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HOUSE BILL 206

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

INTRODUCED BY

Jason C. Harper and Carlos R. Cisneros

AN ACT

RELATING TO TAXATION; PROVIDING THAT THE COMPENSATING TAX RATE SHALL BE IMPOSED AT THE SAME RATE AS THE GROSS RECEIPTS TAX RATE; IMPOSING LOCAL OPTION COMPENSATING TAXES; CLARIFYING CERTAIN SECTIONS OF THE NMSA 1978; REPEALING CERTAIN TAX DEDUCTIONS AND CREDITS THAT ARE SELDOM USED OR HAVE EXPIRED; MAKING AN APPROPRIATION.

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

SECTION 1. 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 .209099.4

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

9 B. "ceiling valuation" means,

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

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

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

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1 year in which the distribution is to be made and whose
2 denominator is the annual index for calendar year 2004;
3 provided that, if the inflation factor is calculated to have a
4 value less than one, it shall be deemed to have a value of one;

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

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

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

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

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

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

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

22 (5) a total valuation for the property tax
23 year preceding the year in which a distribution pursuant to the
24 Small Counties Assistance Act for that county is to be made
25 that is no greater than the ceiling valuation for that property

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1 tax year;

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

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

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

17 "7-1-2. APPLICABILITY.--The Tax Administration Act
18 applies to and governs:

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

- 22 (1) Income Tax Act;
- 23 (2) Withholding Tax Act;
- 24 (3) [~~Venture Capital Investment]~~ Oil and Gas
25 Proceeds and Pass-Through Entity Withholding Tax Act;

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1 (4) Gross Receipts and Compensating Tax Act,
2 [~~and any state gross receipts tax~~] Interstate
3 Telecommunications Gross Receipts Tax Act and Leased Vehicle
4 Gross Receipts Tax Act;

5 (5) Liquor Excise Tax Act;

6 (6) Local Liquor Excise Tax Act;

7 (7) any tax imposed by the Municipal Local
8 Option Gross Receipts and Compensating Tax Act;

9 (8) any tax imposed by the County Local Option
10 Gross Receipts and Compensating Tax Act;

11 (9) Special Fuels Supplier Tax Act;

12 (10) Gasoline Tax Act;

13 (11) petroleum products loading fee, which fee
14 shall be considered a tax for the purpose of the Tax
15 Administration Act;

16 (12) Alternative Fuel Tax Act;

17 (13) Cigarette Tax Act;

18 (14) Estate Tax Act;

19 (15) Railroad Car Company Tax Act;

20 (16) Investment Credit Act, rural job tax
21 credit, Laboratory Partnership with Small Business Tax Credit
22 Act, Technology Jobs and Research and Development Tax Credit
23 Act, Film Production Tax Credit Act, Affordable Housing Tax
24 Credit Act and high-wage jobs tax credit;

25 (17) Corporate Income and Franchise Tax Act;

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1 (18) Uniform Division of Income for Tax
2 Purposes Act;
3 (19) Multistate Tax Compact;
4 (20) Tobacco Products Tax Act; and
5 (21) the telecommunications relay service
6 surcharge imposed by Section 63-9F-11 NMSA 1978, which
7 surcharge shall be considered a tax for the purposes of the Tax
8 Administration Act;

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

12 (1) Resources Excise Tax Act;
13 (2) Severance Tax Act;
14 (3) any severance surtax;
15 (4) Oil and Gas Severance Tax Act;
16 (5) Oil and Gas Conservation Tax Act;
17 (6) Oil and Gas Emergency School Tax Act;
18 (7) Oil and Gas Ad Valorem Production Tax Act;
19 (8) Natural Gas Processors Tax Act;
20 (9) Oil and Gas Production Equipment Ad
21 Valorem Tax Act;

22 (10) Copper Production Ad Valorem Tax Act;
23 (11) any advance payment required to be made
24 by any act specified in this subsection, which advance payment
25 shall be considered a tax for the purposes of the Tax

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1 Administration Act;

2 (12) Enhanced Oil Recovery Act;

3 (13) Natural Gas and Crude Oil Production

4 Incentive Act; and

5 (14) intergovernmental production tax credit
6 and intergovernmental production equipment tax credit;

7 C. the administration and enforcement of the
8 following taxes, surcharges, fees or acts as they now exist or
9 may hereafter be amended:

10 (1) Weight Distance Tax Act;

11 (2) the workers' compensation fee authorized
12 by Section 52-5-19 NMSA 1978, which fee shall be considered a
13 tax for purposes of the Tax Administration Act;

14 (3) Uniform Unclaimed Property Act (1995);

15 (4) 911 emergency surcharge and the network
16 and database surcharge, which surcharges shall be considered
17 taxes for purposes of the Tax Administration Act;

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

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

24 (7) the gaming tax imposed pursuant to the
25 Gaming Control Act; and

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1 D. the administration and enforcement of all other
2 laws, with respect to which the department is charged with
3 responsibilities pursuant to the Tax Administration Act, but
4 only to the extent that the other laws do not conflict with the
5 Tax Administration Act."

