

REVENUE STABILIZATION AND TAX POLICY COMMITTEE



Legislation Proposed for Endorsement for the 2015 Legislative Session

Bill Drafts Prepared by the Legislative Council Service

Legislative Proposals to the Revenue Stabilization and Tax Policy Committee

December 18-19, 2014

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9	Distributions or Transfers to Municipalities and Counties – NMML Version	.198312.2		
11	Allow Local Governments to Tax Food	.198085.3	NA	
47	Delayed Discontinuation of a County's Obligation to Fund the Safety Net Care Pool Fund	.197929.1		
49	County Treasurer Can Be Authorized to Accept Payments of Delinquent Property Taxes	.197746.2		
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57	Changes to the County IRB Act: Repeal 4-59-19	.198247.1		
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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; EXCLUDING A MUNICIPALITY OR COUNTY FROM THE HOLD HARMLESS DISTRIBUTION REDUCTIONS IF THE MUNICIPALITY OR COUNTY DOES NOT EXPERIENCE CERTAIN INCREASES IN THE GROSS RECEIPTS TAX BASE.

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

SECTION 1. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] EXCEPTION TO THE REDUCTIONS IN HOLD HARMLESS DISTRIBUTIONS TO MUNICIPALITIES AND COUNTIES TO OFFSET THE FOOD AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

A. Notwithstanding the requirements of Section 7-1-6.46 NMSA 1978, a distribution pursuant to that section to a municipality that does not have in effect and has not had in effect a municipal hold harmless gross receipts tax shall not

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1 be reduced if the municipality has experienced an average
2 annual increase in the municipality's gross receipts tax base
3 of less than:

4 (1) one percent beginning on or after July 1,
5 2014; or

6 (2) two percent on or after July 1, 2014 if
7 the poverty rate for the county in which the municipality is
8 located is greater than thirty percent.

9 B. Notwithstanding the requirements of Section
10 7-1-6.47 NMSA 1978, a distribution pursuant to that section to
11 a county that does not have in effect and has not had in effect
12 a county hold harmless gross receipts tax shall not be reduced
13 if the county has experienced an average annual increase in the
14 county's gross receipts tax base of less than:

15 (1) one percent beginning on or after July 1,
16 2014; or

17 (2) two percent on or after July 1, 2014 if
18 the poverty rate for the county is greater than thirty percent.

19 C. As used in this section:

20 (1) "gross receipts tax base" means the gross
21 receipts tax base of a municipality or county, not including
22 receipts that may be deducted pursuant to Sections 7-9-92 or
23 7-9-93 NMSA 1978; and

24 (2) "poverty rate" means the poverty rate for
25 all ages as estimated by the United States census bureau in its

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1 most recent small area income and poverty estimates."

2 SECTION 2. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2015.

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PULLED FROM CONSIDERATION

Distributions and Transfers to Municipalities
and Counties – .198081.6SA & 198312.2

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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; REPLACING A DISTRIBUTION FROM GROSS RECEIPTS TAX TO A MUNICIPALITY WITH AN INCREASED MUNICIPAL GROSS RECEIPTS TAX RATE; ELIMINATING THE HOLD HARMLESS DISTRIBUTIONS TO OFFSET THE FOOD DEDUCTION; CHANGING THE FOOD DEDUCTION TO A CREDIT IN THE AMOUNT OF THE STATE GROSS RECEIPTS TAX; CREATING A CREDIT AGAINST GROSS RECEIPTS FOR MUNICIPAL GROSS RECEIPTS TAX PAID; INCREASING THE THRESHOLD AND AMOUNT OF THE LOW-INCOME COMPREHENSIVE TAX REBATE; DECREASING THE GROSS RECEIPTS TAX RATE AND THE COMPENSATING TAX RATE.

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

SECTION 1. 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 GROSS RECEIPTS TAX.--

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1 A. Except as provided in Subsection B of this
2 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
3 shall be made to each municipality in an amount, subject to any
4 increase or decrease made pursuant to Section 7-1-6.15 NMSA
5 1978, equal to the product of the quotient of one and two
6 hundred twenty-five thousandths percent divided by the tax rate
7 imposed by Section 7-9-4 NMSA 1978 multiplied by the net
8 receipts for the month attributable to the gross receipts tax
9 from business locations:

10 ~~[(1) within that municipality;~~
11 ~~(2)]~~ (1) on land owned by the state, commonly
12 known as the "state fairgrounds", within the exterior
13 boundaries of that municipality;

14 ~~[(3)]~~ (2) outside the boundaries of any
15 municipality on land owned by that municipality; and

16 ~~[(4)]~~ (3) on an Indian reservation or pueblo
17 grant in an area that is contiguous to that municipality and in
18 which the municipality performs services pursuant to a contract
19 between the municipality and the Indian tribe or Indian pueblo
20 if:

21 (a) the contract describes an area in
22 which the municipality is required to perform services and
23 requires the municipality to perform services that are
24 substantially the same as the services the municipality
25 performs for itself; and

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

4 B. If the reduction made by Laws 1991, Chapter 9,
5 Section 9 to the distribution under this section impairs the
6 ability of a municipality to meet its principal or interest
7 payment obligations for revenue bonds outstanding prior to July
8 1, 1991 that are secured by the pledge of all or part of the
9 municipality's revenue from the distribution made under this
10 section, then the amount distributed pursuant to this section
11 to that municipality shall be increased by an amount sufficient
12 to meet any required payment, provided that the distribution
13 amount does not exceed the amount that would have been due that
14 municipality under this section as it was in effect on June 30,
15 1992.

16 C. A distribution pursuant to this section may be
17 adjusted for a distribution made to a tax increment development
18 district with respect to a portion of a gross receipts tax
19 increment dedicated by a municipality pursuant to the Tax
20 Increment for Development Act."

21 SECTION 2. Section 7-1-6.46 NMSA 1978 (being Laws 2004,
22 Chapter 116, Section 1, as amended) is amended to read:

23 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR
24 [~~FOOD DEDUCTION AND~~] HEALTH CARE PRACTITIONER SERVICES
25 DEDUCTION.--

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1 A. For a municipality that does not have in effect
2 and has not [~~elected to impose~~] had in effect a municipal hold
3 harmless gross receipts tax through an ordinance and that has a
4 population of less than ten thousand according to the most
5 recent federal decennial census, a distribution pursuant to
6 Section 7-1-6.1 NMSA 1978 shall be made to [~~the~~] the municipality
7 in an amount, subject to any increase or decrease made pursuant
8 to Section 7-1-6.15 NMSA 1978, equal to [~~the sum of:~~

9 ~~(1) the total deductions claimed pursuant to~~
10 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
11 ~~business locations attributable to the municipality multiplied~~
12 ~~by the sum of the combined rate of all municipal local option~~
13 ~~gross receipts taxes in effect in the municipality for the~~
14 ~~month plus one and two hundred twenty-five thousandths percent;~~
15 ~~and~~

16 ~~(2)]~~ the total deductions claimed pursuant to
17 Section 7-9-93 NMSA 1978 for the month by taxpayers from
18 business locations attributable to the municipality multiplied
19 by [~~the sum of~~] the combined rate of all municipal local option
20 gross receipts taxes in effect in the municipality for the
21 month [~~plus one and two hundred twenty-five thousandths~~
22 ~~percent~~].

23 B. For a municipality [~~not described in Subsection~~
24 ~~A of this section~~] that does not have in effect and has not had
25 in effect a municipal hold harmless gross receipts tax and that

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1 has a population of ten thousand or more according to the most
2 recent federal decennial census, a distribution pursuant to
3 Section 7-1-6.1 NMSA 1978 shall be made to the municipality in
4 an amount, subject to any increase or decrease made pursuant to
5 Section 7-1-6.15 NMSA 1978, equal to ~~[the sum of:~~

6 ~~(1) the total deductions claimed pursuant to~~
7 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
8 ~~business locations attributable to the municipality multiplied~~
9 ~~by the sum of the combined rate of all municipal local option~~
10 ~~gross receipts taxes in effect in the municipality on January~~
11 ~~1, 2007 plus one and two hundred twenty-five thousandths~~
12 ~~percent in the following percentages:~~

13 ~~(a) prior to July 1, 2015, one hundred~~
14 ~~percent;~~

15 ~~(b) on or after July 1, 2015 and prior~~
16 ~~to July 1, 2016, ninety-four percent;~~

17 ~~(c) on or after July 1, 2016 and prior~~
18 ~~to July 1, 2017, eighty-eight percent;~~

19 ~~(d) on or after July 1, 2017 and prior~~
20 ~~to July 1, 2018, eighty-two percent;~~

21 ~~(e) on or after July 1, 2018 and prior~~
22 ~~to July 1, 2019, seventy-six percent;~~

23 ~~(f) on or after July 1, 2019 and prior~~
24 ~~to July 1, 2020, seventy percent;~~

25 ~~(g) on or after July 1, 2020 and prior~~

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1 to July 1, 2021, ~~sixty-three percent;~~

2 ~~(h) on or after July 1, 2021 and prior~~
3 ~~to July 1, 2022, fifty-six percent;~~

4 ~~(i) on or after July 1, 2022 and prior~~
5 ~~to July 1, 2023, forty-nine percent;~~

6 ~~(j) on or after July 1, 2023 and prior~~
7 ~~to July 1, 2024, forty-two percent;~~

8 ~~(k) on or after July 1, 2024 and prior~~
9 ~~to July 1, 2025, thirty-five percent;~~

10 ~~(l) on or after July 1, 2025 and prior~~
11 ~~to July 1, 2026, twenty-eight percent;~~

12 ~~(m) on or after July 1, 2026 and prior~~
13 ~~to July 1, 2027, twenty-one percent;~~

14 ~~(n) on or after July 1, 2027 and prior~~
15 ~~to July 1, 2028, fourteen percent; and~~

16 ~~(o) on or after July 1, 2028 and prior~~
17 ~~to July 1, 2029, seven percent; and~~

18 ~~(2)]~~ the total deductions claimed pursuant to
19 Section 7-9-93 NMSA 1978 for the month by taxpayers from
20 business locations attributable to the municipality multiplied
21 by ~~[the sum of]~~ the combined rate of all municipal local option
22 gross receipts taxes in effect in the municipality on January
23 1, 2007 plus one and two hundred twenty-five thousandths
24 percent in the following percentages:

25 ~~[(a)]~~ (1) prior to July 1, 2015, one hundred
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1 percent;

2 ~~[(b)]~~ (2) on or after July 1, 2015 and prior
3 to July 1, 2016, ninety-four percent;

4 ~~[(c)]~~ (3) on or after July 1, 2016 and prior
5 to July 1, 2017, eighty-eight percent;

6 ~~[(d)]~~ (4) on or after July 1, 2017 and prior
7 to July 1, 2018, eighty-two percent;

8 ~~[(e)]~~ (5) on or after July 1, 2018 and prior
9 to July 1, 2019, seventy-six percent;

10 ~~[(f)]~~ (6) on or after July 1, 2019 and prior
11 to July 1, 2020, seventy percent;

12 ~~[(g)]~~ (7) on or after July 1, 2020 and prior
13 to July 1, 2021, sixty-three percent;

14 ~~[(h)]~~ (8) on or after July 1, 2021 and prior
15 to July 1, 2022, fifty-six percent;

16 ~~[(i)]~~ (9) on or after July 1, 2022 and prior
17 to July 1, 2023, forty-nine percent;

18 ~~[(j)]~~ (10) on or after July 1, 2023 and prior
19 to July 1, 2024, forty-two percent;

20 ~~[(k)]~~ (11) on or after July 1, 2024 and prior
21 to July 1, 2025, thirty-five percent;

22 ~~[(l)]~~ (12) on or after July 1, 2025 and prior
23 to July 1, 2026, twenty-eight percent;

24 ~~[(m)]~~ (13) on or after July 1, 2026 and prior
25 to July 1, 2027, twenty-one percent;

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1 ~~[(n)]~~ (14) on or after July 1, 2027 and prior
2 to July 1, 2028, fourteen percent; ~~[and~~
3 ~~(o)]~~ (15) on or after July 1, 2028 and prior
4 to July 1, 2029, seven percent; and
5 (16) on or after July 1, 2029, zero percent.

6 C. The distribution pursuant to Subsections A and B
7 of this section is in lieu of revenue that would have been
8 received by the municipality but for the ~~[deductions]~~ deduction
9 provided by ~~[Sections 7-9-92 and]~~ Section 7-9-93 NMSA 1978.
10 The distribution shall be considered gross receipts tax revenue
11 and shall be used by the municipality in the same manner as
12 gross receipts tax revenue, including payment of gross receipts
13 tax revenue bonds. ~~[A distribution pursuant to this section to~~
14 ~~a municipality not described in Subsection A of this section or~~
15 ~~to a municipality that has imposed a gross receipts tax through~~
16 ~~an ordinance that does not provide a deduction contained in the~~
17 ~~Gross Receipts and Compensating Tax Act shall not be made on or~~
18 ~~after July 1, 2029.]~~

19 D. If the reductions made by this ~~[2013]~~ 2015 act
20 to the distributions made pursuant to ~~[Subsections A and]~~
21 Subsection B of this section impair the ability of a
22 municipality to meet its principal or interest payment
23 obligations for revenue bonds that are outstanding prior to
24 July 1, 2013 and that are secured by the pledge of all or part
25 of the municipality's revenue from the distribution made

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1 pursuant to this section, then the amount distributed pursuant
2 to this section to that municipality shall be increased by an
3 amount sufficient to meet the required payment; provided that
4 the total amount distributed to that municipality pursuant to
5 this section does not exceed the amount that would have been
6 due that municipality pursuant to this section as it was in
7 effect on June 30, 2013.

8 E. A distribution pursuant to this section may be
9 adjusted for a distribution made to a tax increment development
10 district with respect to a portion of a gross receipts tax
11 increment dedicated by a municipality pursuant to the Tax
12 Increment for Development Act.

13 F. With respect to an H class county, the
14 provisions of this section apply only to distributions of
15 municipal local option gross receipts taxes imposed by the H
16 class county.

17 ~~[E-]~~ G. For the purposes of this section, "business
18 locations attributable to the municipality" means business
19 locations:

- 20 (1) within the municipality;
- 21 (2) on land owned by the state, commonly known
22 as the "state fairgrounds", within the exterior boundaries of
23 the municipality;
- 24 (3) outside the boundaries of the municipality
25 on land owned by the municipality; and

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1 (4) on an Indian reservation or pueblo grant
2 in an area that is contiguous to the municipality and in which
3 the municipality performs services pursuant to a contract
4 between the municipality and the Indian tribe or Indian pueblo
5 if:

6 (a) the contract describes an area in
7 which the municipality is required to perform services and
8 requires the municipality to perform services that are
9 substantially the same as the services the municipality
10 performs for itself; and

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

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

19 SECTION 3. Section 7-1-6.47 NMSA 1978 (being Laws 2004,
20 Chapter 116, Section 2, as amended) is amended to read:

21 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR ~~[FOOD~~
22 ~~DEDUCTION AND]~~ HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

23 A. For a county that does not have in effect and
24 has not ~~[elected to impose]~~ had in effect a county hold
25 harmless gross receipts tax through an ordinance and that has a

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1 population of less than forty-eight thousand according to the
2 most recent federal decennial census, a distribution pursuant
3 to Section 7-1-6.1 NMSA 1978 shall be made to a county in an
4 amount, subject to any increase or decrease made pursuant to
5 Section 7-1-6.15 NMSA 1978, equal to the sum of:

6 ~~[(1) the total deductions claimed pursuant to~~
7 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
8 ~~business locations within a municipality in the county~~
9 ~~multiplied by the combined rate of all county local option~~
10 ~~gross receipts taxes in effect for the month that are imposed~~
11 ~~throughout the county;~~

12 ~~(2) the total deductions claimed pursuant to~~
13 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
14 ~~business locations in the county but not within a municipality~~
15 ~~multiplied by the combined rate of all county local option~~
16 ~~gross receipts taxes in effect for the month that are imposed~~
17 ~~in the county area not within a municipality;~~

18 ~~(3)]~~ (1) the total deductions claimed pursuant
19 to Section 7-9-93 NMSA 1978 for the month by taxpayers from
20 business locations within a municipality in the county
21 multiplied by the combined rate of all county local option
22 gross receipts taxes in effect for the month that are imposed
23 throughout the county; and

24 ~~[(4)]~~ (2) the total deductions claimed
25 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers

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1 from business locations in the county but not within a
2 municipality multiplied by the combined rate of all county
3 local option gross receipts taxes in effect for the month that
4 are imposed in the county area not within a municipality.

