment of county [gross receipts] sales tax shall provide, each year that the tax is in effect, not less than one million dollars ($1,000,000) in funds, and that amount shall be dedicated to the support of indigent patients who are residents of that county. Funds for indigent care shall be made available each month of each year the tax is in effect in an amount not less than eighty-three thousand three hundred thirty-three dollars thirty-three cents ($83,333.33). The interest from the investment of county funds for indigent care may be used for other assistance to indigent persons, not to exceed twenty thousand dollars ($20,000) for all other assistance in any year.

D. A county, except a class A county with a county hospital operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico, imposing an increment of a county [gross receipts] sales tax shall be required to dedicate the [entire] same amount of revenue that would have been produced...
by the imposition of [the second] a one-eighth increment of a county gross receipts tax, if the county gross receipts tax was still in effect, for the support of indigent patients who are residents of that county. [The revenue produced by the imposition of the third one-eighth increment and the one-sixteenth increment may be used for general purposes. Any] A county that has [imposed the second one-eighth increment or the third one-eighth increment, or both, on January 1, 1996 for support of indigent patients in the county or, after January 1, 1996, imposes the second one-eighth increment or imposes the third one-eighth increment and dedicates one-half of that increment [dedicated revenue from a county sales tax for county indigent patient purposes shall deposit the revenue [dedicated for county indigent purposes] that is transferred to the county in the county health care assistance fund, and such revenues shall be expended pursuant to the Indigent Hospital and County Health Care Act.

[E. Until June 30, 2017, in addition to the increments authorized pursuant to Subsection A of this section, the majority of the members of the governing body of a county, except a class A county with a hospital that is operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico, may enact an ordinance imposing an excise tax of one-sixteenth

.207939.1

- 303 -
percent or one-twelfth percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county.]

E. As used in this section:

(1) "baseline revenue" means, for each county and county area, the greater of the combined revenue for the county in fiscal year 2018 or the annual average of the combined revenue for the county in fiscal years 2015 through 2017;

(2) "combined revenue" means:

(a) any transfer to a county with respect to any local option gross receipts tax imposed by that county; and

(b) any distribution to a county pursuant to Section 7-1-6.47 NMSA 1978;

(3) "estimated fiscal year 2019 base revenue" means, for each county and county area, the gross receipts of all persons expected to engage in business in the county or county area in fiscal year 2019 that will be subject to the state sales tax, as conservatively estimated by the department, in consultation with the department of finance and administration, the legislative finance committee and the executive directors of the New Mexico municipal league and the New Mexico association of counties, or their designees, to ensure that revenue from the county sales tax will exceed the
baseline revenue; and

(4) "fiscal year 2019 base revenue" means, for each county and county area, the gross receipts of all persons engaging in business in the county or county area in fiscal year 2019 that are subject to the state sales tax, as determined by the department, in consultation with the department of finance and administration, the legislative finance committee and the executive directors of the New Mexico municipal league and the New Mexico association of counties, or their designees."

SECTION 139. A new section of the County Local Option Sales and Use Tax Act is enacted to read:

"[NEW MATERIAL] COUNTY USE TAX.--

A. The majority of the members of the governing body of a county shall impose by ordinance an excise tax on a person using tangible personal property in the county, for the privilege of using the tangible property in the county, at a rate equal to the rate imposed and in effect pursuant to Section 7-20E-9 NMSA 1978 of the value of tangible property that was:

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

(2) acquired inside or outside of this state as the result of a transaction with a person located outside this state that would have been subject to the state sales tax.
had the tangible personal property been acquired from a person with nexus with New Mexico.

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

C. For the privilege of using a license or franchise in a county, there is imposed on the person using the property an excise tax equal to the tax rate provided in Subsection A of this section against the value of the property in its use in the county. For use of a license or franchise to be taxable under this subsection, the property must have been sold, leased or licensed by a person outside this state and the receipts from the sale, lease or licensing of the license or franchise must not have been subject to the state sales tax.

D. For the privilege of using services rendered in a county, there is imposed on the person using such services an excise tax at the rate provided in Subsection A of this section of the value of the services at the time they were rendered. For use of services to be taxable under this
subsection, the services must have been performed by a person
outside this state and receipts from the performance or sale
of the services not subject to the state sales tax.

