AN ACT

RELATING TO TAXATION; DISTRIBUTING REVENUE IN EXCESS OF A FIVE-YEAR AVERAGE OF THE OIL AND GAS EMERGENCY SCHOOL TAX TO THE TAX STABILIZATION RESERVE; ELIMINATING THE TAXPAYERS DIVIDEND FUND; SUSPENDING A DISTRIBUTION TO THE LEGISLATIVE RETIREMENT FUND FOR TWO YEARS; DISTRIBUTING A PORTION OF THE GROSS RECEIPTS TAX TO THE COUNTY-SUPPORTED MEDICAID FUND; PROVIDING THAT THE PLACE OF BUSINESS OF A PERSON WITHOUT PHYSICAL PRESENCE IN THIS STATE IS WHERE THE PROPERTY OR SERVICE BEING SOLD IS DELIVERED; ALLOWING A REFUND OF GROSS RECEIPTS TAX DUE A PERSON TO BE APPLIED AGAINST COMPENSATING TAX OWED BY THE PERSON'S CUSTOMER AS A RESULT OF TRANSACTIONS WITH THAT PERSON; CLARIFYING THAT A PERSON WITHOUT PHYSICAL PRESENCE IN THE STATE THAT HAS LESS THAN ONE HUNDRED THOUSAND DOLLARS ($100,000) IN GROSS RECEIPTS IS NOT ENGAGING IN BUSINESS PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX ACT; BARRING THE TAXATION AND REVENUE DEPARTMENT FROM ENFORCING COLLECTION OF THE GROSS RECEIPTS TAX IN CERTAIN CIRCUMSTANCES; IMPOSING THE STATE GROSS RECEIPTS TAX ON NONPROFIT HOSPITALS; IMPOSING THE GOVERNMENTAL GROSS RECEIPTS TAX ON GOVERNMENT HOSPITALS; DISTRIBUTING THE REVENUE ATTRIBUTABLE TO TAXING ALL HOSPITALS TO THE GENERAL FUND; ADJUSTING CERTAIN DEDUCTIONS AND EXEMPTIONS FROM GROSS RECEIPTS AND GOVERNMENTAL GROSS RECEIPTS FOR HOSPITALS; REQUIRING SEPARATE REPORTING FOR CERTAIN DEDUCTIONS FROM

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GROSS RECEIPTS; AMENDING, REPEALING AND ENACTING SECTIONS OF
THE NMSA 1978; MAKING AN APPROPRIATION.

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

SECTION 1. Section 6-4-4 NMSA 1978 (being Laws 1987,
Chapter 347, Section 4, as amended) is amended to read:

"6-4-4. RESERVATION OF EXCESS GENERAL FUND
REVENUES.--For the seventy-seventh and subsequent fiscal
years, if the revenues of the general fund exceed the total
of appropriations from the general fund, the excess revenue
shall be transferred to the operating reserve; provided that
if the sum of the excess revenue plus the balance in the
operating reserve prior to the transfer is greater than eight
percent of the aggregate recurring appropriations from the
general fund for the previous fiscal year, then an amount
equal to the smaller of either the amount of the excess
revenue or the difference between the sum and eight percent
of the aggregate recurring appropriations from the general
fund for the previous fiscal year shall be transferred to the
tax stabilization reserve."

SECTION 2. Section 7-1-6.20 NMSA 1978 (being Laws 1985,
Chapter 65, Section 6, as amended) is amended to read:

"7-1-6.20. IDENTIFICATION OF MONEY IN EXTRACTION TAXES
SUSPENSE FUND--DISTRIBUTION.--

A. Except as provided in Subsection B of this
section, after the necessary disbursements have been made from the extraction taxes suspense fund, the money remaining in the suspense fund as of the last day of the month shall be identified by tax source and distributed or transferred in accordance with the provisions of Sections 7-1-6.21 through 7-1-6.23 NMSA 1978 and Section 3 of this 2017 act. After the necessary distributions and transfers, any balance, except for remittances unidentified as to source or disposition, shall be transferred to the general fund.