5 B. For a county ~~[not described in Subsection A of~~
6 ~~this section]~~ that does not have in effect and has not had in
7 effect a county hold harmless gross receipts tax and that has a
8 population of forty-eight thousand or more according to the
9 most recent federal decennial census, a distribution pursuant
10 to Section 7-1-6.1 NMSA 1978 shall be made to the county in an
11 amount, subject to any increase or decrease made pursuant to
12 Section 7-1-6.15 NMSA 1978, equal to the sum of:

13 ~~[(1) the total deductions claimed pursuant to~~
14 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
15 ~~business locations within a municipality in the county~~
16 ~~multiplied by the combined rate of all county local option~~
17 ~~gross receipts taxes in effect on January 1, 2007 that are~~
18 ~~imposed throughout the county in the following percentages:~~

19 (a) ~~prior to July 1, 2015, one hundred~~
20 ~~percent;~~

21 (b) ~~on or after July 1, 2015 and prior~~
22 ~~to July 1, 2016, ninety-four percent;~~

23 (c) ~~on or after July 1, 2016 and prior~~
24 ~~to July 1, 2017, eighty-eight percent;~~

25 (d) ~~on or after July 1, 2017 and prior~~

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1 ~~to July 1, 2018, eighty-two percent;~~

2 ~~(e) on or after July 1, 2018 and prior~~
3 ~~to July 1, 2019, seventy-six percent;~~

4 ~~(f) on or after July 1, 2019 and prior~~
5 ~~to July 1, 2020, seventy percent;~~

6 ~~(g) on or after July 1, 2020 and prior~~
7 ~~to July 1, 2021, sixty-three percent;~~

8 ~~(h) on or after July 1, 2021 and prior~~
9 ~~to July 1, 2022, fifty-six percent;~~

10 ~~(i) on or after July 1, 2022 and prior~~
11 ~~to July 1, 2023, forty-nine percent;~~

12 ~~(j) on or after July 1, 2023 and prior~~
13 ~~to July 1, 2024, forty-two percent;~~

14 ~~(k) on or after July 1, 2024 and prior~~
15 ~~to July 1, 2025, thirty-five percent;~~

16 ~~(l) on or after July 1, 2025 and prior~~
17 ~~to July 1, 2026, twenty-eight percent;~~

18 ~~(m) on or after July 1, 2026 and prior~~
19 ~~to July 1, 2027, twenty-one percent;~~

20 ~~(n) on or after July 1, 2027 and prior~~
21 ~~to July 1, 2028, fourteen percent; and~~

22 ~~(o) on or after July 1, 2028 and prior~~
23 ~~to July 1, 2029, seven percent;~~

24 ~~(2) the total deductions claimed pursuant to~~
25 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~

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1 ~~business locations in the county but not within a municipality~~
2 ~~multiplied by the combined rate of all county local option~~
3 ~~gross receipts taxes in effect on January 1, 2007 that are~~
4 ~~imposed in the county area not within a municipality in the~~
5 ~~following percentages:~~

6 ~~(a) prior to July 1, 2015, one hundred~~
7 ~~percent;~~

8 ~~(b) on or after July 1, 2015 and prior~~
9 ~~to July 1, 2016, ninety-four percent;~~

10 ~~(c) on or after July 1, 2016 and prior~~
11 ~~to July 1, 2017, eighty-eight percent;~~

12 ~~(d) on or after July 1, 2017 and prior~~
13 ~~to July 1, 2018, eighty-two percent;~~

14 ~~(e) on or after July 1, 2018 and prior~~
15 ~~to July 1, 2019, seventy-six percent;~~

16 ~~(f) on or after July 1, 2019 and prior~~
17 ~~to July 1, 2020, seventy percent;~~

18 ~~(g) on or after July 1, 2020 and prior~~
19 ~~to July 1, 2021, sixty-three percent;~~

20 ~~(h) on or after July 1, 2021 and prior~~
21 ~~to July 1, 2022, fifty-six percent;~~

22 ~~(i) on or after July 1, 2022 and prior~~
23 ~~to July 1, 2023, forty-nine percent;~~

24 ~~(j) on or after July 1, 2023 and prior~~
25 ~~to July 1, 2024, forty-two percent;~~

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1 ~~(k) on or after July 1, 2024 and prior~~
2 ~~to July 1, 2025, thirty-five percent;~~

3 ~~(l) on or after July 1, 2025 and prior~~
4 ~~to July 1, 2026, twenty-eight percent;~~

5 ~~(m) on or after July 1, 2026 and prior~~
6 ~~to July 1, 2027, twenty-one percent;~~

7 ~~(n) on or after July 1, 2027 and prior~~
8 ~~to July 1, 2028, fourteen percent; and~~

9 ~~(o) on or after July 1, 2028 and prior~~
10 ~~to July 1, 2029, seven percent;~~

11 ~~(3)]~~ (1) the total deductions claimed pursuant
12 to Section 7-9-93 NMSA 1978 for the month by taxpayers from
13 business locations within a municipality in the county
14 multiplied by the combined rate of all county local option
15 gross receipts taxes in effect on January 1, 2007 that are
16 imposed throughout the county in the following percentages:

17 (a) prior to July 1, 2015, one hundred
18 percent;

19 (b) on or after July 1, 2015 and prior
20 to July 1, 2016, ninety-four percent;

21 (c) on or after July 1, 2016 and prior
22 to July 1, 2017, eighty-eight percent;

23 (d) on or after July 1, 2017 and prior
24 to July 1, 2018, eighty-two percent;

25 (e) on or after July 1, 2018 and prior

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1 to July 1, 2019, seventy-six percent;

2 (f) on or after July 1, 2019 and prior
3 to July 1, 2020, seventy percent;

4 (g) on or after July 1, 2020 and prior
5 to July 1, 2021, sixty-three percent;

6 (h) on or after July 1, 2021 and prior
7 to July 1, 2022, fifty-six percent;

8 (i) on or after July 1, 2022 and prior
9 to July 1, 2023, forty-nine percent;

10 (j) on or after July 1, 2023 and prior
11 to July 1, 2024, forty-two percent;

12 (k) on or after July 1, 2024 and prior
13 to July 1, 2025, thirty-five percent;

14 (l) on or after July 1, 2025 and prior
15 to July 1, 2026, twenty-eight percent;

16 (m) on or after July 1, 2026 and prior
17 to July 1, 2027, twenty-one percent;

18 (n) on or after July 1, 2027 and prior
19 to July 1, 2028, fourteen percent; ~~and~~

20 (o) on or after July 1, 2028 and prior
21 to July 1, 2029, seven percent; and

22 (p) on or after July 1, 2029, zero
23 percent; and

24 [~~4~~] (2) the total deductions claimed
25 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers

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1 from business locations in the county but not within a
2 municipality multiplied by the combined rate of all county
3 local option gross receipts taxes in effect on January 1, 2007
4 that are imposed in the county area not within a municipality
5 in the following percentages:

6 (a) prior to July 1, 2015, one hundred
7 percent;

8 (b) on or after July 1, 2015 and prior
9 to July 1, 2016, ninety-four percent;

10 (c) on or after July 1, 2016 and prior
11 to July 1, 2017, eighty-eight percent;

12 (d) on or after July 1, 2017 and prior
13 to July 1, 2018, eighty-two percent;

14 (e) on or after July 1, 2018 and prior
15 to July 1, 2019, seventy-six percent;

16 (f) on or after July 1, 2019 and prior
17 to July 1, 2020, seventy percent;

18 (g) on or after July 1, 2020 and prior
19 to July 1, 2021, sixty-three percent;

20 (h) on or after July 1, 2021 and prior
21 to July 1, 2022, fifty-six percent;

22 (i) on or after July 1, 2022 and prior
23 to July 1, 2023, forty-nine percent;

24 (j) on or after July 1, 2023 and prior
25 to July 1, 2024, forty-two percent;

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1 (k) on or after July 1, 2024 and prior
2 to July 1, 2025, thirty-five percent;

3 (l) on or after July 1, 2025 and prior
4 to July 1, 2026, twenty-eight percent;

5 (m) on or after July 1, 2026 and prior
6 to July 1, 2027, twenty-one percent;

7 (n) on or after July 1, 2027 and prior
8 to July 1, 2028, fourteen percent; ~~and~~

9 (o) on or after July 1, 2028 and prior
10 to July 1, 2029, seven percent; and

11 (p) on or after July 1, 2029, zero
12 percent.

13 C. The distribution pursuant to Subsections A and B
14 of this section is in lieu of revenue that would have been
15 received by the county but for the deductions provided by
16 ~~[Sections 7-9-92 and]~~ Section 7-9-93 NMSA 1978. The
17 distribution shall be considered gross receipts tax revenue and
18 shall be used by the county in the same manner as gross
19 receipts tax revenue, including payment of gross receipts tax
20 revenue bonds. ~~[A distribution pursuant to this section to a~~
21 ~~county not described in Subsection A of this section or to a~~
22 ~~county that has imposed a gross receipts tax through an~~
23 ~~ordinance that does not provide a deduction contained in the~~
24 ~~Gross Receipts and Compensating Tax Act shall not be made on or~~
25 ~~after July 1, 2029.]~~

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1 D. If the reductions made by this ~~[2013]~~ 2015 act
2 to the distributions made pursuant to ~~[Subsections A and]~~
3 Subsection B of this section impair the ability of a county to
4 meet its principal or interest payment obligations for revenue
5 bonds that are outstanding prior to July 1, 2013 and that are
6 secured by the pledge of all or part of the county's revenue
7 from the distribution made pursuant to this section, then the
8 amount distributed pursuant to this section to that county
9 shall be increased by an amount sufficient to meet the required
10 payment; provided that the total amount distributed to that
11 county pursuant to this section does not exceed the amount that
12 would have been due that county pursuant to this section as it
13 was in effect on June 30, 2013.

14 E. A distribution pursuant to this section may be
15 adjusted for a distribution made to a tax increment development
16 district with respect to a portion of a gross receipts tax
17 increment dedicated by a county pursuant to the Tax Increment
18 for Development Act.

19 F. With respect to an H class county, the
20 provisions of this section apply only to distributions of
21 county local option gross receipts taxes imposed by the H class
22 county."

23 SECTION 4. Section 7-2-14 NMSA 1978 (being Laws 1972,
24 Chapter 20, Section 2, as amended) is amended to read:

25 "7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE.--

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

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

18 C. For the purposes of this section, the total
19 number of exemptions for which a tax rebate may be claimed or
20 allowed is determined by adding the number of federal
21 exemptions allowable for federal income tax purposes for each
22 individual included in the return who is domiciled in New
23 Mexico plus two additional exemptions for each individual
24 domiciled in New Mexico included in the return who is sixty-
25 five years of age or older plus one additional exemption for

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1 each individual domiciled in New Mexico included in the return
 2 who, for federal income tax purposes, is blind plus one
 3 exemption for each minor child or stepchild of the resident who
 4 would be a dependent for federal income tax purposes if the
 5 public assistance contributing to the support of the child or
 6 stepchild was considered to have been contributed by the
 7 resident.

8 D. The tax rebate provided for in this section may
 9 be claimed in the amount shown in the following table:

10	Modified gross		And the total number					
11	income is:		of exemptions is:					
12		But Not						6 or
13	Over	Over	1	2	3	4	5	More
14	[\$ 0	\$ 500	\$ 120	\$ 160	\$ 200	\$ 240	\$ 280	\$ 320
15	500	1,000	135	195	250	310	350	415
16	1,000	1,500	135	195	250	310	350	435
17	1,500	2,000	135	195	250	310	350	450
18	2,000	2,500	135	195	250	310	350	450
19	2,500	3,000	135	195	250	310	350	450
20	3,000	3,500	135	195	250	310	350	450
21	3,500	4,000	135	195	250	310	355	450
22	4,000	4,500	135	195	250	310	355	450
23	4,500	5,000	125	190	240	305	355	450
24	5,000	5,500	115	175	230	295	355	430
25	5,500	6,000	105	155	210	260	315	410

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1	6,000	7,000	90	130	170	220	275	370
2	7,000	8,000	80	115	145	180	225	295
3	8,000	9,000	70	105	135	170	195	240
4	9,000	10,000	65	95	115	145	175	205
5	10,000	11,000	60	80	100	130	155	185
6	11,000	12,000	55	70	90	110	135	160
7	12,000	13,000	50	65	85	100	115	140
8	13,000	14,000	50	65	85	100	115	140
9	14,000	15,000	45	60	75	90	105	120
10	15,000	16,000	40	55	70	85	95	110
11	16,000	17,000	35	50	65	80	85	105
12	17,000	18,000	30	45	60	70	80	95
13	18,000	19,000	25	35	50	60	70	80
14	19,000	20,000	20	30	40	50	60	65
15	20,000	21,000	15	25	30	40	50	55
16	21,000	22,000	10	20	25	35	40	45]
17	<u>\$ 0</u>	<u>\$ 4,000</u>	<u>\$ 165</u>	<u>\$ 255</u>	<u>\$ 340</u>	<u>\$ 430</u>	<u>\$ 505</u>	<u>\$ 630</u>
18	<u>4,000</u>	<u>5,000</u>	<u>155</u>	<u>250</u>	<u>330</u>	<u>425</u>	<u>505</u>	<u>630</u>
19	<u>5,000</u>	<u>6,000</u>	<u>135</u>	<u>215</u>	<u>300</u>	<u>380</u>	<u>465</u>	<u>590</u>
20	<u>6,000</u>	<u>7,000</u>	<u>120</u>	<u>190</u>	<u>260</u>	<u>340</u>	<u>425</u>	<u>550</u>
21	<u>7,000</u>	<u>8,000</u>	<u>110</u>	<u>175</u>	<u>235</u>	<u>300</u>	<u>375</u>	<u>475</u>
22	<u>8,000</u>	<u>9,000</u>	<u>100</u>	<u>165</u>	<u>225</u>	<u>290</u>	<u>345</u>	<u>420</u>
23	<u>9,000</u>	<u>10,000</u>	<u>95</u>	<u>155</u>	<u>205</u>	<u>300</u>	<u>325</u>	<u>385</u>
24	<u>10,000</u>	<u>11,000</u>	<u>90</u>	<u>140</u>	<u>190</u>	<u>250</u>	<u>300</u>	<u>360</u>
25	<u>11,000</u>	<u>12,000</u>	<u>85</u>	<u>130</u>	<u>180</u>	<u>220</u>	<u>270</u>	<u>320</u>

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1	<u>12,000</u>	<u>13,000</u>	<u>80</u>	<u>125</u>	<u>170</u>	<u>200</u>	<u>240</u>	<u>290</u>
2	<u>13,000</u>	<u>14,000</u>	<u>80</u>	<u>125</u>	<u>170</u>	<u>200</u>	<u>230</u>	<u>270</u>
3	<u>14,000</u>	<u>15,000</u>	<u>75</u>	<u>120</u>	<u>150</u>	<u>180</u>	<u>210</u>	<u>240</u>
4	<u>15,000</u>	<u>16,000</u>	<u>70</u>	<u>110</u>	<u>140</u>	<u>170</u>	<u>190</u>	<u>225</u>
5	<u>16,000</u>	<u>17,000</u>	<u>65</u>	<u>100</u>	<u>130</u>	<u>160</u>	<u>170</u>	<u>205</u>
6	<u>17,000</u>	<u>18,000</u>	<u>60</u>	<u>90</u>	<u>120</u>	<u>140</u>	<u>160</u>	<u>190</u>
7	<u>18,000</u>	<u>19,000</u>	<u>50</u>	<u>70</u>	<u>100</u>	<u>120</u>	<u>140</u>	<u>160</u>
8	<u>19,000</u>	<u>20,000</u>	<u>40</u>	<u>60</u>	<u>80</u>	<u>100</u>	<u>120</u>	<u>135</u>
9	<u>20,000</u>	<u>21,000</u>	<u>30</u>	<u>50</u>	<u>60</u>	<u>80</u>	<u>100</u>	<u>110</u>
10	<u>21,000</u>	<u>22,000</u>	<u>20</u>	<u>40</u>	<u>50</u>	<u>70</u>	<u>80</u>	<u>90</u>
11	<u>22,000</u>	<u>23,000</u>	<u>0</u>	<u>20</u>	<u>25</u>	<u>35</u>	<u>40</u>	<u>60.</u>

12 E. If a taxpayer's modified gross income is zero,
13 the taxpayer may claim a credit in the amount shown in the
14 first row of the table appropriate for the taxpayer's number of
15 exemptions.

16 F. The tax rebates provided for in this section may
17 be deducted from the taxpayer's New Mexico income tax liability
18 for the taxable year. If the tax rebates exceed the taxpayer's
19 income tax liability, the excess shall be refunded to the
20 taxpayer.

21 G. For purposes of this section, "dependent" means
22 "dependent" as defined by Section 152 of the Internal Revenue
23 Code of 1986, as that section may be amended or renumbered, but
24 also includes any minor child or stepchild of the resident who
25 would be a dependent for federal income tax purposes if the

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1 public assistance contributing to the support of the child or
2 stepchild was considered to have been contributed by the
3 resident."

4 SECTION 5. Section 7-9-4 NMSA 1978 (being Laws 1966,
5 Chapter 47, Section 4, as amended) is amended to read:

6 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS
7 "GROSS RECEIPTS TAX".--

8 A. For the privilege of engaging in business, an
9 excise tax equal to five [~~and one-eighth~~] percent of gross
10 receipts is imposed on any person engaging in business in New
11 Mexico.

12 B. The tax imposed by this section shall be
13 referred to as the "gross receipts tax".

14 SECTION 6. Section 7-9-7 NMSA 1978 (being Laws 1966,
15 Chapter 47, Section 7, as amended) is amended to read:

16 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
17 "COMPENSATING TAX".--

18 A. For the privilege of using tangible property in
19 New Mexico, there is imposed on the person using the property
20 an excise tax equal to five [~~and one-eighth~~] percent of the
21 value of tangible property that was:

22 (1) manufactured by the person using the
23 property in the state;

24 (2) acquired inside or outside of this state
25 as the result of a transaction with a person located outside

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1 this state that would have been subject to the gross receipts
2 tax had the tangible personal property been acquired from a
3 person with nexus with New Mexico; or

4 (3) acquired as the result of a transaction
5 that was not initially subject to the compensating tax imposed
6 by Paragraph (2) of this subsection or the gross receipts tax
7 but which transaction, because of the buyer's subsequent use of
8 the property, should have been subject to the compensating tax
9 imposed by Paragraph (2) of this subsection or the gross
10 receipts tax.

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

18 C. For the privilege of using services rendered in
19 New Mexico, there is imposed on the person using such services
20 an excise tax equal to five percent of the value of the
21 services at the time they were rendered. The services, to be
22 taxable under this subsection, must have been rendered as the
23 result of a transaction that was not initially subject to the
24 gross receipts tax but which transaction, because of the
25 buyer's subsequent use of the services, should have been

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1 subject to the gross receipts tax.