E. The tax imposed by this section may be cited as
the "county use tax".

SECTION 140. Section 9-6-5.2 NMSA 1978 (being Laws 2011,
Chapter 106, Section 5) is amended to read:

"9-6-5.2. FAILURE TO TIMELY SUBMIT AUDIT REPORTS OR
FINANCIAL REPORTS--ENFORCEMENT POWERS OF SECRETARY.--

A. Upon notification by the state auditor pursuant
to Subsection G of Section 12-6-3 NMSA 1978 that a state
agency, state institution, municipality or county has failed
to submit an audit report as required by the Audit Act, the
secretary of finance and administration shall order the
agency, institution, municipality or county to submit monthly
financial reports to the department of finance and
administration until all past-due audit reports have been
submitted to the state auditor and the secretary is satisfied
that the agency, institution, municipality or county is in
compliance with all financial and audit requirements.

B. If, ninety days after an order has been issued
pursuant to Subsection A of this section to a state agency or
state institution subject to periodic allotments, the agency
or institution has not submitted all past-due reports or has
not otherwise made progress, satisfactory to the state
auditor, toward compliance with the Audit Act, the secretary may direct the state budget division to temporarily withhold periodic allotments to the agency or institution pursuant to Section 6-3-6 NMSA 1978. The amounts withheld and the period of time for which the allotments are to be withheld shall be determined by the secretary subject to the following guidelines:

(1) the initial amount withheld shall not exceed five percent of the allotment and shall be for a period of no more than three months;

(2) every three months, the secretary shall determine if the agency or institution has submitted all past-due audit reports or has otherwise made progress, satisfactory to the state auditor, toward compliance with the Audit Act. If the secretary determines that past-due reports have not been submitted and that there has been inadequate progress, the secretary may direct that the amount being currently withheld be increased by an additional amount, up to another five percent of the allotment, for an additional period of up to three months; and

(3) upon a determination that all past-due audit reports have been submitted or that the agency or institution is otherwise making progress, satisfactory to the state auditor, toward compliance with the Audit Act, the secretary shall direct that all withheld amounts be
distributed to the agency or institution and that future
allotments shall be made in full.

C. If, ninety days after an order has been issued
pursuant to Subsection A of this section to a municipality or
county, the municipality or county has not submitted all past-
due reports or has not otherwise made progress, satisfactory
to the state auditor, toward compliance with the Audit Act,
the secretary may direct the secretary of taxation and revenue
to temporarily withhold distributions to the municipality or
county pursuant to Section 7-1-6.15 NMSA 1978. The amounts
withheld, the source of the amounts and the period of time for
which the distributions are to be withheld shall be determined
by the secretary of finance and administration subject to the
following guidelines:

   (1) transfers to a county or municipality of
       receipts from [any local option gross receipts tax or from] a
tax imposed pursuant to the Municipal Local Option Sales and
Use Tax Act, the County Local Option Sales and Use Tax Act and
the Local Liquor Excise Tax Act shall not be withheld;

   (2) the source and amount of a withheld
distribution shall be determined in a manner that will not:

       (a) impair any outstanding bonds or
other obligations of the municipality or county; or

       (b) interrupt a redirected distribution
to the New Mexico finance authority pursuant to an ordinance
.
or a resolution passed by the county or municipality and a
written agreement of the municipality or county and the New
Mexico finance authority;

(3) the initial amount withheld shall not
exceed five percent of the amount that would otherwise be
distributed to the municipality or county pursuant to the Tax
Administration Act and shall be for a period of no more than
three months;

(4) every three months, the secretary of
finance and administration shall determine if the municipality
or county has submitted all past-due audit reports or has
otherwise made progress, satisfactory to the state auditor,
toward compliance with the Audit Act. If the secretary
determines that past-due reports have not been submitted and
that there has been inadequate progress, the secretary may
direct that the amount being currently withheld be increased
by an additional amount, up to another five percent of the
amount that would otherwise be distributed, for an additional
period of up to three months; and

(5) upon a determination that all past-due
audit reports have been submitted or that the municipality or
county is otherwise making progress, satisfactory to the state
auditor, toward compliance with the Audit Act, the secretary
shall direct that all withheld amounts be distributed to the
municipality or county and that future distributions shall be
made in full.