6 SECTION 3. Section 7-1-6.12 NMSA 1978 (being Laws 1983,
7 Chapter 211, Section 17, as amended) is amended to read:

8 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION
9 GROSS RECEIPTS AND COMPENSATING TAXES.--

10 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
11 shall be made to each municipality for which the department is
12 collecting a local option gross receipts or compensating tax
13 imposed by that municipality in an amount, subject to any
14 increase or decrease made pursuant to Section 7-1-6.15 NMSA
15 1978, equal to the net receipts attributable to the local
16 option gross receipts or compensating tax imposed by that
17 municipality, less any deduction for administrative cost
18 determined and made by the department pursuant to the
19 provisions of the act authorizing imposition by that
20 municipality of the local option gross receipts or compensating
21 tax and any additional administrative fee withheld pursuant to
22 Subsection C of Section 7-1-6.41 NMSA 1978.

23 B. A transfer pursuant to this section may be
24 adjusted for a distribution made to a tax increment development
25 district with respect to a portion of a gross receipts tax

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1 increment dedicated by a municipality pursuant to the Tax
2 Increment for Development Act."

3 SECTION 4. Section 7-1-6.13 NMSA 1978 (being Laws 1983,
4 Chapter 211, Section 18, as amended) is amended to read:

5 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
6 GROSS RECEIPTS AND COMPENSATING TAXES.--

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

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

25 SECTION 5. Section 7-1-6.15 NMSA 1978 (being Laws 1983,

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1 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,
2 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended
3 to read:

4 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
5 MUNICIPALITIES OR COUNTIES.--

6 A. The provisions of this section apply to:

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

9 (2) any transfer to a municipality with
10 respect to any local option gross receipts or compensating tax
11 imposed by that municipality;

12 (3) any transfer to a county with respect to
13 any local option gross receipts or compensating tax imposed by
14 that county;

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

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

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

22 (7) any distribution to a county from the
23 county government road fund pursuant to Section 7-1-6.26 NMSA
24 1978; and

25 (8) any distribution to a municipality of

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1 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978 [~~and~~
2 ~~(9) any distribution to a municipality of~~
3 ~~compensating taxes pursuant to Section 7-1-6.55 NMSA 1978~~].

4 B. Before making a distribution or transfer
5 specified in Subsection A of this section to a municipality or
6 county for the month, amounts comprising the net receipts shall
7 be segregated into two mutually exclusive categories. One
8 category shall be for amounts relating to the current month,
9 and the other category shall be for amounts relating to prior
10 periods. The total of each category for a municipality or
11 county shall be reported each month to that municipality or
12 county. If the total of the amounts relating to prior periods
13 is less than zero and its absolute value exceeds the greater of
14 one hundred dollars (\$100) or an amount equal to twenty percent
15 of the average distribution or transfer amount for that
16 municipality or county, then the following procedures shall be
17 carried out:

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

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1 amount for the current month plus the revised total for prior
2 periods; and

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

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

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

22 (1) that the department has made such an
23 adjustment, that the department has determined that a specified
24 amount is recoverable from the municipality or county and that
25 the department intends to recover that amount from future

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1 distributions or transfers to the municipality or county;

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

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

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

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

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

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

24 (b) except as provided in Paragraphs (2)
25 and (3) of this subsection, if the municipality or county fails

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1 to act within the ninety days, decreasing the amount of the
2 next six distributions or transfers to the municipality or
3 county following expiration of the ninety-day period in
4 increments as nearly equal as practicable and sufficient to
5 recover the amount;

6 (2) if, pursuant to Subsection B of this
7 section, the secretary determines that the recoverable amount
8 is more than fifty percent of the average distribution or
9 transfer of net receipts for that municipality or county, the
10 secretary:

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

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

17 (3) if, after application of a refund claim,
18 audit adjustment, correction of a mistake by the department or
19 other adjustment of a prior period, but prior to any recovery
20 of the department pursuant to this section, the total net
21 receipts of a municipality or county for the twelve-month
22 period beginning with the current month are reduced or are
23 projected to be reduced to less than fifty percent of the
24 average distribution or transfer of net receipts, the secretary
25 may waive recovery of any portion of the recoverable amount,

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1 subject to approval by the state board of finance.