2 D. The tax imposed by this section shall be
3 referred to as the "compensating tax"."

4 SECTION 7. Section 7-9-92 NMSA 1978 (being Laws 2004,
5 Chapter 116, Section 5) is amended to read:

6 "7-9-92. ~~[DEDUCTION]~~ CREDIT--GROSS RECEIPTS--SALE OF FOOD
7 AT RETAIL FOOD STORE.--

8 A. A credit may be claimed with respect to receipts
9 from the sale of food at a retail food store that are not
10 exempt from gross receipts taxation and are not deductible
11 pursuant to another provision of the Gross Receipts and
12 Compensating Tax Act ~~[may be deducted from gross receipts. The~~
13 ~~deduction provided by this section shall be separately stated~~
14 ~~by the taxpayer]~~. The amount of credit shall equal the gross
15 receipts from the sale of food at a retail food store that are
16 not otherwise exempt or deductible multiplied by:

17 (1) the difference between the gross receipts
18 tax rate less the rate of one and two hundred twenty-five
19 thousandths percent for receipts of any person engaging in
20 business within a municipality; and

21 (2) the gross receipts tax rate for receipts
22 of any person engaging in business outside a municipality.

23 B. For the purposes of this section:

24 (1) "food" means any food or food product for
25 home consumption that meets the definition of food in 7 USCA

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1 2012[~~(g)~~](k)(1) for purposes of the federal [~~food stamp~~]
2 supplemental nutrition assistance program; and

3 (2) "retail food store" means an establishment
4 that sells food for home preparation and consumption and that
5 meets the definition of retail food store in 7 USCA

6 2012[~~(k)~~](o)(1) for purposes of the federal [~~food stamp~~]
7 supplemental nutrition assistance program, whether or not the
8 establishment participates in the [~~food stamp~~] supplemental
9 nutrition assistance program."

10 SECTION 8. A new section of the Gross Receipts and
11 Compensating Tax Act is enacted to read:

12 "[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--MUNICIPAL
13 GROSS RECEIPTS TAX PAID.--A credit shall be allowed for each
14 reporting period against a taxpayer's gross receipts tax
15 liabilities for an amount of municipal gross receipts tax the
16 taxpayer is liable for the reporting period. The credit shall
17 equal the product of the taxable gross receipts reported from
18 the taxpayer within a municipality for the period multiplied by
19 the rate of municipal gross receipts tax imposed by the
20 municipality in effect for the period pursuant to Subsection C
21 of Section 7-19D-9 NMSA 1978."

22 SECTION 9. Section 7-19D-7 NMSA 1978 (being Laws 1993,
23 Chapter 346, Section 7, as amended) is amended to read:

24 "7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF
25 PROCEEDS--DEDUCTIONS.--

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1 A. The department shall collect each tax imposed
2 pursuant to the provisions of the Municipal Local Option Gross
3 Receipts Taxes Act in the same manner and at the same time it
4 collects the state gross receipts tax.

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

16 C. With respect to the municipal gross receipts tax
17 imposed by a municipality pursuant to Section 7-19D-9 NMSA
18 1978, the department shall withhold the administrative fee
19 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978
20 only on that portion of the municipal gross receipts tax
21 arising from a municipal gross receipts tax rate in excess of
22 [~~one-half of one~~] one and seven hundred twenty-five thousandths
23 percent."

24 SECTION 10. Section 7-19D-9 NMSA 1978 (being Laws 1978,
25 Chapter 151, Section 1, as amended) is amended to read:

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1 "7-19D-9. MUNICIPAL GROSS RECEIPTS TAX--AUTHORITY TO
2 IMPOSE RATE.--

3 A. The majority of the members of the governing
4 body of any municipality may impose by ordinance an excise tax
5 not to exceed a rate of [~~one and one-half~~] two and seven
6 hundred twenty-five thousandths percent of the gross receipts
7 of any person engaging in business in the municipality for the
8 privilege of engaging in business in the municipality. The tax
9 imposed pursuant to this section may be referred to as the
10 "municipal gross receipts tax".

11 B. A portion of the tax imposed pursuant to this
12 section shall be imposed by the enactment of one or more
13 ordinances, each imposing any number of municipal gross
14 receipts tax rate increments, but the total municipal gross
15 receipts tax rate imposed by all ordinances pursuant to this
16 subsection shall not exceed an aggregate rate of one and one-
17 half percent of the gross receipts of a person engaging in
18 business. Municipalities may impose increments of one-eighth
19 of one percent.

20 [~~B. The tax imposed pursuant to Subsection A of~~
21 ~~this section may be referred to as the "municipal gross~~
22 ~~receipts tax".]~~

23 C. In addition to the tax rate increments that may
24 be imposed pursuant to Subsection B of this section, there is
25 imposed a tax rate of one and two hundred twenty-five

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1 thousandths percent of the gross receipts of any person
2 engaging in business in a municipality. The revenue from the
3 tax rate imposed pursuant to this subsection is dedicated to
4 the payment of any outstanding bonds issued by the municipality
5 to the extent that the municipality by ordinance pledged the
6 revenue received from a distribution pursuant to Section
7 7-1-6.4 NMSA 1978 to the repayment of such bonds, until such
8 time as the bonds are discharged in full or provision has been
9 fully made therefor. If a municipality by ordinance dedicated
10 revenue received from a distribution pursuant to Section
11 7-1-6.4 NMSA 1978 to a purpose other than repayment of bonds,
12 the revenue from the tax rate imposed by this subsection is
13 subject to such dedication; provided that the municipality may
14 change the dedication at any time. If, as of July 1, 2015,
15 revenue received from a distribution pursuant to Section
16 7-1-6.4 NMSA 1978 is not dedicated to the repayment of bonds or
17 for any other purpose, the revenue may be used for general
18 purposes.

19 ~~[G-]~~ D. The governing body of a municipality may,
20 at the time of enacting an ordinance imposing the tax rate
21 increment authorized in Subsection ~~[A]~~ B of this section,
22 dedicate the revenue for a specific purpose or area of
23 municipal government services, including but not limited to
24 police protection, fire protection, public transportation or
25 street repair and maintenance. If the governing body proposes

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1 to dedicate such revenue, the ordinance and, if any election is
2 held, the ballot shall clearly state the purpose to which the
3 revenue will be dedicated, and any revenue so dedicated shall
4 be used by the municipality for that purpose unless a
5 subsequent ordinance is adopted to change the purpose to which
6 dedicated or to place the revenue in the general fund of the
7 municipality.

8 ~~[D-]~~ E. An election shall be called on the
9 questions of disapproval or approval of any ordinance enacted
10 pursuant to Subsection ~~[A]~~ B of this section or any ordinance
11 amending such ordinance:

12 (1) if the governing body chooses to provide
13 in the ordinance that it shall not be effective until the
14 ordinance is approved by the majority of the registered voters
15 voting on the question at an election to be held pursuant to
16 the provisions of a home-rule charter or on a date set by the
17 governing body and pursuant to the provisions of the Municipal
18 Election Code governing special elections; or

19 (2) if the ordinance does not contain a
20 mandatory election provision as provided in Paragraph (1) of
21 this subsection, upon the filing of a petition requesting such
22 an election if the petition is filed:

23 (a) pursuant to the requirements of a
24 referendum provision contained in a municipal home-rule charter
25 and signed by the number of registered voters in the

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1 municipality equal to the number of registered voters required
2 in its charter to seek a referendum; or

3 (b) in all other municipalities, with
4 the municipal clerk within thirty days after the adoption of
5 such ordinance and the petition has been signed by a number of
6 registered voters in the municipality equal to at least five
7 percent of the number of the voters in the municipality who
8 were registered to vote in the most recent regular municipal
9 election.

10 [~~E~~] F. The signatures on the petition filed in
11 accordance with Subsection [~~D~~] E of this section shall be
12 verified by the municipal clerk. If the petition is verified
13 by the municipal clerk as containing the required number of
14 signatures of registered voters, the governing body shall adopt
15 an election resolution calling for the holding of a special
16 election on the question of approving or disapproving the
17 ordinance unless the ordinance is repealed before the adoption
18 of the election resolution. An election held pursuant to
19 Subparagraph (a) or (b) of Paragraph (2) of Subsection [~~D~~] E of
20 this section shall be called, conducted and canvassed as
21 provided in the Municipal Election Code for special elections,
22 and the election shall be held within seventy-five days after
23 the date the petition is verified by the municipal clerk or it
24 may be held in conjunction with a regular municipal election if
25 such election occurs within seventy-five days after the date of

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1 verification by the municipal clerk.

2 ~~[F-]~~ G. If at an election called pursuant to
3 Subsection ~~[D]~~ E of this section a majority of the registered
4 voters voting on the question approves the ordinance imposing
5 the tax, the ordinance shall become effective in accordance
6 with the provisions of the Municipal Local Option Gross
7 Receipts Taxes Act. If at such an election a majority of the
8 registered voters voting on the question disapproves the
9 ordinance, the ordinance imposing the tax shall be deemed
10 repealed and the question of imposing any increment of the
11 municipal gross receipts tax authorized in this section shall
12 not be considered again by the governing body for a period of
13 one year from the date of the election.

14 ~~[G-]~~ H. Any municipality that, ~~[has]~~ prior to July
15 1, 1996, lawfully imposed by the requirements of the Special
16 Municipal Gross Receipts Tax Act a rate of at least one-fourth
17 of one percent shall be deemed to have imposed one-fourth of
18 one percent municipal gross receipts tax pursuant to this
19 section. Any rate of tax deemed to be imposed pursuant to this
20 subsection shall continue to be dedicated to the payment of
21 outstanding bonds issued by the municipality that pledged the
22 tax revenues by ordinance until such time as the bonds are
23 fully paid. A municipality may by ordinance change the purpose
24 for any rate of tax deemed to be imposed at any time the
25 revenues are not committed to payment of bonds.

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1 [~~H-~~] I. Any law that imposes or authorizes the
2 imposition of a municipal gross receipts tax or that affects
3 the municipal gross receipts tax, or any law supplemental
4 thereto or otherwise appertaining thereto, shall not be
5 repealed or amended or otherwise directly or indirectly
6 modified in such a manner as to impair adversely any
7 outstanding revenue bonds that may be secured by a pledge of
8 such municipal gross receipts tax unless such outstanding
9 revenue bonds have been discharged in full or provision has
10 been fully made therefor."

11 **SECTION 11. TEMPORARY PROVISION--OUTSTANDING REVENUE**
12 **BONDS SECURED BY MUNICIPAL OR COUNTY HOLD HARMLESS GROSS**
13 **RECEIPTS TAX.--**If an ordinance imposing tax pursuant to Section
14 7-19D-18 or 7-20E-28 NMSA 1978, as those sections were in
15 effect prior to July 1, 2015, is in effect on July 1, 2015
16 and revenue from the tax secures repayment of outstanding
17 bonded indebtedness, the ordinance enacting the tax shall
18 continue in effect until the debt is repaid or is otherwise
19 discharged or the tax expires or is repealed by the body that
20 enacted it; provided that no such tax may be extended beyond
21 the term provided in the ordinance in effect on the effective
22 date of this section.

23 **SECTION 12. REPEAL.--**Sections 7-19D-18 and 7-20E-28 NMSA
24 1978 (being Laws 2013, Chapter 160, Sections 11 and 12) are
25 repealed.

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1 SECTION 13. APPLICABILITY.--

2 A. The provisions of Sections 1 through 3 of this
3 act apply to net receipts with respect to reporting periods
4 beginning on or after July 1, 2015.

5 B. The provisions of Section 4 of this act apply to
6 taxable years beginning on or after January 1, 2015.

7 SECTION 14. EFFECTIVE DATE.--

8 A. The effective date of the provisions of Sections
9 1 through 3 of this act is August 1, 2015.

10 B. The effective date of the provisions of Sections
11 5 through 12 of this act is July 1, 2015.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; DISCONTINUING A COUNTY'S OBLIGATION TO DEDICATE AN AMOUNT EQUAL TO A GROSS RECEIPTS TAX RATE OF ONE-TWELFTH PERCENT TO THE SAFETY NET CARE POOL FUND AFTER DECEMBER 31, 2018.

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

SECTION 1. Section 27-5-6.2 NMSA 1978 (being Laws 2014, Chapter 79, Section 16) is amended to read:

"27-5-6.2. TRANSFER TO SAFETY NET CARE POOL FUND.--

A. A county shall, by ordinance to be effective July 1, 2014 through December 31, 2018, dedicate to the safety net care pool fund an amount equal to a gross receipts tax rate of one-twelfth percent applied to the taxable gross receipts reported during the prior fiscal year by persons engaging in business in the county. For purposes of this subsection, a

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1 county may use public funds from any existing authorized
2 revenue source of the county.

3 B. A county enacting an ordinance pursuant to
4 Subsection A of this section shall transfer to the safety net
5 care pool fund by the last day of March, June, September and
6 December of each year through December 31, 2018 an amount equal
7 to one-fourth of the county's payment to the safety net care
8 pool fund."

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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PROPERTY TAXATION; CLARIFYING THAT THE TAXATION AND REVENUE DEPARTMENT'S AUTHORIZATION OF A COUNTY TREASURER TO ACCEPT PAYMENTS RELATED TO DELINQUENT PROPERTY TAXES INCLUDES PAYMENTS PURSUANT TO AN INSTALLMENT AGREEMENT.

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

SECTION 1. Section 7-38-62 NMSA 1978 (being Laws 1973, Chapter 258, Section 102, as amended) is amended to read:

"7-38-62. AUTHORITY OF DEPARTMENT TO COLLECT DELINQUENT PROPERTY TAXES AFTER RECEIPT OF TAX DELINQUENCY LIST--ALLOWING AN AUTHORIZED COUNTY TREASURER TO ACT AS AN AGENT OF THE DEPARTMENT--USE OF PENALTIES, INTEREST AND COSTS.--

A. After the receipt of the tax delinquency list, the department has the responsibility and exclusive authority to take all action necessary to collect delinquent taxes shown

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1 on the list. This authority includes bringing collection
2 actions in the district courts based upon the personal
3 liability of the property owner for taxes as well as the
4 actions authorized in the Property Tax Code for proceeding
5 against the property subject to the tax for collection of
6 delinquent taxes.

7 B. Payment of delinquent taxes listed and any
8 penalty, interest or costs due in connection with those taxes
9 shall be made to the department if occurring after the receipt
10 by the department of the tax delinquency list; however, the
11 department may authorize county treasurers to act as its agents
12 in accepting payments of taxes, penalties, interest or costs
13 due to the department, including payments made pursuant to an
14 installment agreement authorized by Section 7-38-68 NMSA 1978.

15 C. Penalties, interest and costs due received by
16 the department [~~under~~] pursuant to Subsection B of this section
17 shall be retained by the department for use, subject to
18 appropriation by the legislature, in the administration of the
19 Property Tax Code."

20 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
21 provisions of this act is July 1, 2015.

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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; DESIGNATING AUTHORITY TO MAKE CERTAIN
CHANGES IN THE PROPERTY TAX SCHEDULE; EXPANDING THE GROUNDS FOR
WHICH A PROPERTY OWNER MAY REQUEST A CHANGE TO THE PROPERTY TAX
SCHEDULE.

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

SECTION 1. Section 7-38-77 NMSA 1978 (being Laws 1973,
Chapter 258, Section 117, as amended) is amended to read:

"7-38-77. AUTHORITY TO MAKE CHANGES IN PROPERTY TAX
SCHEDULE AFTER ITS DELIVERY TO THE COUNTY TREASURER.--

A. After delivery of the property tax schedule to
the county treasurer, the amounts shown on the schedule as
taxes due and other information on the schedule shall not be
changed except:

~~[A.]~~ (1) by the county treasurer to correct

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1 obvious [~~clerical~~] errors in
2 [~~(1)~~] ~~the name or address of the property owner~~
3 ~~or other persons shown on the schedule;~~
4 [~~(2)~~] ~~the description of the property subject to~~
5 ~~property taxation; or~~
6 [~~(3)~~] the mathematical computation of taxes;
7 (2) by the county treasurer to correct obvious
8 errors by the county assessor in:
9 (a) the name or address of the property
10 owner or other persons shown on the schedule;
11 (b) the description of the property
12 subject to property taxation, even if the correction results in
13 a change in the amount shown on the schedule as taxes due;
14 (c) the data entry of the value of
15 property subject to property taxation by the county assessor;
16 or
17 (d) the application of eligible and
18 qualified exemptions;
19 [~~B-~~] (3) by the county treasurer to cancel
20 multiple valuations for property taxation purposes of the same
21 property in a single tax year, but only if:
22 [~~(1)~~] (a) a taxpayer presents tax
23 receipts showing the payment of taxes by [~~him~~] the taxpayer for
24 any year in which multiple valuations for property taxation
25 purposes are claimed to have been made;

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1 [~~2~~] (b) a taxpayer presents evidence
2 of [~~his~~] ownership of the property, satisfactory to the
3 treasurer, as of January 1 of the year in which multiple
4 valuations for property taxation purposes are claimed to have
5 been made; and

6 [~~3~~] (c) there is no dispute concerning
7 ownership of the property called to the attention of the
8 treasurer, and [~~he~~] the treasurer has no actual knowledge of
9 any dispute concerning ownership of the property;

10 [~~6~~] (4) by the county treasurer, to correct
11 the tax schedule so that it no longer contains personal
12 property that is deemed to be unlocatable, unidentifiable or
13 uncollectable, after thorough research with verification by the
14 county assessor or appraiser, with notification to the
15 department and the county clerk;

16 [~~D~~] (5) as a result of a protest, including a
17 claim for refund, in accordance with the Property Tax Code, of
18 values, classification, allocations of values determined for
19 property taxation purposes or a denial of a claim for an
20 exemption;

21 [~~E~~] (6) by the department or the order of a
22 court as a result of any proceeding by the department to
23 collect delinquent property taxes under the Property Tax Code;

24 [~~F~~] (7) by a court order entered in an action
25 commenced by a property owner under Section 7-38-78 NMSA 1978;

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1 [~~G.~~] (8) by the department as authorized under
2 Section 7-38-79 NMSA 1978;

3 [~~H.~~] (9) by the department of finance and
4 administration as authorized under Section 7-38-77.1 NMSA 1978;
5 or

6 [~~I.~~] (10) as specifically otherwise authorized
7 in the Property Tax Code.

8 B. As used in this section, "obvious errors" does
9 not include errors in the method used to determine the
10 valuation for, or a difference of opinion in the value of, the
11 property subject to property taxation."