D. After receiving notice from the local government division of the department of finance and administration required by Subsection G of Section 6-6-2 NMSA 1978 that a municipality or county has failed to submit two consecutive financial reports pursuant to Subsection F of that section, the secretary may direct the secretary of taxation and revenue to temporarily withhold distributions to the municipality or county pursuant to Section 7-1-6.15 NMSA 1978. The amounts withheld, the source of the amounts and the period of time for which the distributions are to be withheld shall be determined by the secretary of finance and administration subject to the following guidelines:

(1) transfers to a county or municipality of receipts from [any local option gross receipts tax or from] a tax imposed pursuant to the Municipal Local Option Sales and Use Tax Act, the County Local Option Sales and Use Tax Act and the Local Liquor Excise Tax Act shall not be withheld;

(2) the source and amount of a withheld distribution shall be determined in a manner that will not:

   (a) impair any outstanding bonds or other obligations of the municipality or county; or

   (b) interrupt a redirected distribution to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a
written agreement of the municipality or county and the New 
Mexico finance authority;

(3) the initial amount withheld shall not 
exceed five percent of the amount that would otherwise be 
distributed to the municipality or county pursuant to the Tax 
Administration Act and shall be for a period of no more than 
three months;

(4) every three months, the secretary of 
finance and administration shall determine if the municipality 
or county has submitted all past-due financial reports or has 
otherwise made progress, satisfactory to the local government 
division, toward compliance with the law. If the secretary 
determines that past-due reports have not been submitted and 
that there has been inadequate progress, the secretary may 
direct that the amount being currently withheld be increased 
by an additional amount, up to another five percent of the 
amount that would otherwise be distributed, for an additional 
period of up to three months; and 

(5) upon a determination that all past-due 
financial reports have been submitted or that the municipality 
or county is otherwise making progress, satisfactory to the 
local government division, toward compliance with the law, the 
secretary shall direct that all withheld amounts be 
distributed to the municipality or county and that future 
distributions shall be made in full."
SECTION 141. Section 27-5-6.2 NMSA 1978 (being Laws 2014, Chapter 79, Section 16) is amended to read:

"27-5-6.2. TRANSFER TO SAFETY NET CARE POOL FUND.--

A. A county shall [by ordinance to be effective July 1, 2014] dedicate to the safety net care pool fund an amount equal to a [gross receipts] county sales tax rate [of one-twelfth percent] as determined pursuant to Subsection H of Section 7-1-84 NMSA 1978 applied to the taxable gross receipts reported during the prior fiscal year by persons engaging in business in the county. For purposes of this [subsection] section, a county may use public funds from any existing authorized revenue source of the county.

B. A county [enacting an ordinance pursuant to Subsection A of this section] shall transfer the dedicated amounts to the safety net care pool fund by the last day of March, June, September and December of each year an amount equal to one-fourth of the county's payment to the safety net care pool fund."

SECTION 142. Section 27-10-4 NMSA 1978 (being Laws 1991, Chapter 212, Section 4, as amended) is amended to read:

"27-10-4. [ALTERNATIVE REVENUE SOURCE TO IMPOSITION OF COUNTY HEALTH CARE GROSS RECEIPTS TAX] COUNTY TRANSFER TO COUNTY-SUPPORTED MEDICAID FUND.--

A. [In the event a county does not enact an ordinance imposing a county health care gross receipts tax]
pursuant to Section 7-20D-3 NMSA 1978, the county shall [by ordinance to be effective July 1, 1993] dedicate to the county-supported medicaid fund an amount equal to a [gross receipts] county sales tax rate [of one-sixteenth of one percent] as determined pursuant to Subsection I of Section 7-1-84 NMSA 1978 applied to the taxable gross receipts reported during the prior fiscal year by persons engaging in business in the county. For purposes of this subsection, a county may use funds from any existing authorized revenue source of the county.

B. For each county, [that has in effect an ordinance enacted pursuant to Subsection A of this section on July 1 of each year] the taxation and revenue department shall certify to the county [by September 15, 1993 and] by September 15 of each [subsequent] fiscal year the amount of gross receipts reported for the county [for purposes of the gross receipts tax] during the prior fiscal year. Upon certification by the taxation and revenue department, [any county enacting an ordinance pursuant to Subsection A of this section] a county shall transfer one-fourth of the dedication to the county-supported medicaid fund by the last day of March, June, September and December of each year [an amount equal to a rate of one sixty-fourth of one percent applied to the certified amount].

C. The requirements of an ordinance enacted
pursuant to this section may be terminated for a county only on the effective date of an ordinance enacted by the county imposing the county health care gross receipts tax; provided that if the effective date of the ordinance imposing the tax is January 1, the termination does not apply to the payments required for September and December of that year]."