B. Payments on assessments issued by the department pursuant to the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Severance Tax Act shall be held in the extraction taxes suspense fund until the secretary determines that there is no substantial risk of protest or other litigation, whereupon after the necessary disbursements have been made from the extraction taxes suspense fund, the money remaining in the suspense fund as of the last day of the month attributed to these payments shall be identified by tax source and distributed or transferred in accordance with the provisions of Sections 7-1-6.21 through 7-1-6.23 NMSA 1978 and Section 3 of this 2017 act. After the necessary distributions and transfers, any balance, except for remittance unidentified as to source or disposition, shall be transferred to the general fund."
SECTION 3. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--TAX STABILIZATION RESERVE FROM THE OIL AND GAS EMERGENCY SCHOOL TAX.--

A. A distribution pursuant to Section 7-1-6.20 NMSA 1978 shall be made to the tax stabilization reserve in an amount as calculated pursuant to Subsection B of this section.

B. If the year-to-date amount plus the current net receipts exceeds the annual average amount, the excess shall be distributed to the tax stabilization reserve. If there is not an excess amount, no distribution shall be made to the tax stabilization reserve. Each month the department shall make the calculation to determine if an excess amount should be distributed.

C. As used in this section:

(1) "annual average amount" means the total net receipts attributable to the tax imposed pursuant to Section 7-31-4 NMSA 1978 and distributed pursuant to Section 7-1-6.20 NMSA 1978 in the immediately preceding five fiscal years, divided by five; and

(2) "year-to-date amount" means the cumulative year-to-date net receipts attributable to the tax imposed pursuant to Section 7-31-4 NMSA 1978 and distributed to the general fund in the prior months of the current fiscal
SECTION 4. Section 7-1-6.4 NMSA 1978 (being Laws 1983, Chapter 211, Section 9, as amended) is amended to read:

"7-1-6.4. DISTRIBUTION MUNICIPALITY FROM CROSS RECEIPTS TAX.--

A. Except as provided in Subsection B of this section, 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 two hundred twenty-five thousandths percent divided by the tax rate imposed by Section 7-9-4 NMSA 1978 multiplied by the net receipts, except receipts attributable to a nonprofit hospital licensed by the department of health, for the month attributable to the gross receipts tax from business locations:

(1) within that municipality;

(2) on land owned by the state, commonly known as the "state fairgrounds", within the exterior boundaries of that municipality;

(3) outside the boundaries of any municipality on land owned by that municipality; and

(4) 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:

(a) 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

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

B. If the reduction made by Laws 1991, Chapter 9,
Section 9 to the distribution under this section impairs the
ability of a municipality to meet its principal or interest
payment obligations for revenue bonds outstanding prior to
July 1, 1991 that are secured by the pledge of all or part of
the municipality’s revenue from the distribution made under
this section, then the amount distributed pursuant to this
section to that municipality shall be increased by an amount
sufficient to meet any required payment, provided that the
distribution amount does not exceed the amount that would
have been due that municipality under this section as it was
in effect on June 30, 1992.

C. A distribution 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—tax increment dedicated by a municipality pursuant
to the Tax Increment for Development Act."

SECTION 5. 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
TAX.--

A. A distribution pursuant to Section 7-1-6.1 NMSA
1978 shall be made in amounts equal to the following
percentages of the net receipts attributable to the
governmental gross receipts tax, less the net receipts
attributable to a hospital licensed by the department of
health:

(1) seventy-five percent to the public
project revolving fund administered by the New Mexico finance
authority;

(2) twenty-four percent to the energy,
minerals and natural resources department; provided that
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 capital improvements, including the costs of
planning, engineering, design, construction, renovation,
repair, equipment and furnishings; and

(3) one percent to the cultural affairs department for capital improvements at state museums and monuments administered by the cultural affairs department.

B. 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 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 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 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 6. Section 7-1-6.43 NMSA 1978 (being Laws 2003, Chapter 86, Section 1, as amended) is amended to read:

"7-1-6.43. DISTRIBUTION--LEGISLATIVE RETIREMENT FUND.--
A. Beginning on July 1, 2019, a distribution pursuant to Section 7-1-6.1 NMSA 1978 from the net receipts attributable to the amount of tax deducted pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act shall be made to the legislative retirement fund in the amount of seventy-five thousand dollars ($75,000) or, if larger, in an amount equal to one-twelfth of the amount necessary to pay out the retirement benefits due under state legislator member coverage plan 2 and Paragraph (2) of Subsection C of Section 10-11-41 NMSA 1978 for the succeeding calendar year.