12 SECTION 2. Section 7-38-78 NMSA 1978 (being Laws 1973,
13 Chapter 258, Section 118, as amended) is amended to read:

14 "7-38-78. ACTION BY PROPERTY OWNER IN DISTRICT COURT TO
15 CHANGE PROPERTY TAX SCHEDULE.--

16 A. After the delivery of the property tax schedule
17 to the county treasurer for a particular tax year, a property
18 owner may bring an action in the district court requesting a
19 change in the property tax schedule in connection with any
20 property listed on the schedule for property taxation in which
21 the owner claims an interest. The action shall be brought in
22 the district court for the county for which the property tax
23 schedule in question was prepared.

24 B. Actions brought under this section may not
25 directly challenge the value, classification, allocations of

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1 value determined for property taxation purposes [~~or~~], denial of
2 any exemption claimed [~~and must~~] or method used to determine
3 the valuation for the property subject to property taxation.

4 Actions brought under this section shall be founded on one or
5 more of the following grounds:

6 (1) errors in the name or address of the
7 property owner or other person shown on the schedule;

8 (2) errors in the description of the property
9 for property taxation purposes, even if the correction results
10 in a change in the amount shown on the schedule as taxes due;

11 (3) errors in the computation of taxes;

12 (4) errors in the property tax schedule
13 relating to the payment or nonpayment of taxes;

14 (5) multiple valuations for property taxation
15 purposes for a single tax year of the same property on the
16 property tax schedule; [~~or~~]

17 (6) errors in the rate of tax set for any
18 governmental unit in which the owner's property is located;

19 (7) obvious errors in the data entry of the
20 value of the property subject to property valuation by the
21 county assessor; or

22 (8) errors in the application of eligible and
23 qualified exemptions.

24 C. Actions brought under this section shall name
25 the county treasurer as defendant. [~~and, if the~~] An action

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1 [is] brought under Paragraph (6) of Subsection B of this
2 section, shall also name the secretary of finance and
3 administration as a defendant. An action brought under
4 Paragraph (7) or (8) of Subsection B of this section shall also
5 name the county assessor as a defendant."

6 SECTION 3. APPLICABILITY.--The provisions of this act
7 apply to taxable years beginning on or after January 1, 2016.

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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

REPEALING THE SECTION OF LAW THAT ALLOWS A BUSINESS TO DELAY
THE ISSUANCE OF A COUNTY INDUSTRIAL REVENUE BOND FOR A PROPOSED
PROJECT BY FILING A COMPLAINT THAT THE PROPOSED PROJECT WOULD
COMPETE WITH THE COMPLAINING BUSINESS.

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

SECTION 1. REPEAL.--Section 4-59-15 NMSA 1978 (being Laws
1975, Chapter 286, Section 15) is repealed.

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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO INDUSTRIAL REVENUE BONDS; INCLUDING THE EXTRACTION
PHASE OF MINING OR ENERGY DEVELOPMENT AS A SUITABLE INDUSTRY
FOR A PROJECT; INCLUDING A BUSINESS THAT SUPPLIES HOUSING AS A
SUITABLE BUSINESS FOR A PROJECT.

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

SECTION 1. Section 4-59-2 NMSA 1978 (being Laws 1975,
Chapter 286, Section 2, as amended) is amended to read:

"4-59-2. DEFINITIONS.--As used in the County Industrial
Revenue Bond Act, unless the context clearly indicates
otherwise:

A. "commission" means the governing body of a
county;

B. "county" means a county organized or
incorporated in New Mexico;

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1 C. "501(c)(3) corporation" means a corporation that
2 demonstrates to the taxation and revenue department that it has
3 been granted exemption from the federal income tax as an
4 organization described in Section 501(c)(3) of the Internal
5 Revenue Code of 1986, as amended or renumbered;

6 D. "health care service" means the diagnosis or
7 treatment of sick or injured persons or medical research and
8 includes the ownership, operation, maintenance, leasing and
9 disposition of health care facilities, such as hospitals,
10 clinics, laboratories, x-ray centers and pharmacies;

11 E. "mortgage" means a mortgage or a mortgage and
12 deed of trust or the pledge and hypothecation of any assets as
13 collateral security;

14 F. "project" means any land and building or other
15 improvements thereon, the acquisition by or for a New Mexico
16 corporation of the assets or stock of an existing business or
17 corporation located outside the state to be relocated within a
18 county but, except as provided in Paragraph (1) of Subsection A
19 of Section 4-59-4 NMSA 1978, not within the boundaries of any
20 incorporated municipality in the state, and all real and
21 personal properties deemed necessary in connection therewith,
22 whether or not now in existence, which shall be suitable for
23 use by the following or by any combination of two or more
24 thereof:

25 (1) an industry for the manufacturing,

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1 processing or assembling of agricultural or manufactured
2 products;

3 (2) an industry for the extractive phase of
4 mining or energy development;

5 ~~(2)~~ (3) a commercial enterprise in storing,
6 warehousing, distributing or selling products of agriculture,
7 mining or industry, but does not include a facility designed
8 for the sale or distribution to the public of electricity, gas,
9 telephone or other services commonly classified as public
10 utilities, except for:

11 (a) water utilities; and

12 (b) any electric generation facility
13 other than one for which both location approval and a
14 certificate of convenience and necessity are required prior to
15 commencing construction or operation of the facility, pursuant
16 to the Public Utility Act; ~~and the Electric Utility Industry~~
17 ~~Restructuring Act of 1999;~~

18 ~~(3)~~ (4) a business in which all or part of
19 the activities of the business involve the supplying of
20 services or housing to the general public or to governmental
21 agencies or to a specific industry or customer;

22 ~~(4)~~ (5) a nonprofit corporation engaged in
23 health care services;

24 ~~(5)~~ (6) a mass transit or other
25 transportation activity involving the movement of passengers,

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1 an industrial park, an office headquarters and a research
2 facility;

3 ~~[(6)]~~ (7) a water distribution or irrigation
4 system, including without limitation, pumps, distribution
5 lines, transmission lines, towers, dams and similar facilities
6 and equipment; and

7 ~~[(7)]~~ (8) a 501(c)(3) corporation; and

8 G. "property" means any land, improvements thereon,
9 buildings and any improvements thereto, machinery and equipment
10 of any and all kinds necessary to the project, operating
11 capital and any other personal properties deemed necessary in
12 connection with the project."

13 SECTION 2. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2015.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAX ADMINISTRATION; ENACTING THE ADMINISTRATIVE
HEARINGS OFFICE ACT; PROVIDING FOR INDEPENDENT HEARING
OFFICERS; CREATING A HEARING OFFICE SEPARATE FROM THE TAXATION
AND REVENUE DEPARTMENT FOR ADMINISTRATIVE HEARINGS; PROVIDING
POWERS AND DUTIES; PROVIDING PROCEDURES; TRANSFERRING
FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY,
CONTRACTUAL OBLIGATIONS, STATUTORY REFERENCES AND RULES;
REPEALING SECTION 7-1-24.1 NMSA 1978 (BEING LAWS 2013, CHAPTER
27, SECTION 7).

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 6 of this act may be cited as the "Administrative
Hearings Office Act".

SECTION 2. [NEW MATERIAL] ADMINISTRATIVE HEARINGS

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1 OFFICE--CREATED--POWERS AND DUTIES--EMPLOYEES OF THE OFFICE.--

2 A. The "administrative hearings office" is created
3 and is administratively attached pursuant to the provisions of
4 Section 9-1-7 NMSA 1978 to the department of finance and
5 administration.

6 B. The head of the administrative hearings office
7 is the "chief hearing officer", who shall be appointed by the
8 governor with the advice and consent of the senate for a term
9 of six years, except that the initial term shall begin on July
10 1, 2015 and shall end on December 31, 2015. In appointing a
11 chief hearing officer, the governor shall select a person who,
12 at the time of appointment, is a licensed New Mexico attorney
13 who has knowledge of the tax law and substantial experience
14 making the record in an administrative hearing suitable for
15 judicial review. The governor shall appoint a chief hearing
16 officer without regard to party affiliation and solely on the
17 grounds of professional experience and competence and fitness
18 to perform the duties of chief hearing officer. The chief may
19 be reappointed to successive terms. The initial chief hearing
20 officer shall be the person who is the chief of the hearings
21 bureau of the taxation and revenue department on July 1, 2015.
22 The chief hearing officer shall be removed only for
23 malfeasance, misfeasance or abuse of office.

24 C. The chief hearing officer may:

25 (1) adopt and promulgate rules pertaining to

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1 administrative hearings; and

2 (2) subject to appropriations, hire and
3 contract for such professional, technical and support staff as
4 needed to carry out the functions of the administrative
5 hearings office; provided that such hiring and contracting be
6 without regard to party affiliation and solely on the grounds
7 of competence and fitness to perform the duties of the
8 position. Employees of the administrative hearings office,
9 except the chief hearing officer, are subject to the provisions
10 of the Personnel Act.

11 D. The chief hearing officer shall:

12 (1) oversee the administrative hearings
13 office; and

14 (2) considering the knowledge and experience
15 of particular hearing officers, efficiency in the hearing
16 process and potential conflicts of interest, assign and
17 distribute the work of the office.

18 SECTION 3. [NEW MATERIAL] HEARING OFFICER CODE OF
19 CONDUCT--INDEPENDENCE.--

20 A. The chief hearing officer shall:

21 (1) adopt and promulgate a hearing officer
22 code of conduct; and

23 (2) periodically evaluate each hearing
24 officer's performance for competency, efficiency and
25 professional demeanor in accord with relevant legal standards

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1 and the hearing officer code of conduct.

2 B. The chief hearing officer shall ensure that each
3 hearing officer has decisional independence; however, the chief
4 hearing officer may:

5 (1) consult with a hearing officer about a
6 genuine question of law; and

7 (2) review with a hearing officer any issue on
8 appeal addressed by a court of this state.

9 C. The administrative hearings office shall:

10 (1) hear all tax protests pursuant to the
11 provisions of the Tax Administration Act;

12 (2) hear property tax protests pursuant to the
13 provisions of Sections 7-38-22 and 7-38-23 NMSA 1978;

14 (3) conduct all adjudicatory hearings pursuant
15 to the Motor Vehicle Code;

16 (4) conduct all driver's license revocation
17 hearings pursuant to the provisions of the Implied Consent Act;

18 (5) make and preserve a complete record of all
19 proceedings; and

20 (6) maintain confidentiality regarding
21 taxpayer information as required by the provisions of Section
22 7-1-8 NMSA 1978.

23 D. In hearings conducted pursuant to the Tax
24 Administration Act and the Motor Vehicle Code:

25 (1) the Rules of Evidence do not apply. The

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1 hearing officer may require reasonable substantiation of
2 statements or records tendered, the accuracy or truth of which
3 is in reasonable doubt, to rule on the admissibility of
4 evidence. A taxpayer may request a written ruling on a
5 contested question of evidence in a matter in which the
6 taxpayer has filed a written protest and for which that protest
7 is pending. The administrative hearings office shall issue a
8 copy of its written ruling to the taxation and revenue
9 department at the time the ruling is issued to the taxpayer;

10 (2) the Rules of Civil Procedure for the
11 District Courts do not apply. The hearing officer shall
12 conduct a hearing to allow the ample and fair presentation of
13 complaints and defenses. The hearing officer shall hear
14 arguments, permit discovery, entertain and dispose of motions,
15 require written expositions of the case as the circumstances
16 justify and render a decision in accordance with the law and
17 the evidence presented and admitted. A taxpayer may request a
18 written ruling on a contested question of procedure in a matter
19 in which the taxpayer has filed a written protest and for which
20 that protest is pending. The administrative hearings office
21 shall issue a copy of its written ruling to the taxation and
22 revenue department at the time the ruling is issued to the
23 taxpayer; and

24 (3) the hearing officer may administer oaths
25 and issue subpoenas for the attendance of witnesses and the

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1 production of relevant books and papers.

2 SECTION 4. [NEW MATERIAL] CERTAIN ACTIONS PROHIBITED.--A

3 hearing officer shall not:

4 A. engage or participate in any way in the
5 enforcement or formulation of general tax policy other than to
6 conduct hearings. A taxpayer or the taxation and revenue
7 department may request that the chief hearing officer determine
8 whether a hearing officer has engaged or participated in the
9 enforcement or formulation of general tax policy and whether
10 that engagement or participation affects the hearing officer's
11 impartiality in a particular matter. To avoid actual or
12 apparent prejudice, the chief hearing officer may designate
13 another hearing officer for the matter; and

14 B. engage in ex-parte communications concerning the
15 substantive issues of any matter that has been protested while
16 that matter is pending. If the chief hearing officer
17 determines that a hearing officer has engaged in prohibited
18 ex-parte communications, the chief hearing officer shall
19 designate another hearing officer for that matter.

20 SECTION 5. [NEW MATERIAL] TAX PROTESTS--PROCEDURES.--

21 A. Upon timely receipt of a tax protest filed
22 pursuant to the provisions of Section 7-1-24 NMSA 1978, the
23 taxation and revenue department shall promptly acknowledge the
24 protest by letter to the protesting taxpayer or the taxpayer's
25 representative. If the protest is not filed in accordance with

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1 the provisions of Section 7-1-24 NMSA 1978, the department
2 shall inform the taxpayer of the deficiency and the opportunity
3 to correct it. Within forty-five days after receipt of a
4 protest filed pursuant to the provisions of Section 7-1-24 NMSA
5 1978 that has not been resolved, the taxation and revenue
6 department shall request from the administrative hearings
7 office a hearing and shall send to the office a copy of the
8 protest. The chief hearing officer shall promptly designate a
9 hearing officer and shall set a date for a hearing to take
10 place within ninety days from the date the protest was filed
11 pursuant to Section 7-1-24 NMSA 1978.

12 B. A taxpayer may appear at the hearing on the
13 taxpayer's own behalf or may be represented by a bona fide
14 employee, an attorney, a certified public accountant or, with
15 respect only to tax imposed pursuant to the Income Tax Act, a
16 person who is an enrolled agent for federal income tax
17 purposes. If the taxation and revenue department and the
18 taxpayer agree, the hearing may be conducted via
19 videoconference. At the beginning of the hearing, the hearing
20 officer shall inform the taxpayer of the taxpayer's right to
21 representation. A hearing shall not be open to the public
22 except upon request of the taxpayer. A hearing officer may
23 postpone or continue a hearing at the hearing officer's
24 discretion.

25 C. Within thirty days after the hearing, the

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1 hearing officer shall inform the taxation and revenue
2 department and the taxpayer in writing of the decision and,
3 pursuant to the provisions of Section 7-1-25 NMSA 1978, of the
4 aggrieved party's right to, and the requirements for perfection
5 of, an appeal from the decision to the court of appeals and of
6 the consequences of a failure to appeal. The written decision
7 shall embody an order granting or denying the relief requested
8 or granting or denying a part of the relief requested, as
9 appropriate.

10 D. A taxpayer with two or more protests containing
11 related issues may request that the protests be combined and
12 heard jointly. The hearing officer shall grant the request to
13 combine protests unless it would create an unreasonable burden
14 on the administrative hearings office or the taxation and
15 revenue department.

16 E. Nothing in this section shall be construed to
17 authorize a criminal proceeding or to authorize an
18 administrative protest of the issuance of a subpoena or
19 summons.

20 SECTION 6. [NEW MATERIAL] MOTOR VEHICLE ADMINISTRATIVE
21 HEARINGS--PROCEDURES.--

22 A. A person may dispute the denial of or failure to
23 either allow or deny a license, permit, placard or registration
24 provided for in the Motor Vehicle Code. Upon timely receipt of
25 a protest, the chief hearing officer shall promptly designate a

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1 hearing officer to conduct a hearing and shall set a date for
2 the hearing. On that date, the hearing officer shall hear the
3 protest.

4 B. A person may appear at a hearing set pursuant to
5 the provisions of Subsection A of this section for the person's
6 self or be represented by a bona fide employee or an attorney.
7 A hearing shall not be open to the public except if held
8 pursuant to the provisions of the Implied Consent Act or upon
9 request of the person. A hearing officer may postpone or
10 continue a hearing.

11 C. At the beginning of the hearing, the hearing
12 officer shall inform the person of the person's right to
13 representation. Within thirty days after the hearing, the
14 hearing officer shall inform the protestant in writing of the
15 decision and of the protestant's right to, and the requirements
16 for perfection of, an appeal from the decision to the district
17 court and of the consequences of a failure to appeal. The
18 written decision shall embody an order granting or denying the
19 relief requested or granting such part of the relief requested,
20 as appropriate.

21 D. If the protestant or the secretary of taxation
22 and revenue is dissatisfied with the decision and order of the
23 hearing officer, the party may appeal pursuant to the
24 provisions of Section 39-3-1.1 NMSA 1978.

25 E. No court of this state has jurisdiction to

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1 entertain a proceeding by any person in which the person calls
2 into question the application to that person of any provision
3 of the Motor Vehicle Code, except as a consequence of the
4 appeal by that person to the district court from the action and
5 order of the hearing officer as provided for in this section.

6 F. Nothing in this section shall be construed to
7 authorize a criminal proceeding or to authorize an
8 administrative protest of the issuance of a subpoena or
9 summons.