SECTION 143. Section 47-14-18 NMSA 1978 (being Laws 2009, Chapter 214, Section 18, as amended) is amended to read:

"47-14-18. PAYMENT--LIMITS--DISCLOSURE [ONTAXABLE TRANSACTION CERTIFICATE].--

A. The fees paid to an appraiser for completion of the appraisal shall not include a fee for management of the appraisal process or any activity other than the performance of the appraisal.

B. An appraisal management company shall separately state the fees paid to an appraiser for appraisal services and the fees charged by the appraisal management company for services associated with the management of the appraisal process, including procurement of the appraiser's services to the client, borrower and any other payor.

C. Appraisers shall not be prohibited by the appraisal management company, client or other third party from disclosing the fee paid to the appraiser for the performance of the appraisal in the appraisal report.

D. As used in this section, "payor" means any
person or entity who is responsible for making payment for the appraisal.

E. An appraisal management company shall, except in cases of breach of contract or substandard performance of services, make payment to an independent appraiser for the completion of an appraisal or valuation assignment within sixty days of the date on which the independent appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.

[F. An appraisal management company shall provide an appraiser with the appropriate nontaxable transaction certificate pursuant to Section 7-9-48 NMSA 1978.]"
receipts] local option sales tax revenue dedicated by the
municipality or county for the financing, planning, designing,
engineering and construction of a regional spaceport pursuant
to the Regional Spaceport District Act and received from a
regional spaceport district, revenue generated by a project
and any other legally available funds of the authority;

D. "space vehicle" means a vehicle capable of
being flown in space or launching a payload into space; and

E. "spaceport" means a facility in New Mexico at
which space vehicles may be launched or landed, including all
facilities and support infrastructure related to launch,
landing or payload processing."

SECTION 145. Section 58-31-5 NMSA 1978 (being Laws 2005,
Chapter 128, Section 5, as amended) is amended to read:

"58-31-5. AUTHORITY POWERS AND DUTIES.--

A. The authority shall:

(1) hire an executive director, who shall
employ the necessary professional, technical and clerical
staff to enable the authority to function efficiently and
shall direct the affairs and business of the authority,
subject to the direction of the authority;

(2) be located within fifty miles of a
southwest regional spaceport;

(3) advise the governor, the governor's staff
and the New Mexico finance authority oversight committee on
HFL/HB 412

methods, proposals, programs and initiatives involving a
southwest regional spaceport that may further stimulate space-
related business and employment opportunities in New Mexico;

(4) initiate, develop, acquire, own,
construct, maintain and lease space-related projects;

(5) make and execute all contracts and other
instruments necessary or convenient to the exercise of its
powers and duties;

(6) create programs to expand high-technology
economic opportunities within New Mexico;

(7) create avenues of communication among
federal government agencies, the space industry, users of
space launch services and academia concerning space business;

(8) promote legislation that will further the
goals of the authority and development of space business;

(9) oversee and fund production of
promotional literature related to the authority's goals;

(10) identify science and technology trends
that are significant to space enterprise and the state and act
as a clearinghouse for space enterprise issues and
information;

(11) coordinate and expedite the involvement
of the state executive branch's space-related development
efforts; and

(12) perform environmental, transportation,
communication, land use and other technical studies necessary
or advisable for projects and programs or to secure licensing
by appropriate United States agencies.

B. The authority may:

(1) advise and cooperate with municipalities, counties, state agencies and organizations, appropriate federal agencies and organizations and other interested persons and groups;

(2) solicit and accept federal, state, local and private grants of funds or property and financial or other aid for the purpose of carrying out the provisions of the Spaceport Development Act;

(3) adopt rules governing the manner in which its business is transacted and the manner in which the powers of the authority are exercised and its duties performed;

(4) operate spaceport facilities, including acquisition of real property necessary for spaceport facilities and the filing of necessary documents with appropriate agencies;

(5) construct, purchase, accept donations of or lease projects located within the state;

(6) sell, lease or otherwise dispose of a project upon terms and conditions acceptable to the authority and in the best interests of the state;

(7) issue revenue bonds and borrow money for
the purpose of defraying the cost of acquiring a project by
purchase or construction and of securing the payment of the
bonds or repayment of a loan;

(8) enter into contracts with regional
spaceport districts and issue bonds on behalf of regional
spaceport districts for the purpose of financing the purchase,
construction, renovation, equipping or furnishing of a
regional spaceport or a spaceport-related project;

(9) refinance a project;

(10) contract with any competent private or
public organization or individual to assist in the fulfillment
of its duties;

(11) fix, alter, charge and collect tolls,
fees or rentals and impose any other charges for the use of or
for services rendered by any authority facility, program or
service; and

(12) contract with regional spaceport
districts to receive revenue from a municipal [spaceport gross
receipts tax and] or county [regional spaceport gross
receipts] local option sales tax [revenues].