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

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

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

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

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

25 (2) after an adjustment of a distribution or

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1 transfer of net receipts creating a recoverable amount owed to
2 the department shall be subordinate to any collection of any
3 recoverable amount pursuant to Paragraph (2) of Subsection B of
4 this section.

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

24 J. As used in this section:

25 (1) "amounts relating to the current month"

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1 means any amounts included in the net receipts of the current
2 month that represent payment of tax due for the current month,
3 correction of amounts processed in the current month that
4 relate to the current month or that otherwise relate to
5 obligations due for the current month;

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

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

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

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

25 (c) if a municipality or county has not

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1 received distributions or transfers of net receipts for twelve
2 or more months, the monthly average of net receipts distributed
3 or transferred to the municipality or county preceding the
4 current month multiplied by twelve;

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

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

15 SECTION 6. Section 7-1-6.16 NMSA 1978 (being Laws 1983,
16 Chapter 213, Section 27, as amended) is amended to read:

17 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

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

24 (1) the product of a fraction, the numerator
25 of which is the county's population and the denominator of

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1 which is the state's population, multiplied by the annual sum
2 for the county; less

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

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

14 C. As used in this section:

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

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

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

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1 ~~total amount of deductions claimed pursuant to Section 7-9-93~~
2 ~~NMSA 1978 for the month; and~~

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

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

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

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

19 "7-1-14. SECRETARY MAY DETERMINE WHERE CERTAIN GROSS
20 RECEIPTS ARE TO BE REPORTED--SECRETARY SHALL DETERMINE WHERE
21 GROSS RECEIPTS TAX AND COMPENSATING TAX ARE REPORTED--PLACE OF
22 BUSINESS FOR CONSTRUCTION PROJECTS AND CERTAIN REAL PROPERTY
23 SALES.--

24 A. By ~~[regulation]~~ rule, the secretary may require
25 any person maintaining one or more places of business to report

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1 the person's taxable gross receipts and deductions for each
2 municipality or county or area within an Indian reservation or
3 pueblo grant in which the person maintains a place of business.

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

8 C. The secretary may, by [~~regulation~~] rule, also
9 require any person maintaining a business outside the
10 boundaries of a municipality on land owned by that municipality
11 to report the person's taxable gross receipts for that
12 municipality.

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

17 E. The secretary shall, by rule, require gross
18 receipts tax and compensating tax to be reported at the
19 location where the property or service is delivered."

20 SECTION 8. Section 7-9-3 NMSA 1978 (being Laws 1978,
21 Chapter 46, Section 1, as amended) is amended to read:

22 "7-9-3. DEFINITIONS.--As used in the Gross Receipts and
23 Compensating Tax Act:

24 A. "buying" or "selling" means a transfer of
25 property for consideration or the performance of service for

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1 consideration;

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

6 C. "financial corporation" means a savings and loan
7 association or an incorporated savings and loan company, trust
8 company, mortgage banking company, consumer finance company or
9 other financial corporation;

10 D. "initial use" or "initially used" means the
11 first employment for the intended purpose and does not include
12 the following activities:

13 (1) observation of tests conducted by the
14 performer of services;

15 (2) participation in progress reviews,
16 briefings, consultations and conferences conducted by the
17 performer of services;

18 (3) review of preliminary drafts, drawings and
19 other materials prepared by the performer of the services;

20 (4) inspection of preliminary prototypes
21 developed by the performer of services; or

22 (5) similar activities;

23 E. "leasing" means an arrangement whereby, for a
24 consideration, property is employed for or by any person other
25 than the owner of the property, except that the granting of a

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1 license to use property is licensing and is not a lease;

2 F. "local option gross receipts tax" means a tax
3 authorized to be imposed by a county or municipality upon the
4 taxpayer's gross receipts and required to be collected by the
5 department at the same time and in the same manner as the gross
6 receipts tax; "local option gross receipts tax" includes the
7 taxes imposed pursuant to the Municipal Local Option Gross
8 Receipts [~~Taxes~~] and Compensating Tax Act, Supplemental
9 Municipal Gross Receipts Tax Act, County Local Option Gross
10 Receipts [~~Taxes~~] and Compensating Tax Act, Local Hospital Gross
11 Receipts Tax Act and County Correctional Facility Gross
12 Receipts Tax Act and such other acts as may be enacted
13 authorizing counties or municipalities to impose taxes on gross
14 receipts, which taxes are to be collected by the department;

15 G. "manufactured home" means a movable or portable
16 housing structure for human occupancy that exceeds either a
17 width of eight feet or a length of forty feet constructed to be
18 towed on its own chassis and designed to be installed with or
19 without a permanent foundation;

20 H. "manufacturing" means combining or processing
21 components or materials to increase their value for sale in the
22 ordinary course of business, but does not include construction;