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

12 "7-1-3. DEFINITIONS.--Unless the context clearly
13 indicates a different meaning, the definitions of words and
14 phrases as they are stated in this section are to be used, and
15 whenever in the Tax Administration Act these words and phrases
16 appear, the singular includes the plural and the plural
17 includes the singular:

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

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

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

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

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

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

16 (1) the chief hearing officer;

17 (2) an employee of the administrative hearings
18 office; or

19 (3) a contractor of the administrative
20 hearings office;

21 [~~F.~~] G. "Internal Revenue Code" means the Internal
22 Revenue Code of 1986, as that code may be amended or its
23 sections renumbered;

24 [~~G.~~] H. "levy" means the lawful power, hereby
25 invested in the secretary, to take into possession or to

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1 require the present or future surrender to the secretary or the
2 secretary's delegate of any property or rights to property
3 belonging to a delinquent taxpayer;

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

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

25 ~~[J.]~~ K. "net receipts" means the total amount of

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1 money paid by taxpayers to the department in a month pursuant
2 to a tax or tax act less any refunds disbursed in that month
3 with respect to that tax or tax act;

4 ~~[K-]~~ L. "overpayment" means an amount paid,
5 pursuant to any law subject to administration and enforcement
6 under the provisions of the Tax Administration Act, by a person
7 to the department or withheld from the person in excess of tax
8 due from the person to the state at the time of the payment or
9 at the time the amount withheld is credited against tax due;

10 ~~[H-]~~ M. "paid" includes the term "paid over";

11 ~~[M-]~~ N. "pay" includes the term "pay over";

12 ~~[N-]~~ O. "payment" includes the term "payment over";

13 ~~[O-]~~ P. "person" means any individual, estate,
14 trust, receiver, cooperative association, club, corporation,
15 company, firm, partnership, limited liability company, limited
16 liability partnership, joint venture, syndicate, other
17 association or gas, water or electric utility owned or operated
18 by a county or municipality; "person" also means, to the extent
19 permitted by law, a federal, state or other governmental unit
20 or subdivision, or an agency, department or instrumentality
21 thereof; and "person", as used in Sections 7-1-72 through
22 7-1-74 NMSA 1978, also includes an officer or employee of a
23 corporation, a member or employee of a partnership or any
24 individual who, as such, is under a duty to perform any act in
25 respect of which a violation occurs;

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1 [~~P-~~] Q. "property" means property or rights to
2 property;

3 [~~Q-~~] R. "property or rights to property" means any
4 tangible property, real or personal, or any intangible property
5 of a taxpayer;

6 [~~R-~~] S. "return" means any tax or information
7 return, declaration of estimated tax or claim for refund,
8 including any amendments or supplements to the return, required
9 or permitted pursuant to a law subject to administration and
10 enforcement pursuant to the Tax Administration Act and filed
11 with the secretary or the secretary's delegate by or on behalf
12 of any person;

13 [~~S-~~] T. "return information" means a taxpayer's
14 name, address, government-issued identification number and
15 other identifying information; any information contained in or
16 derived from a taxpayer's return; any information with respect
17 to any actual or possible administrative or legal action by an
18 employee of the department concerning a taxpayer's return, such
19 as audits, managed audits, denial of credits or refunds,
20 assessments of tax, penalty or interest, protests of
21 assessments or denial of refunds or credits, levies or liens;
22 or any other information with respect to a taxpayer's return or
23 tax liability that was not obtained from public sources or that
24 was created by an employee of the department; but "return
25 information" does not include statistical data or other

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1 information that cannot be associated with or directly or
2 indirectly identify a particular taxpayer;

3 [F.] U. "secretary" means the secretary of taxation
4 and revenue and, except for purposes of Subsection B of Section
5 7-1-4 NMSA 1978 [~~and Subsection E of Section 7-1-24 NMSA 1978~~],
6 also includes the deputy secretary or a division director or
7 deputy division director delegated by the secretary;

8 [H.] V. "secretary or the secretary's delegate"
9 means the secretary or any employee of the department
10 exercising authority lawfully delegated to that employee by the
11 secretary;

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

14 [W.] X. "state" means any state of the United
15 States, the District of Columbia, the commonwealth of Puerto
16 Rico and any territory or possession of the United States;

17 [X.] Y. "tax" means the total amount of each tax
18 imposed and required to be paid, withheld and paid or collected
19 and paid under provision of any law made subject to
20 administration and enforcement according to the provisions of
21 the Tax Administration Act and, unless the context otherwise
22 requires, includes the amount of any interest or civil penalty
23 relating thereto; "tax" also means any amount of any abatement
24 of tax made or any credit, rebate or refund paid or credited by
25 the department under any law subject to administration and

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1 enforcement under the provisions of the Tax Administration Act
2 to any person contrary to law and includes, unless the context
3 requires otherwise, the amount of any interest or civil penalty
4 relating thereto;

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

14 Z. "tax return preparer" means a person who
15 prepares for others for compensation or who employs one or more
16 persons to prepare for others for compensation any return of
17 income tax, a substantial portion of any return of income tax,
18 any claim for refund with respect to income tax or a
19 substantial portion of any claim for refund with respect to
20 income tax; provided that a person shall not be a "tax return
21 preparer" merely because such person:

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

24 (2) is an employee who prepares an income tax
25 return or claim for refund with respect to an income tax return

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1 of the employer, or of an officer or employee of the employer,
2 by whom the person is regularly and continuously employed; or

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

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

15 SECTION 8. Section 7-1-4.2 NMSA 1978 (being Laws 2003,
16 Chapter 398, Section 2) is amended to read:

17 "7-1-4.2. NEW MEXICO TAXPAYER BILL OF RIGHTS.--The rights
18 afforded New Mexico taxpayers during the assessment, collection
19 and enforcement of any tax administered by the department as
20 set forth in the Tax Administration Act include:

21 A. the right to available public information and
22 prompt and courteous tax assistance;

23 B. the right to be represented or advised by
24 counsel or other qualified representatives at any time in
25 administrative interactions with the department in accordance

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1 with the provisions of Section 7-1-24 NMSA 1978 or the
2 administrative hearings office in accordance with the
3 provisions of the Administrative Hearings Office Act;

4 C. the right to have audits, inspections of records
5 and meetings conducted at a reasonable time and place in
6 accordance with the provisions of Section 7-1-11 NMSA 1978;

7 D. the right to have the department conduct its
8 audits in a timely and expeditious manner and be entitled to
9 the tolling of interest as provided in the Tax Administration
10 Act;

11 E. the right to obtain nontechnical information
12 that explains the procedures, remedies and rights available
13 during audit, protest, appeals and collection proceedings
14 pursuant to the Tax Administration Act;

15 F. the right to be provided with an explanation of
16 the results of and the basis for audits, assessments or denials
17 of refunds that identify any amount of tax, interest or penalty
18 due;

19 G. the right to seek review, through formal or
20 informal proceedings, of any findings or adverse decisions
21 relating to determinations during audit or protest procedures
22 in accordance with the provisions of Section 7-1-24 NMSA 1978
23 and the Administrative Hearings Office Act;

24 H. the right to have the taxpayer's tax information
25 kept confidential unless otherwise specified by law, in

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1 accordance with Section 7-1-8 NMSA 1978;

2 I. the right to abatement of an assessment of taxes
3 determined to have been incorrectly, erroneously or illegally
4 made, as provided in Section 7-1-28 NMSA 1978 and the right to
5 seek a compromise of an asserted tax liability by obtaining a
6 written determination of liability or nonliability when the
7 secretary in good faith is in doubt of the liability as
8 provided in Section 7-1-20 NMSA 1978;

9 J. upon receipt of a tax assessment, the right to
10 be informed clearly that if the assessment is not paid,
11 secured, protested or otherwise provided for in accordance with
12 the provisions of Section 7-1-16 NMSA 1978, the taxpayer will
13 be a delinquent taxpayer and, upon notice of delinquency, the
14 right to timely notice of any collection actions that will
15 require sale or seizure of the taxpayer's property in
16 accordance with the provisions of the Tax Administration Act;
17 and

18 K. the right to procedures for payment of tax
19 obligations by installment payment agreements, in accordance
20 with Section 7-1-21 NMSA 1978."

21 SECTION 9. Section 7-1-8.3 NMSA 1978 (being Laws 2009,
22 Chapter 243, Section 5) is amended to read:

23 "7-1-8.3. INFORMATION THAT MAY BE REVEALED TO PUBLIC.--An
24 employee of the department may reveal:

25 A. information obtained through the administration

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1 of a law not subject to administration and enforcement under
2 the provisions of the Tax Administration Act to the extent that
3 revealing that information is not otherwise prohibited by law;

4 B. return information with respect to the taxes or
5 tax acts administered pursuant to Subsection B of Section 7-1-2
6 NMSA 1978, except that:

7 (1) return information for or relating to a
8 period prior to July 1, 1985 with respect to [~~Sections 7-25-1~~
9 ~~through 7-25-9 and 7-26-1 through 7-26-8 NMSA 1978~~] the
10 Resources Excise Tax Act and the Severance Tax Act may be
11 revealed only to a committee of the legislature for a valid
12 legislative purpose;

13 (2) except as provided in Paragraph (3) of
14 this subsection, contracts and other agreements between the
15 taxpayer and other parties and the proprietary information
16 contained in those contracts and agreements shall not be
17 revealed without the consent of all parties to the contract or
18 agreement; and

19 (3) audit workpapers and the proprietary
20 information contained in the workpapers shall not be revealed
21 except to:

22 (a) the [~~minerals management service~~]
23 bureau of safety and environmental enforcement of the United
24 States department of the interior, if production occurred on
25 federal land;

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1 (b) a person having a legal interest in
2 the property that is subject to the audit;

3 (c) a purchaser of products severed from
4 a property subject to the audit; or

5 (d) the authorized representative of any
6 of the persons in Subparagraphs (a) through (c) of this
7 paragraph. This paragraph does not prohibit the revelation of
8 proprietary information contained in the workpapers that is
9 also available from returns or from other sources not subject
10 to the provisions of Section 7-1-8 NMSA 1978;

11 C. return information with respect to the taxes,
12 surtaxes, advance payments or tax acts administered pursuant to
13 Subsection C of Section 7-1-2 NMSA 1978;

14 D. a decision and order made by a hearing officer
15 pursuant to [~~Section 7-1-24 NMSA 1978~~] the provisions of the
16 Administrative Hearings Office Act with respect to a protest
17 filed with the secretary on or after July 1, 1993;

18 E. any written ruling on questions of evidence or
19 procedure made by a hearing officer pursuant to [~~Section 7-1-24~~
20 ~~NMSA 1978~~] the provisions of the Administrative Hearings Office
21 Act; provided that the name and identification number of the
22 taxpayer requesting the ruling shall not be revealed; and

23 F. return information included in a notice of lien
24 or release or extinguishment of lien."

25 SECTION 10. Section 7-1-8.4 NMSA 1978 (being Laws 2009,

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1 Chapter 243, Section 6) is amended to read:

2 "7-1-8.4. INFORMATION THAT MAY BE REVEALED TO JUDICIAL
3 BODIES OR WITH RESPECT TO JUDICIAL PROCEEDINGS OR
4 INVESTIGATIONS AND TO ADMINISTRATIVE HEARINGS OFFICE.--An
5 employee of the department may reveal to:

6 A. a district court, an appellate court or a
7 federal court, a return or return information:

8 (1) in response to an order thereof in an
9 action relating to taxes or an action for tax fraud or any
10 other crime that may involve taxes due to the state and in
11 which the information sought is about a taxpayer [~~who~~] that is
12 party to the action and is material to the inquiry, in which
13 case only that information may be required to be produced in
14 court and admitted in evidence subject to court order
15 protecting the confidentiality of the information and no more;

16 (2) in an action in which the department is
17 attempting to enforce an act with which the department is
18 charged or to collect a tax; or

19 (3) in any matter in which the department is a
20 party and the taxpayer has put the taxpayer's own liability for
21 taxes at issue, in which case only that information regarding
22 the taxpayer [~~who~~] that is party to the action may be produced,
23 but this shall not prevent revelation of department policy or
24 interpretation of law arising from circumstances of a taxpayer
25 [~~who~~] that is not a party;

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1 B. the Bernalillo county metropolitan court, upon
2 that court's request, the last known address and the date of
3 that address for every person the court certifies to the
4 department as a person who owes fines, fees or costs to the
5 court or who has failed to appear pursuant to a court order or
6 a promise to appear;

7 C. a magistrate court, upon the magistrate court's
8 request, the last known address and the date of that address
9 for every person the court certifies to the department as a
10 person who owes fines, fees or costs to the court or who has
11 failed to appear pursuant to a court order or a promise to
12 appear;

13 D. a district attorney, a state district court
14 grand jury or federal grand jury, information for an
15 investigation of or proceeding related to an alleged criminal
16 violation of the tax laws; ~~and~~

17 E. a third party subject to a subpoena or levy
18 issued pursuant to the provisions of the Tax Administration
19 Act, the identity of the taxpayer involved, the taxes or tax
20 acts involved and the nature of the proceeding; and

21 F. the administrative hearings office, information
22 in relation to a protest or other hearing, in which case only
23 that information regarding the taxpayer that is a party to the
24 action may be produced, but this shall not prevent revelation
25 of department policy or interpretation of law arising from

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1 circumstances of a taxpayer that is not a party. The office
2 shall maintain confidentiality regarding taxpayer information
3 as required by the provisions of Section 7-1-8 NMSA 1978."

4 SECTION 11. Section 7-1-22 NMSA 1978 (being Laws 1965,
5 Chapter 248, Section 24, as amended) is amended to read:

6 "7-1-22. EXHAUSTION OF ADMINISTRATIVE REMEDIES.--No court
7 of this state has jurisdiction to entertain any proceeding by a
8 taxpayer in which the taxpayer calls into question the
9 taxpayer's liability for any tax or the application to the
10 taxpayer of any provision of the Tax Administration Act, except
11 as a consequence of the appeal by the taxpayer to the court of
12 appeals from the ~~[action and order of the secretary, all as~~
13 ~~specified in Section 7-1-24 NMSA 1978]~~ order of a hearing
14 officer, or except as a consequence of a claim for refund as
15 specified in Section 7-1-26 NMSA 1978."

16 SECTION 12. Section 7-1-24 NMSA 1978 (being Laws 1965,
17 Chapter 248, Section 26, as amended) is amended to read:

18 "7-1-24. DISPUTING LIABILITIES--ADMINISTRATIVE PROTEST.--

19 A. ~~[Any]~~ A taxpayer may dispute:

20 (1) the assessment to the taxpayer of any
21 amount of tax;

22 (2) the application to the taxpayer of any
23 provision of the Tax Administration Act except the issuance of
24 a subpoena or summons; or

25 (3) the denial of or failure either to allow

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1 or to deny a:

2 (a) credit or rebate; or

3 (b) claim for refund made in accordance
4 with Section 7-1-26 NMSA 1978.

5 B. The taxpayer may dispute a matter described in
6 Subsection A of this section by filing with the secretary a
7 written protest. Every protest shall identify the taxpayer and
8 the tax credit, rebate, property or provision of the Tax
9 Administration Act involved and state the grounds for the
10 taxpayer's protest and the affirmative relief requested. The
11 statement of grounds for protest shall specify individual
12 grounds upon which the protest is based and a summary statement
13 of the evidence, if any, expected to be produced supporting
14 each ground asserted; provided that the taxpayer may supplement
15 the statement at any time prior to ten days before ~~[any]~~ the
16 hearing conducted on the protest pursuant to ~~[Section 7-1-24.1~~
17 ~~NMSA 1978]~~ the provisions of the Administrative Hearings Office
18 Act or, if a scheduling order has been issued, in accordance
19 with the scheduling order. The secretary may, in appropriate
20 cases, provide for an informal conference before ~~[setting]~~ a
21 hearing of the protest is set by the administrative hearings
22 office or before acting on ~~[any]~~ a claim for refund. In the
23 case of an assessment of tax by the department, a protest may
24 be filed without making payment of the amount assessed.

25 C. ~~[Any]~~ A protest by a taxpayer shall be filed

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1 within ninety days of the date of the mailing to or service
2 upon the taxpayer by the department of the notice of assessment
3 or other peremptory notice or demand, the date of mailing or
4 filing a return, the date of the application to the taxpayer of
5 the applicable provision of the Tax Administration Act, the
6 date of denial of a claim pursuant to Section [~~7-1-24.1~~] 7-1-26
7 NMSA 1978 or the last date upon which the department was
8 required to take action on the claim but failed to take action.
9 If a protest is not filed within the time required, the
10 secretary may proceed to enforce collection of any tax if the
11 taxpayer is delinquent within the meaning of Section 7-1-16
12 NMSA 1978. The fact that the department did not mail the
13 assessment or other peremptory notice or demand by certified or
14 registered mail or otherwise demand and receive acknowledgment
15 of receipt by the taxpayer shall not be deemed to demonstrate
16 the taxpayer's inability to protest within the required time.

17 D. No proceedings other than those to enforce
18 collection of [~~any~~] an amount assessed as tax and to protect
19 the interest of the state by injunction, as provided in
20 Sections 7-1-31, 7-1-33, 7-1-34, 7-1-40, 7-1-53, 7-1-56 and
21 7-1-58 NMSA 1978, are stayed by timely filing of a protest
22 [~~under~~] pursuant to the provisions of this section.

23 E. Nothing in this section shall be construed to
24 authorize [~~any~~] a criminal [~~proceedings hereunder~~] proceeding
25 or to authorize an administrative protest of the issuance of a

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1 subpoena or summons."

2 SECTION 13. Section 7-1-25 NMSA 1978 (being Laws 1965,
3 Chapter 248, Section 27, as amended) is amended to read:

4 "7-1-25. APPEALS FROM [~~SECRETARY'S~~] HEARING OFFICER'S
5 DECISION AND ORDER.--

6 A. If the protestant or secretary is dissatisfied
7 with the decision and order of the hearing officer, the party
8 may appeal to the court of appeals for further relief, but only
9 to the same extent and upon the same theory as was asserted in
10 the hearing before the hearing officer. All such appeals shall
11 be upon the record made at the hearing and shall not be de
12 novo. All such appeals to the court of appeals shall be taken
13 within thirty days of the date of mailing or delivery of the
14 written decision and order of the hearing officer to the
15 protestant, and, if not so taken, the decision and order are
16 conclusive.

17 B. The procedure for perfecting an appeal under
18 this section to the court of appeals shall be as provided by
19 the Rules of Appellate Procedure.

20 C. Upon appeal, the court shall set aside a
21 decision and order of the hearing officer only if found to be:

22 (1) arbitrary, capricious or an abuse of
23 discretion;

24 (2) not supported by substantial evidence in
25 the record; or

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1 (3) otherwise not in accordance with the law.