C. The authority shall not:

(1) incur debt as a general obligation of the
state or pledge the full faith and credit of the state to
repay debt; or

(2) expend funds or incur debt for the

improvement, maintenance, repair or addition to property
unless it is owned by the authority, the state or a political
subdivision of the state."

SECTION 146. Section 58-31-6 NMSA 1978 (being Laws 2005,
Chapter 128, Section 6, as amended) is amended to read:
"58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER
TO ISSUE REVENUE BONDS.--

A. The authority may issue revenue bonds on its
own behalf or on behalf of a regional spaceport district, for
regional spaceport purposes and spaceport-related projects.
Revenue bonds so issued may be considered appropriate
investments for the severance tax permanent fund or collateral
for the deposit of public funds if the bonds are rated not
less than "A" by a national rating service and both the
principal and interest of the bonds are fully and
unconditionally guaranteed by a lease agreement executed by an
agency of the United States government or by a corporation
organized and operating within the United States, that
corporation or the long-term debt of that corporation being
rated not less than "A" by a national rating service. All
bonds issued by the authority are legal and authorized
investments for banks, trust companies, savings and loan
associations and insurance companies.

B. The authority may pay from the bond proceeds
all expenses, premiums and commissions that the authority
deems necessary or advantageous in connection with the
authorization, sale and issuance of the bonds.

C. Authority revenue bonds:
(1) may have interest or appreciated
principal value or any part thereof payable at intervals
determined by the authority;
(2) may be subject to prior redemption or
mandatory redemption at the authority's option at the time and
upon such terms and conditions with or without the payment of
a premium as may be provided by resolution of the authority;
(3) may mature at any time not exceeding
twenty years after the date of issuance if secured by revenue
from [the] county or municipal [regional spaceport gross
receipts] sales tax or thirty years if secured by revenue from
other sources;
(4) may be serial in form and maturity; may
consist of one or more bonds payable at one time or in
installments; or may be in such other form as determined by
the authority;
(5) may be in registered or bearer form or in
book-entry form through facilities of a securities depository
either as to principal or interest or both;
(6) shall be sold for cash at, above or below
par and at a price that results in a net effective interest
rate that conforms to the Public Securities Act; and
(7) may be sold at public or negotiated sale.

D. Subject to the approval of the state board of finance, the authority may enter into other financial arrangements if it determines that the arrangements will assist the authority."

SECTION 147. Section 59A-6-6 NMSA 1978 (being Laws 1984, Chapter 127, Section 106, as amended) is amended to read:

"59A-6-6. [PREEMPTION AND] IN LIEU PROVISION.--[The state government of New Mexico preempts the field of taxation of insurers, nonprofit health care plans, health maintenance organizations, prepaid dental plans, prearranged funeral plans and insurance producers as such, and payment of the taxes, licenses and fees provided for in the Insurance Code] The premium tax imposed pursuant to Section 59A-6-2 NMSA 1978 shall be in lieu of all other taxes, licenses and fees [of every kind now or hereafter imposed by this state or any political subdivision thereof on any of the foregoing specified entities, excepting the regular state, county and city taxes on property located in New Mexico and excepting the income tax on insurance producers. No provision of law enacted after January 1, 1985 shall be deemed to modify this provision except by express reference to this section on revenue or receipts for which the premium tax is assessed."
be deemed to be references to the use tax.

B. References in law to the county gross receipts
tax shall be deemed to be references to county sales tax.
C. References in law to a county local option
gross receipts tax shall be deemed to be references to a
county sales tax.
D. References in law to the County Local Option
Gross Receipts Taxes Act shall be deemed to be references to
the County Local Option Sales and Use Tax Act.
E. References in law to the governmental gross
receipts tax shall be deemed to be references to the
governmental sales tax.
F. References in law to the Gross Receipts and
Compensating Tax Act shall be deemed to be references to the
Sales and Use Tax Act.
G. References in law to the gross receipts tax
shall be deemed to be references to the state sales tax.
H. References in law to the interstate
telecommunications gross receipts tax shall be deemed to be
references to the interstate telecommunications sales tax.
I. References in law to the Interstate
Telecommunications Gross Receipts Tax Act shall be deemed to
be references to the Interstate Telecommunications Sales Tax
Act.
J. References in law to the interstate
telecommunications gross receipts tax shall be deemed to be references to the interstate telecommunications sales tax.