23 I. "person" means:

24 (1) an individual, estate, trust, receiver,
25 cooperative association, club, corporation, company, firm,

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1 partnership, limited liability company, limited liability
2 partnership, joint venture, syndicate or other entity,
3 including any gas, water or electric utility owned or operated
4 by a county, municipality or other political subdivision of the
5 state; or

6 (2) a national, federal, state, Indian or
7 other governmental unit or subdivision, or an agency,
8 department or instrumentality of any of the foregoing;

9 J. "property" means real property, tangible
10 personal property, licenses other than the licenses of
11 copyrights, trademarks or patents and franchises. Tangible
12 personal property includes electricity and manufactured homes;

13 K. "research and development services" means an
14 activity engaged in for other persons for consideration, for
15 one or more of the following purposes:

16 (1) advancing basic knowledge in a recognized
17 field of natural science;

18 (2) advancing technology in a field of
19 technical endeavor;

20 (3) developing a new or improved product,
21 process or system with new or improved function, performance,
22 reliability or quality, whether or not the new or improved
23 product, process or system is offered for sale, lease or other
24 transfer;

25 (4) developing new uses or applications for an

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1 existing product, process or system, whether or not the new use
2 or application is offered as the rationale for purchase, lease
3 or other transfer of the product, process or system;

4 (5) developing analytical or survey activities
5 incorporating technology review, application, trade-off study,
6 modeling, simulation, conceptual design or similar activities,
7 whether or not offered for sale, lease or other transfer; or

8 (6) designing and developing prototypes or
9 integrating systems incorporating the advances, developments or
10 improvements included in Paragraphs (1) through (5) of this
11 subsection;

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

14 M. "service" means all activities engaged in for
15 other persons for a consideration, which activities involve
16 predominantly the performance of a service as distinguished
17 from selling or leasing property. "Service" includes
18 activities performed by a person for its members or
19 shareholders. In determining what is a service, the intended
20 use, principal objective or ultimate objective of the
21 contracting parties shall not be controlling. "Service"
22 includes construction activities and all tangible personal
23 property that will become an ingredient or component part of a
24 construction project. That tangible personal property retains
25 its character as tangible personal property until it is

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1 installed as an ingredient or component part of a construction
2 project in New Mexico. Sales of tangible personal property
3 that will become an ingredient or component part of a
4 construction project to persons engaged in the construction
5 business are sales of tangible personal property; and

6 N. "use" or "using" includes use, consumption or
7 storage other than storage for subsequent sale in the ordinary
8 course of business or for use solely outside this state."

9 SECTION 9. Section 7-9-7 NMSA 1978 (being Laws 1966,
10 Chapter 47, Section 7, as amended) is amended to read:

11 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
12 "COMPENSATING TAX".--

13 A. For the privilege of using tangible property in
14 New Mexico, there is imposed on the person using the property
15 an excise tax [~~equal to five and one-eighth percent~~] at the
16 rate in effect and imposed pursuant to Section 7-9-4 NMSA 1978
17 of the value of tangible property that was:

18 (1) manufactured by the person using the
19 property in the state; or

20 (2) acquired inside or outside of this state
21 as the result of a transaction with a person located outside
22 this state that would have been subject to the gross receipts
23 tax had the tangible personal property been acquired from a
24 person with nexus with New Mexico [~~or~~

25 ~~(3) acquired as the result of a transaction~~

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1 ~~that was not initially subject to the compensating tax imposed~~
2 ~~by Paragraph (2) of this subsection or the gross receipts tax~~
3 ~~but which transaction, because of the buyer's subsequent use of~~
4 ~~the property, should have been subject to the compensating tax~~
5 ~~imposed by Paragraph (2) of this subsection or the gross~~
6 ~~receipts tax].~~

7 B. For the purpose of Subsection A of this section,
8 value of tangible property shall be the adjusted basis of the
9 property for federal income tax purposes determined as of the
10 time of acquisition or introduction into this state or of
11 conversion to use, whichever is later. If no adjusted basis
12 for federal income tax purposes is established for the
13 property, a reasonable value of the property shall be used.

14 C. For the privilege of using a license or
15 franchise in New Mexico, there is imposed on the person using
16 the property an excise tax at the rate in effect and imposed
17 pursuant to Section 7-9-4 NMSA 1978 against the value of the
18 property in its use in New Mexico. For use of a license or
19 franchise to be taxable under this subsection, the value of the
20 license or franchise acquired inside or outside of this state
21 as the result of a transaction with a person located outside
22 this state that would have been subject to the gross receipts
23 tax had the license or franchise been acquired from a person
24 with nexus with New Mexico.