B. In regard to the distribution to the legislative retirement fund, in December 2003 and in each December thereafter, except in 2017, the public employees retirement association, with the assistance of the legislative council service, shall determine the amount of retirement benefits for the succeeding calendar year. If the monthly average exceeds seventy-five thousand dollars ($75,000), the association shall immediately notify the department of the average amount."

SECTION 7. 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, CERTAIN REAL PROPERTY SALES AND SALES..."
OF 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 is 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.

SECTION 8. Section 7-1-29 NMSA 1978 (being Laws 1965, Chapter 248, Section 31, as amended) is amended to read:
"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 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 tax, any compensating
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 which the overpayment was made or the period to which the
overpayment was credited against an underpayment, whichever
is later. If the overpayments credited pursuant to this
section exceed the underpayments of a tax, the amount of the
net overpayment for the periods covered in the audit shall be
refunded to the taxpayer.

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

F. If the department determines, upon review of an
original or amended income tax return, corporate income and
franchise tax return, estate tax return, special fuels excise
tax return or oil and gas tax return, that there has been an
overpayment of tax for the taxable period to which the return
or amended return relates in excess of the amount due to be
refunded to the taxpayer pursuant to the provisions of
Subsection K of Section 7-1-26 NMSA 1978, the department may
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 9. A new section of the Tax Administration Act is enacted to read:
"DISTRIBUTION--GROSS RECEIPTS TAX TO COUNTY-SUPPORTED
MEDICAID FUND.--A distribution pursuant to Section 7-1-6.1
NMSA 1978 of the net receipts attributable to the gross
receipts tax shall be made to the county-supported medicaid
fund in the amount of two million two hundred thousand
dollars ($2,200,000)."

SECTION 10. 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. 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 11. 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:

(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 12. 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 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, 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 tax"."

SECTION 13. 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 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 the effective date of this 2017 act 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 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 14. Section 7-9-12 NMSA 1978 (being Laws 1969, Chapter 144, Section 5, as amended) is amended to read:

"7-9-12. EXEMPTIONS.-- Exemptions from either the gross receipts tax or the compensating tax are not exemptions from both taxes unless explicitly stated otherwise by law."

SECTION 15. Section 7-9-29 NMSA 1978 (being Laws 1970, Chapter 12, Section 3, as amended) is amended to read:
ORGANIZATIONS.—

A. Exempted from the gross receipts tax are the receipts of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered, except receipts as provided in Subsection B of this section.

B. Exempted from any local option gross receipts tax, but not the state gross receipts tax, are receipts of an organization that is a hospital licensed by the department of health that demonstrates to the department that it has been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered.

C. Exempted from the gross receipts tax are the receipts from carrying on chamber of commerce, visitor bureau and convention bureau functions of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(6) of the United States Internal Revenue
Code of 1986, as that section may be amended or renumbered.

D. This section does not apply to receipts derived from an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered."

SECTION 16. Section 7-9-45 NMSA 1978 (being Laws 1969, Chapter 144, Section 35, as amended) is amended to read:

"7-9-45. DEDUCTIONS.--

A. Receipts may only be deducted once from gross receipts or governmental gross receipts when computing the gross receipts tax or governmental gross receipts tax due.

B. The same receipts shall not be both exempt from the gross receipts tax and deducted from gross receipts.

C. The same receipts shall not be both exempt from the governmental gross receipts tax and deducted from governmental gross receipts."

SECTION 17. 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.--

A. 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.

B. A taxpayer allowed a deduction pursuant to this
section shall report the amount deducted separately in a
manner required by the department."

SECTION 18. Section 7-9-54.3 NMSA 1978 (being Laws
2002, Chapter 37, Section 8, as amended by Laws 2010, Chapter
77, Section 2 and by Laws 2010, Chapter 78, Section 2) is
amended to read:

"7-9-54.3. DEDUCTION--GROSS RECEIPTS TAX--WIND AND
SOLAR GENERATION EQUIPMENT--SALES TO GOVERNMENTS.--

A. Receipts from selling wind generation equipment
or solar generation equipment to a government for the purpose
of installing a wind or solar electric generation facility
may be deducted from gross receipts.

B. The deduction allowed pursuant to this section
shall not be claimed for receipts from an expenditure for
which a taxpayer claims a credit pursuant to Section
7-2-18.25 or 7-2A-25 NMSA 1978.

C. A taxpayer allowed a deduction pursuant to this
section shall report the amount deducted separately in a
manner required by the department.