K. References in law to the leased vehicle gross receipts tax shall be deemed to be references to the leased vehicle sales tax.

L. References in law to the Leased Vehicle Gross Receipts Tax Act shall be deemed to be references to the Leased Vehicle Sales Tax Act.

M. References in law to a local option gross receipts tax shall be deemed to be references to a local option sales tax.

N. References in law to the municipal gross receipts tax shall be deemed to be references to the municipal sales tax.

O. References in law to the Municipal Local Option Gross Receipts Taxes Act shall be deemed to be references to the Municipal Local Option Sales and Use Tax Act.

P. References in law to the state gross receipts tax shall be deemed to be references to the state sales tax.

SECTION 149. TEMPORARY PROVISION--REPORTS ON ESTIMATING THE STATE AND LOCAL OPTION SALES TAX RATES.--

A. In July and December of 2018, the secretary of taxation and revenue, the secretary of finance and administration, the director of the legislative finance committee, the executive director of the New Mexico municipal
league and the executive director of New Mexico association of counties, or the secretaries' or executive directors' designees, shall report to the interim legislative revenue stabilization and tax policy committee on the progress of estimating the state sales tax rate and local option sales tax rates pursuant to Sections 7-9-4, 7-19D-9 and 7-20E-9 NMSA 1978.

B. The taxation and revenue department, the department of finance and administration, the legislative finance committee, the New Mexico municipal league and the New Mexico association of counties shall have estimated the state sales tax rate and the local option sales tax rates on or before January 15, 2018. On January 15, 2018, the secretaries and directors of those entities shall submit a report to the legislature of the estimated rates, including a detailed summary of how the entities estimated the rates and the analysis required to make the estimation.

SECTION 150. TEMPORARY PROVISION--MORATORIUM OF ENACTMENT OF ADDITIONAL LOCAL OPTION GROSS RECEIPTS TAXES.--

A. Notwithstanding the provisions of the Municipal Local Option Gross Receipts Taxes Act or the County Local Option Gross Receipts Taxes Act, on and after the effective date of this act, a municipality or county shall not impose any local option gross receipts tax increments in addition to those in effect on the effective date of this act.
B. Notwithstanding the provisions of the Municipal Local Option Sales and Use Tax Act or the County Local Option Sales and Use Tax Act, on and after the effective date of this act, a municipality or county shall not impose any local option sales tax increments in addition to those in effect on July 1, 2020, if the additional increment is be effective prior to July 1, 2020.

SECTION 151. TEMPORARY PROVISION--OUTSTANDING REVENUE BONDS.--

A. The repeal of and changes to certain taxes made in this act shall not impair outstanding bonds that are secured by a pledge of those taxes.

B. If a municipality or county has issued a revenue bond that is secured by a pledge of any tax being amended by Sections 128 or 138 of this act, or being repealed by Section 153 of this act, the local option sales tax revenue received by the municipality or county is impressed with the obligation to repay the outstanding bond and is dedicated to that repayment until the bond is fully discharged or otherwise provided for in full.

SECTION 152. TEMPORARY PROVISION--PREVIOUSLY IMPOSED LOCAL OPTION GROSS RECEIPTS TAXES--DEDICATIONS.--If a municipality or county has dedicated any amount of revenue attributable to a municipal or county gross receipts tax, the municipality or county shall continue to dedicate the same.
amount of municipal or county sales tax revenue until the
ordinance dedicating the revenue expires, the term of the
dedication expires, the governing body acts to change the
dedication or, in the case of bonded indebtedness, the debt is
fully discharged or otherwise provided for in full.

SECTION 153. REPEAL.--

A. Sections 6-21-5.1, 6-23-8 and 6-23-9 NMSA 1978
(being Laws 1998, Chapter 65, Section 1 and Laws 1993, Chapter
231, Sections 8 and 9, as amended) are repealed.