25 [~~G-~~] D. For the privilege of using services

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1 ~~[rendered]~~ in New Mexico, there is imposed on the person using
2 such services an excise tax ~~[equal to five percent]~~ at the rate
3 in effect and imposed pursuant to Section 7-9-4 NMSA 1978 of
4 the value of the services at the time ~~[they were rendered]~~ the
5 product of the services was acquired. ~~[The]~~ For use of
6 services to be taxable under this subsection, the services must
7 have been ~~[rendered as the result of a transaction that was not~~
8 initially subject to the gross receipts tax but which
9 transaction, because of the buyer's subsequent use of the
10 services, should have been subject to the gross receipts tax]
11 performed by a person outside this state and the product of
12 which was acquired inside or outside of this state as the
13 result of a transaction with a person located outside this
14 state that would have been subject to the gross receipts tax
15 had the service or product of the service been acquired from a
16 person with nexus with New Mexico.

17 E. For the privilege of using property or services
18 in New Mexico, there is imposed on the person using the
19 property or services an excise tax at the rate in effect and
20 imposed pursuant to Section 7-9-4 NMSA 1978 of the value of the
21 property or service that was acquired as the result of a
22 transaction that was not initially subject to the compensating
23 tax imposed pursuant to Subsections A through D of this section
24 or the gross receipts tax but which transaction, because of the
25 buyer's subsequent use of the property or service, should have

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1 been subject to the compensating tax imposed by those
2 subsections or the gross receipts tax.

3 ~~[D.]~~ F. The tax imposed by this section shall be
4 referred to as the "compensating tax".

5 SECTION 10. Section 7-9-55 NMSA 1978 (being Laws 1969,
6 Chapter 144, Section 45, as amended) is amended to read:

7 "7-9-55. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
8 GROSS RECEIPTS [~~TAX~~]--EXPORTS--TRANSACTION IN INTERSTATE
9 COMMERCE.--

10 A. Receipts from transactions in interstate or
11 foreign commerce may be deducted from gross receipts and
12 governmental gross receipts to the extent that the imposition
13 of the gross receipts tax would be unlawful under the United
14 States constitution.

15 ~~[B. Receipts from transactions in interstate~~
16 ~~commerce may be deducted from governmental gross receipts.~~

17 ~~C. Receipts from transmitting messages or~~
18 ~~conversations by radio other than from one point in this state~~
19 ~~to another point in this state and receipts from the sale of~~
20 ~~radio or television broadcast time when the advertising message~~
21 ~~is supplied by or on behalf of a national or regional seller or~~
22 ~~advertiser not having its principal place of business in or~~
23 ~~being incorporated under the laws of this state may be deducted~~
24 ~~from gross receipts. Commissions of advertising agencies from~~
25 ~~performing services in this state may not be deducted from~~

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1 ~~gross receipts under this section.]~~

2 B. Receipts from selling tangible personal property
3 in interstate or foreign commerce may be deducted from gross
4 receipts when the order for the property is placed from outside
5 the state and the seller ships or delivers the tangible
6 personal property to a location outside New Mexico for use
7 outside New Mexico.

8 C. Receipts from leasing or licensing personal
9 property in interstate or foreign commerce may be deducted from
10 gross receipts when the order for the property is placed from
11 outside the state and the property is employed outside New
12 Mexico.

13 D. Receipts from granting a right to use a
14 franchise in interstate or foreign commerce may be deducted
15 from gross receipts when the franchise is employed outside New
16 Mexico.

17 E. Receipts from selling in interstate or foreign
18 commerce a service performed in New Mexico may be deducted from
19 gross receipts when the seller ships or delivers the product of
20 the service to a location outside New Mexico for initial use
21 outside New Mexico."

22 SECTION 11. Section 7-9-65 NMSA 1978 (being Laws 1969,
23 Chapter 144, Section 56) is amended to read:

24 "7-9-65. DEDUCTION--GROSS RECEIPTS TAX--CHEMICALS AND
25 REAGENTS.--Receipts from selling chemicals or reagents to any

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1 mining, milling or oil company for use in processing ores or
2 oil in a mill, smelter or refinery or in acidizing oil wells
3 ~~[and receipts from selling chemicals or reagents in lots in~~
4 ~~excess of eighteen tons]~~ may be deducted from gross receipts.
5 Receipts from selling explosives, blasting powder or dynamite
6 and receipts from selling chemicals or reagents for use as fuel
7 may not be deducted from gross receipts pursuant to this
8 section."

9 SECTION 12. Section 7-9-66 NMSA 1978 (being Laws 1969,
10 Chapter 144, Section 57, as amended) is amended to read:

11 "7-9-66. DEDUCTION--GROSS RECEIPTS TAX--COMMISSIONS.--
12 ~~[A.]~~ Receipts derived from commissions on sales of tangible
13 personal property ~~[which]~~ that are not subject to the gross
14 receipts tax may be deducted from gross receipts.