2 D. If the secretary appeals a decision of the
3 hearing officer and the court's decision, from which either no
4 appeal is taken or no appeal may be taken, upholds the decision
5 of the hearing officer, the court shall award reasonable
6 ~~[attorney's]~~ attorney fees to the protestant. If the decision
7 upholds the hearing officer's decision only in part, the award
8 shall be limited to reasonable ~~[attorney's]~~ attorney fees
9 associated with the portion upheld."

10 SECTION 14. Section 7-1-26 NMSA 1978 (being Laws 1965,
11 Chapter 248, Section 28, as amended) is amended to read:

12 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT, REBATE
13 OR REFUND.--

14 A. ~~[Any]~~ A person who believes that an amount of
15 tax has been paid by or withheld from that person in excess of
16 that for which the person was liable, who has been denied any
17 credit or rebate claimed or who claims a prior right to
18 property in the possession of the department pursuant to a levy
19 made under authority of Sections 7-1-31 through 7-1-34 NMSA
20 1978 may claim a refund by directing to the secretary, within
21 the time limited by the provisions of Subsections D and E of
22 this section, a written claim for refund. Except as provided
23 in Subsection I of this section, a refund claim shall include:

24 (1) the taxpayer's name, address and
25 identification number;

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

4 (3) the sum of money or other property being
5 claimed;

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

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

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

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

19 (2) If the department has neither granted nor
20 denied any portion of a claim for refund within one hundred
21 twenty days of the date the claim was mailed or delivered to
22 the department, the person may refile it within the time limits
23 set forth in Subsection D of this section or may within ninety
24 days elect to pursue one, but only one, of the remedies in
25 Subsection C of this section. After the expiration of the two

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1 hundred ten days from the date the claim was mailed or
2 delivered to the department, the department may not approve or
3 disapprove the claim unless the person has pursued one of the
4 remedies under Subsection C of this section.

5 C. A person may elect to pursue ~~[one, but only]~~ no
6 more than one of the remedies in Paragraphs (1) and (2) of this
7 subsection. ~~[In any case, if]~~ A person ~~[does timely pursue]~~
8 who timely pursues more than one remedy ~~[the person]~~ shall be
9 deemed to have elected the first remedy invoked. The ~~[remedies~~
10 ~~are as follows: (1) the]~~ person may:

11 (1) direct to the secretary, pursuant to the
12 provisions of Section 7-1-24 NMSA 1978, a written protest
13 ~~[against the denial of, or failure to either allow or deny, the~~
14 ~~claim or portion of the claim]~~ that shall set forth:

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

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

23 (c) demanding the refund to the taxpayer
24 of that amount or that property; and

25 (d) reciting the facts of the claim for

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1 refund; or

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

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

17 (1) within three years of the end of the
18 calendar year in which:

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

22 (b) the final determination of value
23 occurs with respect to any overpayment that resulted from a
24 disapproval by any agency of the United States or the state of
25 New Mexico or any court of increase in value of a product

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1 subject to taxation under the Oil and Gas Severance Tax Act,
2 the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency
3 School Tax Act, the Oil and Gas Ad Valorem Production Tax Act
4 or the Natural Gas Processors Tax Act;

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

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

13 (2) when an amount of a claim for credit under
14 the provisions of the Investment Credit Act, Laboratory
15 Partnership with Small Business Tax Credit Act or Technology
16 Jobs Tax Credit Act or for the rural job tax credit pursuant to
17 Section 7-2E-1.1 NMSA 1978 or similar credit has been denied,
18 the taxpayer may claim a refund of the credit no later than one
19 year after the date of the denial;

20 (3) when a taxpayer under audit by the
21 department has signed a waiver of the limitation on assessments
22 on or after July 1, 1993 pursuant to Subsection F of Section
23 7-1-18 NMSA 1978, the taxpayer may file a claim for refund of
24 the same tax paid for the same period for which the waiver was
25 given, until a date one year after the later of the date of the

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1 mailing of an assessment issued pursuant to the audit, the date
2 of the mailing of final audit findings to the taxpayer or the
3 date a proceeding is begun in court by the department with
4 respect to the same tax and the same period;

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

11 (5) when a taxpayer has been assessed a tax on
12 or after July 1, 1993 under Subsection B, C or D of Section
13 7-1-18 NMSA 1978 and when the assessment applies to a period
14 ending at least three years prior to the beginning of the year
15 in which the assessment was made, the taxpayer may claim a
16 refund for the same tax for the period of the assessment or for
17 any period following that period within one year of the date of
18 the assessment unless a longer period for claiming a refund is
19 provided in this section.

20 E. No credit or refund shall be allowed or made to
21 any person claiming a refund of gasoline tax under Section
22 7-13-11 NMSA 1978 unless notice of the destruction of the
23 gasoline was given the department within thirty days of the
24 actual destruction and the claim for refund is made within six
25 months of the date of destruction. No credit or refund shall

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1 be allowed or made to any person claiming a refund of gasoline
2 tax under Section 7-13-17 NMSA 1978 unless the refund is
3 claimed within six months of the date of purchase of the
4 gasoline and the gasoline has been used at the time the claim
5 for refund is made.

6 F. If as a result of an audit by the department or
7 a managed audit covering multiple periods an overpayment of tax
8 is found in any period under the audit, that overpayment may be
9 credited against an underpayment of the same tax found in
10 another period under audit pursuant to Section 7-1-29 NMSA
11 1978, provided that the taxpayer files a claim for refund for
12 the overpayments identified in the audit.

13 G. Any refund of tax paid under any tax or tax act
14 administered under Subsection B of Section 7-1-2 NMSA 1978 may
15 be made, at the discretion of the department, in the form of
16 credit against future tax payments if future tax liabilities in
17 an amount at least equal to the credit amount reasonably may be
18 expected to become due.

19 H. For the purposes of this section, [~~the term~~]
20 "oil and gas tax return" means a return reporting tax due with
21 respect to oil, natural gas, liquid hydrocarbons, carbon
22 dioxide, helium or nonhydrocarbon gas pursuant to the Oil and
23 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,
24 the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
25 Valorem Production Tax Act, the Natural Gas Processors Tax Act

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1 or the Oil and Gas Production Equipment Ad Valorem Tax Act.

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

13 SECTION 15. Section 7-1-29.1 NMSA 1978 (being Laws 2003,
14 Chapter 398, Section 12) is amended to read:

15 "7-1-29.1. AWARDING OF COSTS AND FEES.--

16 A. In any administrative or court proceeding that
17 is brought by or against the taxpayer on or after July 1, 2003
18 in connection with the determination, collection or refund of
19 any tax, interest or penalty for a tax governed by the
20 provisions of the Tax Administration Act, the taxpayer shall be
21 awarded a judgment or a settlement for reasonable
22 administrative costs incurred in connection with an
23 administrative proceeding with the department or the
24 administrative hearings office or reasonable litigation costs
25 incurred in connection with a court proceeding, if the taxpayer

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1 is the prevailing party.

2 B. As used in this section:

3 (1) "administrative proceeding" means any
4 procedure or other action before the department or the
5 administrative hearings office;

6 (2) "court proceeding" means any civil action
7 brought in state district court;

8 (3) "reasonable administrative costs" means:

9 (a) any administrative fees or similar
10 charges imposed by the department or the administrative
11 hearings office; and

12 (b) actual charges for: 1) filing fees,
13 court reporter fees, service of process fees and similar
14 expenses; 2) the services of expert witnesses; 3) any study,
15 analysis, report, test or project reasonably necessary for the
16 preparation of the party's case; and 4) fees and costs paid or
17 incurred for the services in connection with the proceeding of
18 attorneys or of certified public accountants who are authorized
19 to practice [~~before the department~~] in the context of an
20 administrative proceeding; and

21 (4) "reasonable litigation costs" means:

22 (a) reasonable court costs; and

23 (b) actual charges for: 1) filing fees,
24 court reporter fees, service of process fees and similar
25 expenses; 2) the services of expert witnesses; 3) any study,

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1 analysis, report, test or project reasonably necessary for the
2 preparation of the party's case; and 4) fees and costs paid or
3 incurred for the services of attorneys in connection with the
4 proceeding.

5 C. For purposes of this section:

6 (1) the taxpayer is the prevailing party if
7 the taxpayer has:

8 (a) substantially prevailed with respect
9 to the amount in controversy; or

10 (b) substantially prevailed with respect
11 to most of the issues involved in the case or the most
12 significant issue or set of issues involved in the case;

13 (2) the taxpayer shall not be treated as the
14 prevailing party if, prior to July 1, 2015, the department, or,
15 on or after July 1, 2015, the hearing officer, establishes that
16 the position of the department in the proceeding was based upon
17 a reasonable application of the law to the facts of the case.
18 For purposes of this paragraph, the position of the department
19 shall be presumed not to be based upon a reasonable application
20 of the law to the facts of the case if:

21 (a) the department did not follow [~~its~~]
22 applicable published guidance in the proceeding; or

23 (b) the assessment giving rise to the
24 proceeding is not supported by substantial evidence determined
25 at the time of the issuance of the assessment;

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1 (3) as used in Subparagraph (a) of Paragraph
2 (2) of this subsection, "applicable published guidance" means:

3 (a) department or administrative
4 hearings office regulations, information releases,
5 instructions, notices, technical advice memoranda and
6 announcements; and

7 (b) private letter rulings and letters
8 issued by the department to the taxpayer; and

9 (4) the determination of whether the taxpayer
10 is the prevailing party and the amount of reasonable litigation
11 costs or reasonable administrative costs shall be made by
12 agreement of the parties or:

13 (a) in the case where the final
14 determination with respect to the tax, interest or penalty is
15 made in an administrative proceeding, by the [~~department~~]
16 hearing officer; or

17 (b) in the case where the final
18 determination is made by the court, the court.

19 D. An order granting or denying in whole or in part
20 an award for reasonable litigation costs pursuant to Subsection
21 A of this section in a court proceeding may be incorporated as
22 a part of the decision or judgment in the court proceeding and
23 shall be subject to appeal in the same manner as the decision
24 or judgment. A decision or order granting or denying in whole
25 or in part an award for reasonable administrative costs

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1 pursuant to Subsection A of this section by [~~the department~~] a
2 hearing officer shall be reviewable in the same manner as a
3 decision of [~~the department~~] a hearing officer.

4 E. No agreement for or award of reasonable
5 administrative costs or reasonable litigation costs in any
6 administrative or court proceeding pursuant to Subsection A of
7 this section shall exceed the lesser of twenty percent of the
8 amount of the settlement or judgment or fifty thousand dollars
9 (\$50,000). A taxpayer awarded administrative litigation costs
10 pursuant to this section may not receive an award of attorney
11 fees pursuant to Subsection D of Section 7-1-25 NMSA 1978."

12 SECTION 16. Section 7-38-21 NMSA 1978 (being Laws 1973,
13 Chapter 258, Section 61, as amended) is amended to read:

14 "7-38-21. PROTESTS--ELECTION OF REMEDIES.--

15 A. A property owner may protest the value or
16 classification determined for [~~his~~] the property owner's
17 property for property taxation purposes, the allocation of
18 value of [~~his~~] the property to a particular governmental unit
19 or a denial of a claim for an exemption or for a limitation on
20 increase in value either by:

21 (1) filing, as provided in the Property Tax
22 Code, a petition of protest with:

23 (a) the [~~director~~] administrative
24 hearings office; or

25 (b) the county assessor [~~as provided in~~

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1 ~~the Property Tax Code~~]; or

2 (2) filing a claim for refund after paying
3 ~~[his]~~ the property owner's taxes as provided in the Property
4 Tax Code.

5 B. The initiation of a protest under Paragraph (1)
6 of Subsection A of this section is an election to pursue that
7 remedy and is an unconditional and irrevocable waiver of the
8 right to pursue the remedy provided ~~[under]~~ in Paragraph (2) of
9 Subsection A of this section.

10 C. A property owner may also protest the
11 application to ~~[his]~~ the property owner's property of any
12 administrative fee adopted pursuant to Section 7-38-36.1 NMSA
13 1978 by filing a claim for refund after paying ~~[his]~~ the
14 property owner's taxes as provided in the Property Tax Code."

15 SECTION 17. Section 7-38-22 NMSA 1978 (being Laws 1973,
16 Chapter 258, Section 62, as amended) is amended to read:

17 "7-38-22. PROTESTING VALUES, CLASSIFICATION, ALLOCATION
18 OF VALUES AND DENIAL OF EXEMPTION DETERMINED BY THE DIVISION.--

19 A. A property owner may protest the value or
20 classification determined by the division for ~~[his]~~ the
21 property owner's property for property taxation purposes or the
22 division's allocation of value of ~~[his]~~ the property owner's
23 property to a particular governmental unit or the denial of a
24 claim for an exemption by filing a petition with the ~~[director]~~
25 administrative hearings office. Filing a petition in

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1 accordance with this section entitles a property owner to a
2 hearing on [~~his~~] the property owner's protest.

3 B. Petitions shall:

4 (1) be filed [~~with the division~~] no later than
5 thirty days after the mailing by the division of the notice of
6 valuation;

7 (2) state the property owner's name and
8 address and the description of the property;

9 (3) state why the property owner believes the
10 value, classification, [~~the~~] allocation of value or denial of
11 an exemption is incorrect and what [~~he~~] the property owner
12 believes the correct value, classification, allocation of value
13 or exemption to be;

14 (4) state the value, classification,
15 allocation of value or exemption that is not in controversy;
16 and

17 (5) contain such other information as the
18 [~~division~~] administrative hearings office may by [~~regulation~~]
19 rule require.

20 C. The [~~division~~] administrative hearings office
21 shall notify the director and the property owner by certified
22 mail of the date, time and place that [~~he~~] the parties may
23 appear before the [~~director~~] administrative hearings office to
24 [~~support his~~] present evidence related to the petition. The
25 notice shall be mailed at least fifteen days prior to the

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1 hearing date.

2 D. The director may provide for an informal
3 conference on the protest before the hearing."

4 SECTION 18. Section 7-38-23 NMSA 1978 (being Laws 1973,
5 Chapter 258, Section 63, as amended) is amended to read:

6 "7-38-23. PROTEST HEARINGS--VERBATIM RECORD--ACTION BY
7 HEARING OFFICER--TIME LIMITATIONS.--

8 A. Except for the rules relating to discovery, the
9 technical rules of evidence and the Rules of Civil Procedure
10 for the District Courts do not apply at a protest [~~hearings~~
11 ~~before the hearing officer~~] hearing conducted pursuant to the
12 provisions of the Property Tax Code, but the [~~hearings~~] hearing
13 shall be conducted so that an ample opportunity is provided for
14 the presentation of complaints and defenses. All testimony
15 shall be taken under oath. A verbatim record of the hearings
16 shall be made but need not be transcribed unless required for
17 appeal purposes. A hearing officer shall be designated by the
18 [~~secretary~~] chief hearing officer of the administrative
19 hearings office to conduct the hearing.

20 B. Final action taken by the hearing officer on a
21 petition shall be by written order. The hearing officer's
22 order shall be made within thirty days after the date of the
23 hearing, but this time limitation may be extended by agreement
24 of the department and the protestant. A copy of the order
25 shall be sent immediately by certified mail to the property

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1 owner. A copy of the order shall also be sent to the county
2 assessor.

3 C. All protests shall be decided within one hundred
4 twenty days of the date the protest is filed unless the parties
5 otherwise agree. The protest shall be denied if the property
6 owner or [~~his~~] the property owner's authorized representative
7 fails, without reasonable justification, to appear at the
8 hearing.

9 D. The hearing officer's order shall be in the name
10 of the [~~secretary~~] chief hearing officer, dated, state the
11 changes to be made in the valuation records, if any, and direct
12 the county assessor to take appropriate action. The department
13 shall make any changes in its valuation records required by the
14 order.

15 E. Changes in the valuation records shall clearly
16 indicate that the prior entry has been superseded by an order
17 of the hearing officer.

18 F. The department shall maintain a file of all
19 orders made pursuant to this section. The file shall be open
20 for public inspection.

21 G. If an order of the hearing officer is appealed
22 under Section 7-38-28 NMSA 1978, the department shall
23 immediately notify the appropriate county assessor of the
24 appeal. Notations shall be made in the valuation records of
25 the assessor and the department indicating the pendency of the

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1 appeal."

2 SECTION 19. Section 7-38-28 NMSA 1978 (being Laws 1973,
3 Chapter 258, Section 68, as amended) is amended to read:

4 "7-38-28. APPEALS FROM ORDERS OF THE [~~DIRECTOR~~] HEARING
5 OFFICER OR COUNTY VALUATION PROTESTS BOARDS.--

6 A. A property owner may appeal an order made by
7 [~~the director~~] a hearing officer or a county valuation protests
8 board by filing an appeal pursuant to the provisions of Section
9 39-3-1.1 NMSA 1978.

10 B. The director shall notify the appropriate county
11 assessor of the decision and order of the district court and
12 shall direct the assessor to take appropriate action to comply
13 with the decision and order."

14 SECTION 20. Section 9-11-6.2 NMSA 1978 (being Laws 1995,
15 Chapter 31, Section 3) is amended to read:

16 "9-11-6.2. ADMINISTRATIVE REGULATIONS, RULINGS,
17 INSTRUCTIONS AND ORDERS--PRESUMPTION OF CORRECTNESS.--

18 A. The secretary is empowered and directed to issue
19 and file as required by law all regulations, rulings,
20 instructions or orders necessary to implement and enforce any
21 provision of any law the administration and enforcement of
22 which the department, the secretary, any division of the
23 department or any director of any division of the department is
24 charged, including all rules and regulations necessary by
25 reason of any alteration of any such law. In order to

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1 accomplish its purpose, this provision is to be liberally
2 construed.

3 B. Directives issued by the secretary shall be in
4 form substantially as follows:

5 (1) regulations shall be written statements of
6 the secretary of general application, interpreting and
7 exemplifying the ~~[statues]~~ statutes to which they relate;

8 (2) rulings shall be written statements of the
9 secretary, of limited application to one or a small number of
10 persons, interpreting the statutes to which they relate,
11 ordinarily issued in response to a request for clarification of
12 the consequences of a specified set of circumstances;

13 (3) orders shall be written statements of the
14 secretary or ~~[a hearing officer or other]~~ delegate of the
15 secretary to implement a decision after a hearing; and

16 (4) instructions shall be other written
17 statements or directives of the secretary or secretary's
18 delegate not dealing with the merits of any law but otherwise
19 in aid of the accomplishment of the duties of the secretary.