B. Sections 7-1-6.4, 7-1-6.33, 7-1-6.52, 7-1-6.55,
7-1-6.57, 7-1-6.60 and 7-1-69.2 NMSA 1978 (being Laws 1983,
Chapter 211, Section 9, Laws 1991, Chapter 212, Section 15,
Laws 2005, Chapter 104, Section 1, Laws 2007, Chapter 331,
Section 4, Laws 2007, Chapter 361, Section 1, Laws 2010,
Chapter 31, Section 2 and Laws 2016 (2nd S.S.), Chapter 3,
Section 3, as amended) are repealed.

C. Sections 7-9-2, 7-9-13.4, 7-9-15, 7-9-16,
7-9-18, 7-9-19, 7-9-26.1, 7-9-29, 7-9-41.4, 7-9-54.1 through
7-9-54.5, 7-9-56 through 7-9-57, 7-9-57.2 through 7-9-60,
7-9-61.1, 7-9-63 through 7-9-66.1, 7-9-68 through 7-9-70,
7-9-73 through 7-9-76.2, 7-9-77.1 through 7-9-78.1, 7-9-79.2,
7-9-83, 7-9-84, 7-9-86, 7-9-87, 7-9-90, 7-9-91, 7-9-93 through
7-9-96.1, 7-9-97 through 7-9-109, 7-9-110.2 through 7-9-112
and 7-9-114 NMSA 1978 (being Laws 1966, Chapter 47, Section 2;
Laws 2002, Chapter 20, Section 1; Laws 1970, Chapter 12,
Section 1; Laws 1969, Chapter 144, Sections 9, 11 and 12; Laws
2003, Chapter 62, Section 1; Laws 1970, Chapter 12, Section 3;
Laws 2009, Chapter 62, Section 1; Laws 1992, Chapter 40,
Section 1; Laws 1995, Chapter 183, Section 2; Laws 2002,
Chapter 37, Section 8; Laws 2003, Chapter 62, Section 4; Laws
2004, Chapter 16, Section 3; Laws 1994, Chapter 112, Section
2; Laws 1998, Chapter 92, Sections 1 and 2; Laws 2003, Chapter
232, Section 1; Laws 1969, Chapter 144, Section 47; Laws 2002,
Chapter 10, Section 1; Laws 1969, Chapter 144, Sections 48 and
49; Laws 1970, Chapter 12, Section 4; Laws 1981, Chapter 37,
Section 52; Laws 1969, Chapter 144, Sections 53, 54, 56 and
57; Laws 1984, Chapter 129, Section 2; Laws 1969, Chapter 144,
Sections 60 through 62; Laws 1970, Chapter 78, Section 2; Laws
1991, Chapter 8, Section 3; Laws 1998, Chapter 95, Section 2
and Laws 1998, Chapter 99, Section 4; Laws 2014, Chapter 26,
Section 1; Laws 1971, Chapter 217, Section 2; Laws 1972,
Chapter 39, Section 2; Laws 1977, Chapter 288, Section 2; Laws
1979, Chapter 338, Section 7; Laws 1984, Chapter 2, Section 6;
Laws 1998, Chapter 96, Section 1; Laws 1969, Chapter 144,
Section 65; Laws 1999, Chapter 231, Section 4; Laws 2007,
Chapter 204, Section 9; Laws 1993, Chapter 364, Sections 1 and
2; Laws 1995, Chapter 80, Section 1; Laws 1995, Chapter 155,
Section 35; Laws 1999, Chapter 231, Section 3; Laws 2001,
Chapter 135, Section 1; Laws 2004, Chapter 116, Section 6;
Laws 2005, Chapter 104, Sections 23, 25 and 26; Laws 2007,
Chapter 361, Section 7; Laws 2005, Chapter 169, Section 1; Laws 2005, Chapter 179, Section 1; Laws 2006, Chapter 35, Sections 1 and 2; Laws 2007, Chapter 3, Sections 16 through 18; Laws 2012, Chapter 12, Sections 2 and 3; Laws 2007, Chapter 33, Section 1; Laws 2007, Chapter 45, Section 6; Laws 2007, Chapter 172, Sections 8 through 11; Laws 2011, Chapter 60, Section 2 and Laws 2011, Chapter 61, Section 2; Laws 2011, Chapter 60, Section 3 and Laws 2011, Chapter 61, Section 3; Laws 2007, Chapter 361, Section 6; Laws 2007, Chapter 204, Section 10; and Laws 2010, Chapter 77, Section 1 and Laws 2010, Chapter 78, Section 1, as amended) are repealed.