15 ~~[B. Receipts of the owner of a dealer store derived~~
16 ~~from commissions received for performing the service of selling~~
17 ~~from the owner's dealer store a principal's tangible personal~~
18 ~~property may be deducted from gross receipts.~~

19 ~~G. As used in this section, "dealer store" means a~~
20 ~~merchandise facility open to the public that is owned and~~
21 ~~operated by a person who contracts with a principal to act as~~
22 ~~an agent for the sale from that facility of merchandise owned~~
23 ~~by the principal.]"~~

24 SECTION 13. Section 7-19D-1 NMSA 1978 (being Laws 1993,
25 Chapter 346, Section 1) is amended to read:

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1 "7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA 1978
2 may be cited as the "Municipal Local Option Gross Receipts
3 [~~Taxes~~] and Compensating Tax Act"."

4 SECTION 14. Section 7-19D-7 NMSA 1978 (being Laws 1993,
5 Chapter 346, Section 7, as amended) is amended to read:

6 "7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF
7 PROCEEDS--DEDUCTIONS.--

8 A. The department shall collect each tax imposed
9 pursuant to the provisions of the Municipal Local Option Gross
10 Receipts [~~Taxes~~] and Compensating Tax Act in the same manner
11 and at the same time it collects the state gross receipts [~~tax~~]
12 and compensating taxes.

13 B. Except as provided in Subsection C of this
14 section, the department shall withhold an administrative fee
15 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978.
16 The department shall transfer to each municipality for which it
17 is collecting a tax pursuant to the provisions of the Municipal
18 Local Option Gross Receipts [~~Taxes~~] and Compensating Tax Act
19 the amount of each tax collected for that municipality, less
20 the administrative fee withheld and less any disbursements for
21 tax credits, refunds and the payment of interest applicable to
22 the tax. The transfer to the municipality shall be made within
23 the month following the month in which the tax is collected.

24 C. With respect to the municipal gross receipts tax
25 imposed by a municipality pursuant to Section 7-19D-9 NMSA

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1 1978, the department shall withhold the administrative fee
2 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978
3 only on that portion of the municipal gross receipts tax
4 arising from a municipal gross receipts tax rate in excess of
5 one-half [~~of one~~] percent."

6 SECTION 15. A new section of the Municipal Local Option
7 Gross Receipts and Compensating Tax Act is enacted to read:

8 "[NEW MATERIAL] MUNICIPAL COMPENSATING TAX.--

9 A. For the privilege of using tangible personal
10 property in a municipality, there is imposed on the person
11 using the property an excise tax at a rate equal to the
12 combined rates imposed and in effect pursuant to the
13 Supplemental Municipal Gross Receipts Tax Act and the Municipal
14 Local Option Gross Receipts and Compensating Tax Act of the
15 value of tangible property that was:

16 (1) manufactured by the person using the
17 property in the state; or

18 (2) acquired inside or outside of this state
19 as the result of a transaction with a person located outside
20 this state that would have been subject to the state gross
21 receipts tax had the tangible personal property been acquired
22 from a person with nexus with New Mexico.

23 B. For the purpose of Subsection A of this section,
24 the value of tangible property shall be the adjusted basis of
25 the property for federal income tax purposes determined as of

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1 the time of acquisition or introduction into this state or of
2 conversion to use, whichever is later. If no adjusted basis
3 for federal income tax purposes is established for the
4 property, a reasonable value of the property shall be used.

5 C. For the privilege of using a license or
6 franchise in a municipality, there is imposed on the person
7 using the license or franchise an excise tax equal to the tax
8 rate provided in Subsection A of this section against the value
9 of the property in its use in the municipality. For use of a
10 license or franchise to be taxable under this subsection, the
11 property must have been sold, leased or licensed by a person
12 outside this state and the receipts from the sale, lease or
13 licensing of the license or franchise must not have been
14 subject to the gross receipts tax.

15 D. For the privilege of using services rendered in
16 a municipality, there is imposed on the person using such
17 services an excise tax at the rate provided in Subsection A of
18 this section of the value of the services at the time they were
19 rendered. For use of services to be taxable under this
20 subsection, the services must have been performed by a person
21 outside this state and receipts from the performance or sale of
22 the services not subject to the gross receipts tax.

23 E. The governing body of a municipality may
24 dedicate the revenue from the tax imposed pursuant to this
25 section for any municipal purpose. If the governing body

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1 proposes to dedicate revenue for a specific purpose, the
2 dedicated revenue shall be used by the municipality for that
3 purpose unless a subsequent ordinance is adopted to change the
4 purpose to which the revenue is dedicated or to place the
5 revenue in the general fund of the municipality.

