

HOUSE FLOOR SUBSTITUTE FOR
HOUSE BILL 245

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

AN ACT

RELATING TO TAXATION; CLARIFYING THE DEFINITION IN LAW OF
"CONSTRUCTION MATERIAL", AS USED IN THE GROSS RECEIPTS AND
COMPENSATING TAX ACT; DECLARING AN EMERGENCY.

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

SECTION 1. 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 Tax
Act:

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;

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underscored material = new
[bracketed material] = delete

- 1 (b) building, stadium or other
2 structure;
- 3 (c) airport, subway or similar facility;
4 (d) park, trail, athletic field, golf
5 course or similar facility;
- 6 (e) dam, reservoir, canal, ditch or
7 similar facility;
- 8 (f) sewerage or water treatment
9 facility, power generating plant, pump station, natural gas
10 compressing station, gas processing plant, coal gasification
11 plant, refinery, distillery or similar facility;
- 12 (g) sewerage, water, gas or other
13 pipeline;
- 14 (h) transmission line;
15 (i) radio, television or other tower;
16 (j) water, oil or other storage tank;
17 (k) shaft, tunnel or other mining
18 appurtenance;
- 19 (l) microwave station or similar
20 facility;
- 21 (m) retaining wall, wall, fence, gate or
22 similar structure; or
- 23 (n) similar work;
- 24 (2) the leveling or clearing of land;
25 (3) the excavating of earth;

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

1 (4) the drilling of wells of any type,
2 including seismograph shot holes or core drilling; or

3 (5) similar work; and

4 B. "construction material":

5 (1) means tangible personal property that
6 becomes or is intended to become an ingredient or component
7 part of a construction project; [~~but "construction material"~~]

8 (2) does not include a replacement fixture
9 when the replacement is not construction or a replacement part
10 for a fixture; and

11 (3) does not include tangible personal
12 property, whether removable or non-removable, that is sold or
13 will be subsequently sold to a 501(c)(3) organization or to the
14 United States, New Mexico or a governmental unit or
15 subdivision, agency, department or instrumentality of the
16 United States or of New Mexico and is or would be classified
17 for depreciation purposes as three-year property, five-year
18 property, seven-year property or ten-year property, including
19 indirect costs related to the asset basis, by Section 168 of
20 the Internal Revenue Code of 1986, as that section may be
21 amended or renumbered."

22 SECTION 2. EMERGENCY.--It is necessary for the public
23 peace, health and safety that this act take effect immediately.