D. Sections 7-9A-1 through 7-9A-9 and 7-9A-11 NMSA 1978 (being Laws 1979, Chapter 347, Sections 1 and 2; Laws 2001, Chapter 57, Section 2 and Laws 2001, Chapter 337, Section 2; Laws 1979, Chapter 347, Sections 3 through 7; Laws 1983, Chapter 206, Section 6; Laws 1979, Chapter 347, Sections 8 and 9; and Laws 1997, Chapter 62, Section 2, as amended) are repealed.

E. Sections 7-9G-1 and 7-9G-2 NMSA 1978 (being Laws 2004, Chapter 15, Section 1 and Laws 2007, Chapter 229, Section 1, as amended) are repealed.

F. Sections 7-9J-1 through 7-9J-8 NMSA 1978 (being Laws 2007, Chapter 204, Sections 11 through 18, as amended) are repealed.

G. Section 7-10-2 NMSA 1978 (being Laws 1970, .207939.1
Chapter 26, Section 2, as amended) is repealed.

H. Sections 7-19-10 through 7-19-18 NMSA 1978

(being Laws 1979, Chapter 397, Sections 1 through 8, Laws
1997, Chapter 219, Section 4 and Laws 1979, Chapter 397,
Section 9, as amended) are repealed.

I. Sections 7-19D-10 through 7-19D-12 and 7-19D-14

through 7-19D-18 NMSA 1978 (being Laws 1990, Chapter 99,
Section 51, Laws 1991, Chapter 9, Section 3, Laws 2001,
Chapter 172, Section 1, Laws 2005, Chapter 212, Section 2,
Laws 2006, Chapter 15, Section 14, Laws 2007, Chapter 148,
Section 1, Laws 2012, Chapter 58, Section 1 and Laws 2013,
Chapter 160, Section 11, as amended) are repealed.

J. Sections 7-20C-1 through 7-20C-17 NMSA 1978

(being Laws 1991, Chapter 176, Sections 1 through 9, Laws
1993, Chapter 306, Section 4, Laws 1991, Chapter 176, Sections
10 through 15 and Laws 1996, Chapter 18, Sections 3 and 4, as
amended) are repealed.

K. Sections 7-20E-10 through 7-20E-28 NMSA 1978

(being Laws 1983, Chapter 213, Sections 32 and 35, Laws 1989,
Chapter 239, Section 1, Laws 1994, Chapter 14, Section 1, Laws
1987, Chapter 45, Sections 3 and 8, Laws 1979, Chapter 398,
Sections 3 and 8, Laws 1990, Chapter 99, Section 58, Laws
1991, Chapter 212, Section 7, Laws 1998, Chapter 90, Section
7, Laws 2001, Chapter 328, Section 1, Laws 2001, Chapter 172,
Section 2, Laws 2002, Chapter 14, Section 1, Laws 2004,
Chapter 17, Section 2, Laws 2005, Chapter 212, Section 1, Laws 2006, Chapter 15, Section 15, Laws 2007, Chapter 346, Section 1, Laws 2010, Chapter 31, Section 1 and Laws 2013, Chapter 160, Section 12, as amended) are repealed.

L. Sections 7-20F-1 through 7-20F-12 NMSA 1978 (being Laws 1993, Chapter 303, Sections 1 through 12, as amended) are repealed.

M. Sections 7-24B-1 through 7-24B-4 and 7-24B-5.1 through 7-24B-9 NMSA 1978 (being Laws 1987, Chapter 45, Sections 10 through 13, Laws 1990, Chapter 88, Section 16 and Laws 1987, Chapter 45, Sections 15 through 18, as amended) are repealed.

N. Section 60-2E-47.1 NMSA 1978 (being Laws 2010, Chapter 31, Section 3) is repealed.

SECTION 154. APPLICABILITY.--

A. The provisions of Sections 51 through 57 and 100 through 102 of this act apply to taxable years beginning on or after January 1, 2018.

B. The provisions of Section 109 of this act apply to receipts of the motor vehicle excise tax and any associated interest and penalties that are collected on and after July 1, 2018.

SECTION 155. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 32, 34 through 41, 43 through 46, 48
through 60, 62, 63, 65 through 70, 72 through 108, 110 through
148 and 150 through 153 of this act is July 1, 2018.

B. The effective date of the provisions of
Sections 33, 42, 47, 61, 64, 71 and 149 of this act is July 1,
2017.

- 333 -