D. As used in this section:

(1) "government" means the United States or
the state or a governmental unit or a subdivision, agency, department or instrumentality of the federal government or the state;

(2) "related equipment" means transformers, circuit breakers and switching and metering equipment used to connect a wind or solar electric generation plant to the electric grid;

(3) "solar generation equipment" means solar thermal energy collection, concentration and heat transfer and conversion equipment, solar tracking hardware and software, photovoltaic panels and inverters, support structures, turbines and associated electrical generating equipment used to generate electricity from solar thermal energy, and related equipment; and

(4) "wind generation equipment" means wind generation turbines, blades, nacelles, rotors and supporting structures used to generate electricity from wind and related equipment."

SECTION 19. Section 7-9-73.1 NMSA 1978 (being Laws 1991, Chapter 8, Section 3, as amended) is amended to read:

"7-9-73.1. DEDUCTION—GROSS RECEIPTS—HOSPITALS—

A. Prior to July 1, 2018, sixty percent, and on and after July 1, 2018, sixty-five percent of the receipts of hospitals licensed by the department of health may be deducted from gross receipts, provided that this deduction
may be applied only to the taxable gross receipts remaining
after all other appropriate deductions have been taken.

B. Prior to July 1, 2018, sixty percent, and on
and after July 1, 2018, sixty-five percent of the receipts of
a hospital licensed by the department of health may be
deducted from governmental gross receipts; provided that this
deduction may be applied only to the taxable governmental
gross receipts remaining after all other appropriate
deductions have been taken.

C. A taxpayer allowed a deduction pursuant to this
section shall report the amount deducted separately in a
manner required by the department.

SECTION 20. Section 7-9-73.2 NMSA 1978 (being Laws
1998, Chapter 95, Section 2 and Laws 1998, Chapter 99,
Section 4, as amended) is amended to read:

"7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND
GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--
OXYGEN--

A. Receipts from the sale of prescription drugs
and oxygen and oxygen services provided by a licensed
medicare durable medical equipment provider may be deducted
from gross receipts and governmental gross receipts.

B. A taxpayer allowed a deduction pursuant to this
section shall report the amount deducted separately in a
manner required by the department."
C. For the purposes of this section, "prescription drugs" means insulin and substances that are:

(1) dispensed by or under the supervision of a licensed pharmacist or by a physician or other person authorized under state law to do so;

(2) prescribed for a specified person by a person authorized under state law to prescribe the substance; and

(3) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21-USCA 353."

SECTION 21. Section 7-9-75 NMSA 1978 (being Laws 1972, Chapter 39, Section 2) is amended to read:

"7-9-75. DEDUCTION--GROSS RECEIPTS TAX--SALE OF CERTAIN SERVICES PERFORMED DIRECTLY ON PRODUCT MANUFACTURED.---

A. Receipts from selling the service of combining or processing components or materials 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. The buyer delivering the nontaxable transaction certificate must have the service performed directly upon tangible personal property that the buyer is in the business of manufacturing or upon ingredients or component parts thereof.

B. A taxpayer allowed a deduction pursuant to this
section shall report the amount deducted separately in a manner required by the department."

SECTION 22. TEMPORARY PROVISION—TAXATION AND REVENUE DEPARTMENT REPORT TO LEGISLATURE—HEALTH CARE INDUSTRY REVENUE AND TAX EXPENDITURES.—The taxation and revenue department shall evaluate health-care-industry-related revenue collections and tax expenditures and shall, by December 1, 2017, report to the legislative finance committee and the revenue stabilization and tax policy committee the result of that evaluation with a recommendation as to whether existing tax expenditures for that industry should be adjusted.

SECTION 23. REPEAL.—Section 6-4-5 NMSA 1978 (being Laws 1987, Chapter 347, Section 5) is repealed.

SECTION 24. ADDITIONAL REPEAL.—Sections 7-1-6.57 and 7-9-96.1 NMSA 1978 (being Laws 2007, Chapter 361, Sections 1 and 7) are repealed.

SECTION 25. EFFECTIVE DATE.—

A. If this act takes effect on or before July 1, 2017, the effective date of the provisions of Sections 4 through 22 and 24 of this act is July 1, 2017.

B. If this act takes effect after July 1, 2017, the effective date of the provisions of Sections 4 through 22 and 24 of this act is the first day of the month following the date this act takes effect.
C. The effective date of the provisions of Sections 1 through 3 and 23 of this act is July 1, 2018.