20 C. To be effective, any ruling or regulation issued
21 by the secretary shall be reviewed by the attorney general or
22 other legal counsel of the department prior to being filed as
23 required by law, and the fact of the review shall be indicated
24 on the ruling or regulation.

25 D. To be effective, a regulation shall first be

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1 issued as a proposed regulation and filed for public inspection
2 in the office of the secretary. Unless otherwise provided by
3 statute, no regulation affecting any person or agency outside
4 the department shall be adopted, amended or repealed without a
5 public hearing on the proposed action before the secretary or a
6 hearing officer designated by the secretary. The public
7 hearing shall be held in Santa Fe unless otherwise permitted by
8 statute. Notice of the subject matter of the regulation, the
9 action proposed to be taken, the time and place of the hearing,
10 the manner in which interested parties may present their views
11 and the method by which copies of the proposed regulation,
12 proposed amendment or repeal of an existing regulation may be
13 obtained shall be published at least thirty days prior to the
14 hearing date in [~~a~~] the New Mexico register and mailed at least
15 thirty days prior to the hearing date to all persons who have
16 made a written request for advance notice of hearing. After
17 the proposed regulation has been on file for not less than
18 sixty days and a public hearing on the proposed action has been
19 held by the secretary or a hearing officer designated by the
20 secretary, the secretary may issue it as a final regulation by
21 signing the regulation and filing the regulation in the manner
22 required by law. The secretary shall not delegate the
23 authority to sign regulations.

24 E. In addition to filing copies of regulations with
25 the state records center and archives as required by law, the

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1 secretary shall maintain in the office of the secretary a
2 duplicate official set of current and superseded regulations, a
3 set of current and superseded rulings and such additional sets
4 of those regulations and rulings as appear necessary, which
5 duplicate or additional sets shall be available for inspection
6 by the public, but superseded regulations need be maintained
7 for no longer than ten years from the date of supersession.

8 F. The secretary shall develop and maintain a file
9 of names and addresses of individuals and professional and
10 industry groups having an interest in the promulgation of new,
11 revised or proposed regulations. At convenient times, the
12 secretary shall distribute to these persons all such
13 regulations and all pertinent rulings, making such charges as
14 will defray the expense incurred in their physical preparation
15 and mailing. Such charges are appropriated to the department
16 to defray the costs of preparing and distributing regulations
17 and rulings.

18 G. Any regulation, ruling, instruction or order
19 issued by the secretary or ~~[order or instruction issued by a~~
20 ~~hearing officer or other]~~ delegate of the secretary is presumed
21 to be a proper implementation of the provisions of the laws
22 that are charged to the department, the secretary, any division
23 of the department or any director of any division of the
24 department.

25 H. The extent to which regulations, rulings and

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1 orders will have retroactive effect shall be stated, and if no
2 such statement is made, they will be applied prospectively
3 only."

4 SECTION 21. Section 66-2-11 NMSA 1978 (being Laws 1978,
5 Chapter 35, Section 15, as amended) is amended to read:

6 "66-2-11. GIVING OF NOTICE.--Whenever the department or
7 the administrative hearings office is authorized or required to
8 give any notice under the Motor Vehicle Code or any other law
9 regulating the operation of vehicles, unless a different method
10 of giving notice is otherwise expressly prescribed, notice
11 shall be given either by personal delivery to the person to be
12 notified or by deposit in the United States mail of the notice
13 in an envelope with postage prepaid, addressed to the person at
14 [~~his~~] the person's address as shown by the records of the
15 department. The giving of notice by mail is complete upon the
16 expiration of seven days after deposit of the notice. Proof of
17 the giving of notice in either manner may be made by the
18 certificate of any officer or employee of the department or
19 affidavit of any person over eighteen years of age, naming the
20 person to whom the notice was given and specifying the time,
21 place and manner of the giving of the notice. Notice is given
22 when a person refuses to accept notice."

23 SECTION 22. Section 66-2-17 NMSA 1978 (being Laws 1995,
24 Chapter 129, Section 3) is amended to read:

25 "66-2-17. ADMINISTRATIVE HEARING--PROCEDURE [~~APPEALS FROM~~
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1 ~~SECRETARY'S DECISION AND ORDER--EXHAUSTION OF ADMINISTRATIVE~~
2 ~~REMEDIES].--~~

3 A. Unless a more specific provision for review
4 exists, any person may dispute the denial of, or failure to
5 either allow or deny, any license, permit, placard or
6 registration provided for under the Motor Vehicle Code by
7 filing with the secretary a written protest against the action
8 or inaction [~~taken~~] by the department. Every protest shall
9 identify the person and the action or inaction that is in
10 dispute, the grounds for the protest and the affirmative relief
11 requested. The statement of grounds for protest shall specify
12 individual grounds upon which the protest is based and a
13 summary statement of the evidence expected to be produced
14 supporting each ground asserted, if any; provided that the
15 person may supplement the statement at any time prior to [~~any~~]
16 a hearing conducted on the protest [~~under Subsection D of this~~
17 ~~section~~] pursuant to the provisions of the Administrative
18 Hearings Office Act. The secretary may, in appropriate cases,
19 provide for an informal conference before [~~setting~~] the
20 administrative hearings office sets a hearing of the protest.

21 B. Any protest by a person shall be filed within
22 thirty days of the date of the mailing or verbal notification
23 of the action proposed to be taken by the department. If a
24 protest is not filed within the time required for filing a
25 protest, the secretary may proceed with the action [~~or~~

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1 ~~inaction]~~ proposed by the department.

2 ~~[G. Upon timely receipt of a protest, the~~
3 ~~department or hearing officer shall promptly set a date for~~
4 ~~hearing and on that date hear the protest.~~

5 ~~D. A hearing officer shall be designated by the~~
6 ~~secretary to conduct the hearing. A person may appear at a~~
7 ~~hearing for himself or be represented by a bona fide employee~~
8 ~~or an attorney. Hearings shall not be open to the public~~
9 ~~except upon request of the person and may be postponed or~~
10 ~~continued at the discretion of the hearing officer.~~

11 ~~E. In hearings before the hearing officer, the~~
12 ~~technical rules of evidence shall not apply, but in ruling on~~
13 ~~the admissibility of evidence, the hearing officer may require~~
14 ~~reasonable substantiation of statements or records tendered,~~
15 ~~the accuracy or truth of which is in reasonable doubt.~~

16 ~~F. In hearings before the hearing officer, the~~
17 ~~Rules of Civil Procedure for the District Courts shall not~~
18 ~~apply, but the hearing shall be conducted so that both~~
19 ~~complaints and defenses are amply and fairly presented. To~~
20 ~~this end, the hearing officer shall hear arguments, permit~~
21 ~~discovery, entertain and dispose of motions, require written~~
22 ~~expositions of the case as the circumstances justify and render~~
23 ~~a decision in accordance with the law and the evidence~~
24 ~~presented and admitted.~~

25 ~~G. In the case of the hearing of any protest, the~~

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1 ~~hearing officer shall make and preserve a complete record of~~
2 ~~the proceedings. At the beginning of the hearing, the hearing~~
3 ~~officer shall inform the person of the person's right to~~
4 ~~representation. The hearing officer, within thirty days of the~~
5 ~~hearing, shall inform the protestant in writing of the~~
6 ~~decision, informing the protestant at the same time of the~~
7 ~~right to, and the requirements for perfection of, an appeal~~
8 ~~from the decision to the district court and of the consequences~~
9 ~~of a failure to appeal. The written decision shall embody an~~
10 ~~order granting or denying the relief requested or granting such~~
11 ~~part thereof as seems appropriate.~~

12 ~~H. If the protestant or secretary is dissatisfied~~
13 ~~with the decision and order of the hearing officer, the party~~
14 ~~may appeal pursuant to the provisions of the Administrative~~
15 ~~Procedures Act.~~

16 ~~I. No court of this state has jurisdiction to~~
17 ~~entertain any proceeding by any person in which the person~~
18 ~~calls into question the application to that person of any~~
19 ~~provision of the Motor Vehicle Code, except as a consequence of~~
20 ~~the appeal by that person to the district court from the action~~
21 ~~and order of the secretary or hearing officer as provided for~~
22 ~~in this section.~~

23 ~~J. Nothing in this section shall be construed to~~
24 ~~authorize any criminal proceedings hereunder or to authorize an~~
25 ~~administrative protest of the issuance of a subpoena or~~

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1 ~~summons.]"~~

2 SECTION 23. Section 66-4-3 NMSA 1978 (being Laws 1978,
3 Chapter 35, Section 216, as amended) is amended to read:

4 "66-4-3. REFUSAL TO ISSUE LICENSE--CANCELLATION OR
5 SUSPENSION OF LICENSE OR USE OF TEMPORARY PERMITS--HEARING--
6 APPEAL.--

7 A. The department may refuse to issue a license for
8 just cause and may cancel or suspend a license or use of a
9 temporary registration permit, demonstration permit or
10 transport permit for violation of the Motor Vehicle Code. The
11 ~~[department shall take the]~~ action authorized in this section
12 shall be taken only after a hearing ~~[Notice of hearing shall be~~
13 ~~given the party concerned as provided in Section 66-2-11 NMSA~~
14 ~~1978. The notice shall state the proposed action of the~~
15 ~~department and the reason for the proposed action.~~

16 B. ~~The department shall prepare rules for the~~
17 ~~conduct of the hearing. At the hearing, the technical rules of~~
18 ~~evidence do not apply, and a party has the right to be~~
19 ~~represented by counsel, to call witnesses in the party's own~~
20 ~~behalf and to cross-examine the witnesses of other parties.~~

21 C. ~~The secretary or the secretary's designated~~
22 ~~agent shall conduct the hearing for the department and shall~~
23 ~~cause a record of hearing to be made.~~

24 ~~D.]~~ before the administrative hearings office.

25 Within ten days after completion of the hearing, the

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1 ~~[secretary]~~ hearing officer designated to conduct the hearing
2 shall cause to be served upon all parties, in the manner
3 provided in Section 66-2-11 NMSA 1978, the ~~[secretary's]~~
4 hearing officer's findings and decision. The decision shall
5 be:

6 (1) granting a license or refusing to grant a
7 license;

8 (2) continuing a license, canceling a license
9 or suspending a license for a time stated; or

10 (3) continuing use of dealer plates and
11 temporary registration permits, demonstration permits or
12 transport permits, canceling dealer plates and temporary
13 registration permits, demonstration permits or transport
14 permits or suspending use of temporary registration permits,
15 demonstration permits or transport permits for a time stated.

16 ~~[E.]~~ B. A party aggrieved by the ~~[secretary's]~~
17 hearing officer's decision may file an appeal in the district
18 court pursuant to the provisions of Section 39-3-1.1 NMSA
19 1978."

20 **SECTION 24.** Section 66-5-19 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 241, as amended) is amended to read:

22 "66-5-19. RESTRICTED LICENSES.--

23 A. The division, upon issuing a driver's license or
24 a provisional license, ~~[has authority]~~ may, whenever good cause
25 appears, ~~[to]~~ impose restrictions, including the shortening of

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1 the licensure period suitable to the licensee's driving ability
2 with respect to the type of or special mechanical control
3 devices required on a motor vehicle that the licensee may
4 operate or such other restrictions applicable to the licensee
5 as the division determines to be appropriate to ensure the safe
6 operation of a motor vehicle by the licensee.

7 B. At age seventy-five and thereafter, the
8 applicant shall renew the applicant's license on a yearly basis
9 at no cost to the applicant.

10 C. The division may either issue a special
11 restricted license or may set forth such restrictions upon the
12 usual license form.

13 D. The division may issue a restricted license or a
14 restricted provisional license for driving during daylight
15 hours only to some visually impaired persons who fail the usual
16 eyesight test. The health standards advisory board created
17 pursuant to the provisions of Section 66-5-6 NMSA 1978 shall
18 evaluate the extent of the visual impairment and [~~its~~] the
19 impairment's effect on the driving ability of the applicant
20 and, based on [~~its~~] the board's recommendations, the director
21 may issue a restricted license under the following conditions:

22 (1) the applicant has no record of moving
23 violations;

24 (2) the necessity of the license is shown to
25 the satisfaction of the director; and

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1 (3) the applicant satisfies the provisions of
2 Section 66-5-206 NMSA 1978 relating to proof of financial
3 responsibility.

4 E. The division may, upon receiving satisfactory
5 evidence of any violation of the restrictions of the license,
6 suspend the license, but the licensee is entitled to a hearing
7 as upon a suspension under Sections [~~66-5-1~~] 66-5-1.1 through
8 66-5-47 NMSA 1978 and as provided in the Administrative
9 Hearings Office Act.

10 F. It is a misdemeanor for any person to operate a
11 motor vehicle in any manner in violation of the restrictions
12 imposed in a restricted license issued to the person."

13 SECTION 25. Section 66-5-30 NMSA 1978 (being Laws 1978,
14 Chapter 35, Section 252, as amended) is amended to read:

15 "66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE
16 LICENSE.--

17 A. The division [~~is authorized to~~] may suspend the
18 instruction permit, driver's license or provisional license of
19 a driver without preliminary hearing upon a showing by its
20 records or other sufficient evidence, including information
21 provided to the state pursuant to an intergovernmental
22 agreement authorized by Section 66-5-27.1 NMSA 1978, that the
23 licensee:

24 (1) has been convicted of an offense for which
25 mandatory revocation of license is required upon conviction;

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1 (2) has been convicted as a driver in an
2 accident resulting in the death or personal injury of another
3 or serious property damage;

4 (3) has been convicted with such frequency of
5 offenses against traffic laws or rules governing motor vehicles
6 as to indicate a disrespect for traffic laws and a disregard
7 for the safety of other persons on the highways;

8 (4) is an habitually reckless or negligent
9 driver of a motor vehicle;

10 (5) is incompetent to drive a motor vehicle;

11 (6) has permitted an unlawful or fraudulent
12 use of the license;

13 (7) has been convicted of an offense in
14 another state or tribal jurisdiction that if committed within
15 this state's jurisdiction would be grounds for suspension or
16 revocation of the license;

17 (8) has violated provisions stipulated by a
18 district court in limitation of certain driving privileges;

19 (9) has failed to fulfill a signed promise to
20 appear or notice to appear in court as evidenced by notice from
21 a state court or tribal court, whenever appearance is required
22 by law or by the court as a consequence of a charge or
23 conviction under the Motor Vehicle Code or pursuant to the laws
24 of the tribe;

25 (10) has failed to pay a penalty assessment

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1 within thirty days of the date of issuance by the state or a
2 tribe; or

3 (11) has accumulated seven points, but less
4 than eleven points, and when the division has received a
5 recommendation from a municipal or magistrate judge that the
6 license be suspended for a period not to exceed three months.

7 B. Upon suspending the license of a person as
8 authorized in this section, the division shall immediately
9 notify the licensee in writing [~~and upon his request shall~~
10 ~~afford him an opportunity for a hearing~~] of the licensee's
11 right to a hearing before the administrative hearings office
12 and shall notify the office. The office shall schedule the
13 hearing to take place as early as practicable, but within [~~not~~
14 ~~to exceed~~] no more than twenty days, not counting Saturdays,
15 Sundays and legal holidays after receipt of the request. The
16 hearing shall be held in the county [~~wherein~~] in which the
17 licensee resides unless the [~~division~~] hearing officer and the
18 licensee agree that the hearing may be held in some other
19 county; provided that the hearing request is received within
20 twenty days from the date that the suspension was deposited in
21 the United States mail. The [~~director may, in his discretion,~~
22 ~~extend the twenty-day period. Upon the hearing, the director~~
23 ~~or his duly authorized agent may administer oaths and may issue~~
24 ~~subpoenas for the attendance of witnesses and the production of~~
25 ~~relevant books and papers and may require a reexamination of~~

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1 ~~the licensee. Upon~~ hearing shall be held as provided in the
2 Administrative Hearings Office Act. After the hearing, the
3 ~~[division]~~ hearing officer shall either rescind ~~[its]~~ the order
4 of suspension or ~~[good cause appearing therefor, may]~~ continue,
5 modify or extend the suspension of the license or revoke the
6 license."

7 SECTION 26. Section 66-5-204 NMSA 1978 (being Laws 1983,
8 Chapter 318, Section 5, as amended) is amended to read:

9 "66-5-204. ADMINISTRATIVE AND COURT REVIEW.--An owner of
10 a motor vehicle registered in New Mexico who is aggrieved by
11 the decision of the secretary made under the provisions of the
12 Mandatory Financial Responsibility Act may appeal to the
13 ~~[hearing officer of the department]~~ administrative hearings
14 office for a hearing to be held within twenty days ~~[of]~~ after
15 the receipt by the ~~[department]~~ administrative hearings office
16 of the appeal. A person who continues aggrieved after the
17 decision made by the hearing officer may appeal that decision
18 in the district court pursuant to the provisions of Section
19 39-3-1.1 NMSA 1978."

20 SECTION 27. Section 66-5-236 NMSA 1978 (being Laws 1983,
21 Chapter 318, Section 35, as amended) is amended to read:

22 "66-5-236. SUSPENSION FOR NONPAYMENT OF JUDGMENT OR FOR
23 FALSE AFFIRMATION.--

24 A. Except as otherwise provided, the secretary
25 shall suspend:

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1 (1) the motor vehicle registration for all
2 motor vehicles and the driver's license of any person against
3 whom a judgment has been rendered, the department being in
4 receipt of a certified copy of the judgment on a form provided
5 by the department; or

6 (2) the registration for a period not to
7 exceed one year of a person who is operating a motor vehicle in
8 violation of Section 66-5-205 NMSA 1978 or falsely affirms the
9 existence of a motor vehicle insurance policy or some other
10 means of satisfying the financial responsibility requirements
11 of the Mandatory Financial Responsibility Act, but only if
12 evidence of financial responsibility is not submitted within
13 twenty days after the date of the mailing of the department's
14 demand ~~[therefor]~~ for that evidence. The department shall
15 notify the person that ~~[he]~~ the person may request a hearing
16 before the administrative hearings office within twenty days
17 after the date of the mailing of the department's demand ~~[as~~
18 ~~provided under this subsection]~~.