6 F. Any law that affects the municipal compensating
7 tax, or any law supplemental or otherwise appertaining thereto,
8 shall not be repealed or amended or otherwise directly or
9 indirectly modified in such a manner as to impair adversely any
10 outstanding revenue bonds that may be secured by a pledge of
11 such municipal compensating tax unless such outstanding revenue
12 bonds have been discharged in full or provision has been fully
13 made therefor.

14 G. The tax imposed by this section may be cited as
15 the "municipal compensating tax".

16 SECTION 16. Section 7-20E-1 NMSA 1978 (being Laws 1993,
17 Chapter 354, Section 1) is amended to read:

18 "7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA 1978
19 may be cited as the "County Local Option Gross Receipts [~~Taxes~~]
20 and Compensating Tax Act".

21 SECTION 17. Section 7-20E-7 NMSA 1978 (being Laws 1993,
22 Chapter 354, Section 7, as amended) is amended to read:

23 "7-20E-7. COLLECTION BY DEPARTMENT--TRANSFER OF
24 PROCEEDS--DEDUCTIONS.--

25 A. The department shall collect each tax imposed

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1 pursuant to the provisions of the County Local Option Gross
2 Receipts [~~Taxes~~] and Compensating Tax Act in the same manner
3 and at the same time it collects the state gross receipts [~~tax~~]
4 and compensating taxes.

5 B. The department shall withhold an administrative
6 fee pursuant to Section 7-1-6.41 NMSA 1978. The department
7 shall transfer to each county for which it is collecting a tax
8 pursuant to the provisions of the County Local Option Gross
9 Receipts [~~Taxes~~] and Compensating Tax Act the amount of each
10 tax collected for that county, less the administrative fee
11 withheld and less any disbursements for tax credits, refunds
12 and the payment of interest applicable to the tax. The
13 transfer to the county shall be made within the month following
14 the month in which the tax is collected."

15 SECTION 18. A new section of the County Local Option
16 Gross Receipts and Compensating Tax Act is enacted to read:

17 "[NEW MATERIAL] COUNTY COMPENSATING TAX.--

18 A. For the privilege of using tangible personal
19 property in a county, there is imposed on the person using the
20 property an excise tax at a rate equal to the combined rates
21 imposed and in effect pursuant to the Local Hospital Gross
22 Receipts Tax Act, the County Local Option Gross Receipts and
23 Compensating Tax Act and the County Correctional Facility Gross
24 Receipts Tax Act of the value of tangible property that was:

25 (1) manufactured by the person using the

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1 property in the state; or

2 (2) acquired inside or outside of this state
3 as the result of a transaction with a person located outside
4 this state that would have been subject to the state gross
5 receipts tax had the tangible personal property been acquired
6 from a person with nexus with New Mexico.

7 B. For the purpose of Subsection A of this section,
8 the value of tangible property shall be the adjusted basis of
9 the property for federal income tax purposes determined as of
10 the time of acquisition or introduction into this state or of
11 conversion to use, whichever is later. If no adjusted basis
12 for federal income tax purposes is established for the
13 property, a reasonable value of the property shall be used.

14 C. For the privilege of using a license or
15 franchise in a county, there is imposed on the person using the
16 license or franchise an excise tax equal to the tax rate
17 provided in Subsection A of this section against the value of
18 the property in its use in the county. For use of a license or
19 franchise to be taxable under this subsection, the property
20 must have been sold, leased or licensed by a person outside
21 this state and the receipts from the sale, lease or licensing
22 of the license or franchise must not have been subject to the
23 gross receipts tax.

24 D. For the privilege of using services rendered in
25 a county, there is imposed on the person using such services an

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1 excise tax at the rate provided in Subsection A of this section
2 of the value of the services at the time they were rendered.
3 For use of services to be taxable under this subsection, the
4 services must have been performed by a person outside this
5 state and receipts from the performance or sale of the services
6 not subject to the state gross receipts tax.

7 E. The governing body of a county may dedicate the
8 revenue from the tax imposed pursuant to this section for any
9 county purpose. If the governing body proposes to dedicate
10 revenue for a specific purpose, the dedicated revenue shall be
11 used by the county for that purpose unless a subsequent
12 ordinance is adopted to change the purpose to which the revenue
13 is dedicated or to place the revenue in the general fund of the
14 county.