19 B. The registration shall remain suspended and
20 shall not be renewed, nor shall any registration be issued
21 thereafter in the name of that person, unless and until every
22 judgment is stayed, satisfied in full or to the extent provided
23 in the Mandatory Financial Responsibility Act and evidence of
24 financial responsibility as required in Section 66-5-218 NMSA
25 1978 is provided to the department."

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1 SECTION 28. Section 66-8-111.1 NMSA 1978 (being Laws
2 1984, Chapter 72, Section 7, as amended by Laws 2003, Chapter
3 51, Section 14 and by Laws 2003, Chapter 90, Section 7) is
4 amended to read:

5 "66-8-111.1. LAW ENFORCEMENT OFFICER AGENT FOR
6 DEPARTMENT--WRITTEN NOTICE OF REVOCATION AND RIGHT TO
7 HEARING.--On behalf of the department, a law enforcement
8 officer requesting a chemical test or directing the
9 administration of a chemical test pursuant to Section 66-8-107
10 NMSA 1978 shall serve immediate written notice of revocation
11 and of right to a hearing before the administrative hearings
12 office pursuant to the Implied Consent Act on a person who
13 refuses to permit chemical testing or on a person who submits
14 to a chemical test the results of which indicate an alcohol
15 concentration in the person's blood or breath of eight one
16 hundredths or more if the person is twenty-one years of age or
17 older, four one hundredths or more if the person is driving a
18 commercial motor vehicle or two one hundredths or more if the
19 person is less than twenty-one years of age. Upon serving
20 notice of revocation, the law enforcement officer shall take
21 the license or permit of the driver, if any, and issue a
22 temporary license valid for twenty days or, if the driver
23 requests a hearing pursuant to Section 66-8-112 NMSA 1978,
24 valid until the date the [~~department~~] administrative hearings
25 office issues the order following that hearing; provided that a

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1 temporary license shall not be issued to a driver without a
2 valid license or permit. The law enforcement officer shall
3 send the person's driver's license to the department along with
4 the signed statement required pursuant to Section 66-8-111 NMSA
5 1978."

6 SECTION 29. Section 66-8-112 NMSA 1978 (being Laws 1978,
7 Chapter 35, Section 520, as amended by Laws 2003, Chapter 51,
8 Section 15 and by Laws 2003, Chapter 90, Section 8) is amended
9 to read:

10 "66-8-112. REVOCATION OF LICENSE OR PRIVILEGE TO
11 DRIVE--NOTICE--EFFECTIVE DATE--HEARING--HEARING COSTS--
12 REVIEW.--

13 A. The effective date of revocation pursuant to
14 Section 66-8-111 NMSA 1978 is twenty days after notice of
15 revocation or, if the person whose driver's license or
16 privilege to drive is being revoked or denied requests a
17 hearing pursuant to [~~this section~~] the Administrative Hearings
18 Office Act, the date that the [~~department~~] administrative
19 hearings office issues the order following that hearing. The
20 date of notice of revocation is:

21 (1) the date the law enforcement officer
22 serves written notice of revocation and of right to a hearing
23 pursuant to Section 66-8-111.1 NMSA 1978; or

24 (2) in the event the results of a chemical
25 test cannot be obtained immediately, the date notice of

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1 revocation is served by mail by the department. This notice of
2 revocation and of right to a hearing shall be sent by certified
3 mail and shall be deemed to have been served on the date borne
4 by the return receipt showing delivery, refusal of the
5 addressee to accept delivery or attempted delivery of the
6 notice at the address obtained by the arresting law enforcement
7 officer or on file with the department.

8 B. Within ten days after receipt of notice of
9 revocation pursuant to Subsection A of this section, a person
10 whose license or privilege to drive is revoked or denied or the
11 person's agent may request a hearing. The hearing request
12 shall be made in writing and shall be accompanied by a payment
13 of twenty-five dollars (\$25.00) or a sworn statement of
14 indigency on a form provided by the [~~department~~] administrative
15 hearings office. A standard for indigency shall be established
16 pursuant to [~~regulations~~] rules adopted by the department.

17 Failure to request a hearing within ten days shall result in
18 forfeiture of the person's right to a hearing. Any person less
19 than eighteen years of age who fails to request a hearing
20 within ten days shall have notice of revocation sent to [~~his~~]
21 the person's parent, guardian or custodian by the department.

22 A date for the hearing shall be set by the [~~department~~]
23 administrative hearings office, if practical, within thirty
24 days after receipt of notice of revocation. The hearing shall
25 be held in the county in which the offense for which the person

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1 was arrested took place.

2 C. The [~~department~~] administrative hearings office
3 may postpone or continue any hearing on its own motion or upon
4 application from the person and for good cause shown for a
5 period not to exceed ninety days from the date of notice of
6 revocation and, [~~provided that~~] if the office so orders, the
7 department [~~extends~~] shall extend the validity of the temporary
8 license for the period of the postponement or continuation.

9 D. At the hearing, the [~~department or its agent~~]
10 administrative hearings office may administer oaths and may
11 issue subpoenas for the attendance of witnesses and the
12 production of relevant books and papers.

13 E. The hearing shall be limited to the following
14 issues:

15 (1) whether the law enforcement officer had
16 reasonable grounds to believe that the person had been driving
17 a motor vehicle within this state while under the influence of
18 intoxicating liquor or drugs;

19 (2) whether the person was arrested;

20 (3) whether this hearing is held no later than
21 ninety days after notice of revocation; and either

22 (4) whether:

23 (a) the person refused to submit to a
24 test upon request of the law enforcement officer; and

25 (b) the law enforcement officer advised

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1 that the failure to submit to a test could result in revocation
2 of the person's privilege to drive; or

3 (5) whether:

4 (a) the chemical test was administered
5 pursuant to the provisions of the Implied Consent Act; and

6 (b) the test results indicated an
7 alcohol concentration in the person's blood or breath of eight
8 one hundredths or more if the person is twenty-one years of age
9 or older, four one hundredths or more if the person is driving
10 a commercial motor vehicle or two one hundredths or more if the
11 person is less than twenty-one years of age.

12 F. The [~~department~~] administrative hearings office
13 shall enter an order sustaining the revocation or denial of the
14 person's license or privilege to drive if the [~~department~~]
15 hearing officer from the office finds that:

16 (1) the law enforcement officer had reasonable
17 grounds to believe the driver was driving a motor vehicle while
18 under the influence of intoxicating liquor or drugs;

19 (2) the person was arrested;

20 (3) this hearing is held no later than ninety
21 days after notice of revocation; and

22 (4) either:

23 (a) the person refused to submit to the
24 test upon request of the law enforcement officer after the law
25 enforcement officer advised [~~him~~] the person that [~~his~~] the

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1 person's failure to submit to the test could result in the
2 revocation of [~~his~~] the person's privilege to drive; or

3 (b) that a chemical test was
4 administered pursuant to the provisions of the Implied Consent
5 Act and the test results indicated an alcohol concentration in
6 the person's blood or breath of eight one hundredths or more if
7 the person is twenty-one years of age or older, four one
8 hundredths or more if the person is driving a commercial motor
9 vehicle or two one hundredths or more if the person is less
10 than twenty-one years of age.

11 G. If one or more of the elements set forth in
12 Paragraphs (1) through (4) of Subsection F of this section are
13 not found by the [~~department~~] hearing officer, the person's
14 license shall not be revoked.

15 H. A person adversely affected by an order of the
16 [~~department~~] administrative hearings office may seek review
17 within thirty days in the district court in the county in which
18 the offense for which the person was arrested took place. The
19 district court, upon thirty days' written notice to the
20 department, shall hear the case. On review, it is for the
21 court to determine only whether reasonable grounds exist for
22 revocation or denial of the person's license or privilege to
23 drive based on the record of the administrative proceeding.

24 I. Any person less than eighteen years of age shall
25 have results of [~~his~~] the person's hearing forwarded by the

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1 [department] administrative hearings office to [his] the
2 person's parent, guardian or custodian."

3 SECTION 30. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
4 FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL
5 OBLIGATIONS, STATUTORY REFERENCES AND RULES.--

6 A. On the effective date of this act, all
7 personnel, functions, appropriations, money, records,
8 furniture, equipment and other property of, or attributable to,
9 the hearings bureau of the office of the secretary of taxation
10 and revenue shall be transferred to the administrative hearings
11 office.

12 B. On the effective date of this act, all
13 contractual obligations of the hearings bureau of the office of
14 the secretary of taxation and revenue shall be binding on the
15 administrative hearings office.

16 C. On the effective date of this act, all
17 references in statute to the hearings bureau of the office of
18 the secretary of taxation and revenue or hearing officers of
19 the taxation and revenue department in Chapters 7 and 66 NMSA
20 1978 shall be deemed to be references to the administrative
21 hearings office or a hearing officer of the office.

22 D. Rules of the taxation and revenue department
23 pertaining to hearing officers and the conduct of hearings
24 pursuant to actions related to Chapter 7 or 66 NMSA 1978 shall
25 be deemed to be the rules of the administrative hearings office

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until amended or repealed by the office.

SECTION 31. REPEAL.--Section 7-1-24.1 NMSA 1978 (being
Laws 2013, Chapter 27, Section 7) is repealed.

SECTION 32. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2015.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; PROVIDING A GROSS RECEIPTS DEDUCTION FOR RECEIPTS FROM THE SALE OF CERTAIN CYBERSECURITY DEVICES.

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

SECTION 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--CYBERSECURITY DEVICES.--

A. Prior to July 1, 2025, receipts from the sale of a cybersecurity device that is a port locking device, a port monitoring device or a port monitoring software application may be deducted from gross receipts.

B. The purpose of the deduction provided by this section is to create jobs in the state in the field of cybersecurity by encouraging businesses that provide defensive

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1 barriers for protecting computer systems and networks to move
2 to New Mexico.

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

6 D. The department shall compile an annual report on
7 the deduction provided by this section that shall include the
8 number of taxpayers that claimed the deduction, the aggregate
9 amount of deductions claimed and any other information
10 necessary to evaluate the effectiveness of the deduction.
11 Beginning in 2018 and every three years thereafter that the
12 deduction is in effect, the department shall compile and
13 present the annual reports to the revenue stabilization and tax
14 policy committee and the legislative finance committee with an
15 analysis of the effectiveness and cost of the deduction and
16 whether the deduction is performing the purpose for which it
17 was created.

18 E. For purposes of this section:

19 (1) "port locking device" means a physical
20 device that:

21 (a) is a lock that is inserted into and
22 blocks access to an open or unused port of a computer or
23 portable computer device;

24 (b) can be unlocked only with a unique
25 password; and

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1 (c) meets the standards required by the
2 Federal Information Security Management Act of 2002, as that
3 act may be amended, for security categorization of federal
4 information and information systems and for minimum security
5 requirements for information and information systems supporting
6 federal agencies and risk-based processes;

7 (2) "port monitoring device" means a physical
8 device that:

9 (a) prevents unauthorized access to a
10 computer or portable computer device by monitoring a port of a
11 computer or portable computer device that is in use by a
12 removable media device;

13 (b) is a lock that is inserted into an
14 open or unused port of a computer or portable computer device
15 and can connect removable media to the computer or portable
16 computer device;

17 (c) will lock the port if the removable
18 media device is removed from the port without a password and
19 block the port from accepting any other removable media device;

20 (d) can be unlocked only with a unique
21 password; and

22 (e) meets the standards required by the
23 Federal Information Security Management Act of 2002, as that
24 act may be amended, for security categorization of federal
25 information and information systems and for minimum security

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1 requirements for information and information systems supporting
2 federal agencies and risk-based processes; and

3 (3) "port monitoring software application"
4 means a software application that can monitor all of the ports
5 on a network or individual computer or portable computer device
6 that can:

7 (a) disallow removable media when
8 connected to a computer or portable computer device through a
9 port;

10 (b) record the date, time, user,
11 computer and the name, manufacturer, serial number, file name
12 and size of the removable media;

13 (c) send notification when an
14 unauthorized removable media device is connected to a computer
15 or portable computer device; and

16 (d) meets the standards required by the
17 Federal Information Security Management Act of 2002, as that
18 act may be amended, for security categorization of federal
19 information and information systems and for minimum security
20 requirements for information and information systems supporting
21 federal agencies and risk-based processes."

22 SECTION 2. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2015.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PROPERTY TAXATION; EXPANDING THE DEFINITION OF "AGRICULTURAL USE" FOR PROPERTY VALUATION PURPOSES; REQUIRING ISSUANCE OF RULES PROHIBITING SOLE CONSIDERATION OF LAND ACREAGE IN A DETERMINATION OF WHETHER LAND IS USED PRIMARILY FOR AGRICULTURAL PURPOSES.

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

SECTION 1. Section 7-36-20 NMSA 1978 (being Laws 1973, Chapter 258, Section 21, as amended) is amended to read:

"7-36-20. SPECIAL METHOD OF VALUATION--LAND USED PRIMARILY FOR AGRICULTURAL PURPOSES.--

A. The value of land used primarily for agricultural purposes shall be determined on the basis of the land's capacity to produce agricultural products. Evidence of bona fide primary agricultural use of land for the tax year

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1 preceding the year for which determination is made of
2 eligibility for the land to be valued under this section
3 creates a presumption that the land is used primarily for
4 agricultural purposes during the tax year in which the
5 determination is made. If the land was valued under this
6 section in one or more of the three tax years preceding the
7 year in which the determination is made and the use of the land
8 has not changed since the most recent valuation under this
9 section, a presumption is created that the land continues to be
10 entitled to that valuation.

11 B. For the purpose of this section:

12 (1) "agricultural products" means plants,
13 crops, trees, forest products, orchard crops, livestock,
14 poultry, captive deer or elk, or fish; and

15 (2) "agricultural use" means the:

16 (a) use of land for the production of
17 ~~[plants, crops, trees, forest products, orchard crops,~~
18 ~~livestock, poultry, captive deer or elk, or fish. The term~~
19 ~~also includes the]~~ agricultural products;

20 (b) use of land that meets the
21 requirements for payment or other compensation pursuant to a
22 soil conservation program under an agreement with an agency of
23 the federal government;

24 (c) use of land to raise or keep horses,
25 but does not include the use of land to train, show or race

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1 horses;

2 (d) resting of land to maintain its
3 capacity to produce agricultural products; or

4 (e) resting of land used in the previous
5 tax year for a purpose identified pursuant to this paragraph if
6 the resting of land is concurrent with and a direct result of
7 at least moderate drought conditions confirmed by the United
8 States department of agriculture for the portion of the county
9 within which the land is located.

10 C. The department shall adopt rules for determining
11 whether land is used primarily for agricultural purposes. The
12 rules shall provide that:

13 (1) the use of land for the lawful taking of
14 game shall not be considered in determining whether land is
15 used primarily for agricultural purposes; and

16 (2) the acreage of the land shall not be
17 considered as the only factor in determining whether land is
18 used primarily for agricultural purposes.

19 D. The department shall adopt rules for determining
20 the value of land used primarily for agricultural purposes.

21 The rules shall:

22 (1) specify procedures to use in determining
23 the capacity of land to produce agricultural products and the
24 derivation of value of the land based upon its production
25 capacity;

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1 (2) establish carrying capacity as the
2 measurement of the production capacity of land used for grazing
3 purposes, develop a system of determining carrying capacity
4 through the use of an animal unit concept and establish
5 carrying capacities for the land in the state classified as
6 grazing land;

7 (3) provide that land the bona fide and
8 primary use of which is the production of captive deer or elk
9 shall be valued as grazing land and that captive deer shall be
10 valued and taxed as sheep and captive elk shall be valued and
11 taxed as cattle;

12 (4) provide for the consideration of
13 determinations of any other governmental agency concerning the
14 capacity of the same or similar lands to produce agricultural
15 products;

16 (5) assure that land determined under the
17 rules to have the same or similar production capacity shall be
18 valued uniformly throughout the state; and

19 (6) provide for the periodic review by the
20 department of determined production capacities and
21 capitalization rates used for determining annually the value of
22 land used primarily for agricultural purposes.

23 E. All improvements, other than those specified in
24 Section 7-36-15 NMSA 1978, on land used primarily for
25 agricultural purposes shall be valued separately for property

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1 taxation purposes, and the value of these improvements shall be
2 added to the value of the land determined under this section.

3 F. The owner of the land [~~must~~] shall make
4 application to the county assessor in a tax year in which the
5 valuation method of this section is first claimed to be
6 applicable to the land or in a tax year immediately subsequent
7 to a tax year in which the land was not valued under this
8 section. Application shall be made under oath, shall be in a
9 form and contain the information required by department rules
10 and [~~must~~] shall be made no later than thirty days after the
11 date of mailing by the assessor of the notice of valuation.
12 Once land is valued under this section, application need not be
13 made in subsequent tax years as long as there is no change in
14 the use of the land.

15 G. The owner of land valued under this section
16 shall report to the county assessor whenever the use of the
17 land changes so that it is no longer being used primarily for
18 agricultural purposes. This report shall be made on a form
19 prescribed by department rules and shall be made by the last
20 day of February of the tax year immediately following the year
21 in which the change in the use of the land occurs.

22 H. Any person who is required to make a report
23 under the provisions of Subsection G of this section and who
24 fails to do so is personally liable for a civil penalty in an
25 amount equal to the greater of twenty-five dollars (\$25.00)

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1 or twenty-five percent of the difference between the property
2 taxes ultimately determined to be due and the property taxes
3 originally paid for the tax years for which the person failed
4 to make the required report."

5 SECTION 2. APPLICABILITY.--The provisions of this act
6 apply to the 2016 and subsequent property tax years.

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