15 F. Any law that affects the county compensating
16 tax, or any law supplemental or otherwise appertaining thereto,
17 shall not be repealed or amended or otherwise directly or
18 indirectly modified in such a manner as to impair adversely any
19 outstanding revenue bonds that may be secured by a pledge of
20 such county compensating tax unless such outstanding revenue
21 bonds have been discharged in full or provision has been fully
22 made therefor.

23 G. The tax imposed by this section may be cited as
24 the "county compensating tax".

25 SECTION 19. TEMPORARY PROVISION--REFERENCES IN LAW.--

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1 A. References in law to the County Local Option
2 Gross Receipts Taxes Act shall be deemed to be references to
3 the County Local Option Gross Receipts and Compensating Tax
4 Act.

5 B. References in law to the Municipal Local Option
6 Gross Receipts Taxes Act shall be deemed to be references to
7 the Municipal Local Option Gross Receipts and Compensating Tax
8 Act.

9 **SECTION 20. TEMPORARY PROVISION--EXHAUSTION OF CREDITS.--**

10 A. If a taxpayer has met the eligibility
11 requirements to apply for and claim a credit pursuant to
12 Section 7-2-18.4, 7-2-18.5, 7-2-18.8, 7-2-18.21, 7-2A-8.8 or
13 7-2A-15 NMSA 1978 or a credit pursuant to the Venture Capital
14 Investment Act for a period prior to the effective date of this
15 2018 act, the taxpayer may claim, and the taxation and revenue
16 department may approve, the credit for those periods, including
17 amounts that may be carried forward pursuant to those sections
18 and acts as they were in effect prior to the effective date of
19 this 2018 act.

20 B. If a taxpayer has claimed and been awarded a
21 credit pursuant to Section 7-2-18.4, 7-2-18.5, 7-2-18.8,
22 7-2-18.21, 7-2A-8.8 or 7-2A-15 NMSA 1978 or a credit pursuant
23 to the Venture Capital Investment Act, but a portion of the
24 credit claimed remains unused, the taxpayer may claim the
25 unused portion, including amounts that could have been carried

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1 forward pursuant to those sections and acts as they were in
2 effect prior to the effective date of this 2018 act.

3 SECTION 21. REPEAL.--Sections 7-1-6.55, 7-9-26.1,
4 7-9-54.1, 7-9-57, 7-9-74, 7-9-76, 7-9-76.2, 7-9-79.2, 7-9-86,
5 7-9-91, 7-9-94, 7-9-96, 7-9-97, 7-9-99 through 7-9-102,
6 7-9-103.1, 7-9-103.2, 7-9-105 and 7-9-106 NMSA 1978 (being Laws
7 2007, Chapter 331, Section 4, Laws 2003, Chapter 62, Section 1,
8 Laws 1992, Chapter 40, Section 1, Laws 1969, Chapter 144,
9 Section 47, Laws 1971, Chapter 217, Section 2, Laws 1977,
10 Chapter 288, Section 2, Laws 1984, Chapter 2, Section 6, Laws
11 2007, Chapter 204, Section 9, Laws 1995, Chapter 80, Section 1,
12 Laws 2001, Chapter 135, Section 1, Laws 2005, Chapter 104,
13 Sections 23 and 26, Laws 2005, Chapter 169, Section 1, Laws
14 2006, Chapter 35, Sections 1 and 2, Laws 2007, Chapter 3,
15 Sections 16 and 17, Laws 2012, Chapter 12, Sections 2 and 3,
16 Laws 2007, Chapter 45, Section 6 and Laws 2007, Chapter 172,
17 Section 8, as amended) are repealed.

18 SECTION 22. ADDITIONAL REPEAL.--Sections 7-2-18.4,
19 7-2-18.5, 7-2-18.8, 7-2-18.21, 7-2A-8.8, 7-2A-15, 7-2D-1,
20 7-2D-2 and 7-2D-4 through 7-2D-14 NMSA 1978 (being Laws 1994,
21 Chapter 115, Section 1, Laws 1998, Chapter 97, Section 2, Laws
22 2001, Chapter 73, Section 1, Laws 2007, Chapter 204, Section 7,
23 Laws 1998, Chapter 97, Section 3, Laws 1994, Chapter 115,
24 Section 2, Laws 1993, Chapter 313, Sections 1, 2 and 4 through
25 8, Laws 1995, Chapter 89, Section 8 and Laws 1993, Chapter 313,

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1 Sections 9 through 14, as amended) are repealed.

2 SECTION 23. APPLICABILITY.--The provisions of Section 22
3 of this act apply to taxable years beginning on or after
4 January 1, 2019.

5 SECTION 24. EFFECTIVE DATE.--

6 A. The effective date of the provisions of Sections
7 1 through 21 of this act is July 1, 2018.

8 B. The effective date of the provisions of Section
9 22 of this act is January 1, 2019.

