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SENATE BILL 5

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2003

INTRODUCED BY

Manny M. Aragon

AN ACT

**RELATING TO PUBLIC FINANCES; PROVIDING ADDITIONAL INCOME TAX
RELIEF FOR SENIOR CITIZENS, FAMILIES, INDIVIDUALS AND HEADS OF
HOUSEHOLDS; PROVIDING INCENTIVES FOR ECONOMIC DEVELOPMENT
INITIATIVES AND FOR THE USE OF ALTERNATIVE FUEL VEHICLES;
PROVIDING GROSS RECEIPTS TAX RELIEF FOR HEALTH CARE
PRACTITIONERS; AUTHORIZING PARTICIPATION IN THE STREAMLINED
SALES TAX PROJECT; PROVIDING FOR ADMINISTRATIVE REFORMS;
EXPANDING THE GOVERNMENTAL GROSS RECEIPTS TAX AND THE
COMPENSATING TAX; PROVIDING FOR LOCAL OPTION COMPENSATING
TAXES; ELIMINATING THE CIGARETTE STAMP DISCOUNT; ELIMINATING
THE OFFSET AGAINST PARIMUTUEL TAX; ADJUSTING RATES OF THE MOTOR
VEHICLE EXCISE TAX, THE LEASED VEHICLE SURCHARGE, THE LIQUOR
EXCISE TAX, THE OIL AND GAS EMERGENCY SCHOOL TAX, THE SPECIAL
FUEL EXCISE TAX AND THE WEIGHT DISTANCE TAX; CREATING A
DISTRIBUTION OF LIQUOR EXCISE TAX REVENUE TO LOCAL GOVERNMENTS;**

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1 ADJUSTING VEHICLE REGISTRATION FEES; ADJUSTING PERMIT FEES AND
2 REQUIREMENTS FOR VEHICLES OF EXCESSIVE SIZE AND WEIGHT;
3 CREATING REQUIREMENTS AND IMPOSING A FEE FOR WEIGHT DISTANCE
4 TAX IDENTIFICATION PERMITS; MAKING DISTRIBUTIONS; CREATING A
5 FUND; AUTHORIZING ISSUANCE OF STATE TRANSPORTATION PROJECT
6 BONDS; AUTHORIZING TRANSPORTATION PROJECTS; AMENDING, REPEALING
7 AND ENACTING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS;
8 DECLARING AN EMERGENCY.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

11 Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
12 through 9 of this act may be cited as the "Streamlined Sales
13 and Use Tax Administration Act".

14 Section 2. [NEW MATERIAL] LEGISLATIVE FINDINGS. -- The
15 legislature finds that a simplified sales tax and use tax
16 system that treats transactions in a competitively neutral
17 manner will strengthen and preserve sales taxes and use taxes
18 as vital revenue sources for this state and its local
19 governments and will help preserve the fiscal sovereignty of
20 this state. The legislature also finds that such a system will
21 substantially reduce the administrative burdens of collection
22 for sellers. While states have the sovereign right to set
23 their own tax policies, states should cooperatively develop a
24 streamlined sales tax and use tax system that is simplified,
25 uniform and fair.

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1 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the
2 Streamlined Sales and Use Tax Administration Act:

3 A. "agreement" means the streamlined sales and use
4 tax agreement;

5 B. "certified automated system" means software
6 certified jointly by member states to:

7 (1) calculate the tax imposed by each
8 jurisdiction on a transaction;

9 (2) determine the amount of tax to remit to
10 the appropriate state; and

11 (3) maintain a record of the transaction;

12 C. "certified service provider" means an agent that
13 performs all of the sales tax functions of a seller and that is
14 certified jointly by member states to perform all of the sales
15 tax functions of the seller;

16 D. "member state" means a state of the United
17 States that enters into the agreement with another state and
18 the District of Columbia if it enters into the agreement with
19 another state;

20 E. "person" means an individual, trust, estate,
21 fiduciary, partnership, limited liability company, limited
22 liability partnership, corporation and any other legal entity;

23 F. "sales tax" means the gross receipts tax levied
24 pursuant to the Gross Receipts and Compensating Tax Act;

25 G. "seller" means a person making sales, leases and

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1 rentals of personal property and services; and

2 H. "use tax" means the compensating tax levied
3 pursuant to the Gross Receipts and Compensating Tax Act.

4 Section 4. [NEW MATERIAL] AUTHORITY TO ENTER AGREEMENT. --

5 A. The secretary of taxation and revenue shall
6 enter into the agreement with one or more member states to
7 simplify and modernize sales tax and use tax administration and
8 to reduce the burden of tax compliance for sellers.

9 B. The secretary of taxation and revenue is
10 authorized to:

11 (1) act jointly with member states to
12 establish standards for certification of a certified automated
13 system and establish performance standards for multistate
14 sellers pursuant to the agreement;

15 (2) take actions reasonably required to
16 implement the provisions of the Streamlined Sales and Use Tax
17 Administration Act; and

18 (3) adopt rules with member states pursuant to
19 the agreement.

20 C. The secretary of taxation and revenue or the
21 secretary's designee is authorized to represent this state
22 before member states.

23 Section 5. [NEW MATERIAL] RELATIONSHIP TO STATE LAW. -- A
24 provision of the agreement does not invalidate or amend any
25 provision of state law. Implementation of a condition of the

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1 agreement shall be adopted by the legislature.

2 Section 6. [NEW MATERIAL] AGREEMENT REQUIREMENTS. -- The
3 secretary of taxation and revenue shall not enter into the
4 agreement unless the agreement:

5 A. sets restrictions to achieve more uniform state
6 rates by limiting:

- 7 (1) the number of member state rates;
- 8 (2) the application of maximums on the amount
9 of member state taxes due on transactions; and
- 10 (3) the application of thresholds on the
11 application of member state taxes;

12 B. establishes uniform standards for:

- 13 (1) sourcing transactions to taxing
14 jurisdictions;
- 15 (2) administering exempt sales; and
- 16 (3) providing allowances that a seller can
17 receive for bad debts;

18 C. requires member states to develop and adopt
19 uniform definitions of sales tax and use tax terms that enable
20 the member states to make policy choices consistent with the
21 definitions;

22 D. provides for a certified automated system that
23 allows a seller to register to collect and remit sales taxes
24 and use taxes for each member state;

25 E. provides that registration with the certified

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1 automated system and the collection of a sales tax and a use
2 tax in a member state will not be used to determine if the
3 seller has a nexus with a member state for tax purposes;

4 F. provides for reduction of the burden of
5 complying with local sales taxes and use taxes by:

6 (1) restricting variances between the member
7 state and local tax bases;

8 (2) requiring each member state to administer
9 the sales tax and use tax levied by a local jurisdiction within
10 the member state so that a seller collecting and remitting the
11 taxes will not be required to register or file a return with,
12 remit funds to or be subject to an independent audit from a
13 local taxing jurisdiction;

14 (3) restricting change in each local sales tax
15 rate and use tax rate and setting an effective date for a
16 change in the boundaries of a local taxing jurisdiction; and

17 (4) providing notice of a change in each local
18 sales tax rate and use tax rate and of a change in the
19 boundaries of a local taxing jurisdiction;

20 G. outlines monetary allowances provided by member
21 states to sellers and certified service providers;

22 H. requires each state to certify compliance with
23 the terms of the agreement before becoming a member state and
24 to maintain compliance with provisions of the agreement
25 pursuant to the law of the member state while a member state;

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1 I. requires each member state to adopt a uniform
2 policy for certified service providers that protects the
3 privacy of consumers and maintains the confidentiality of tax
4 information; and

5 J. provides for the appointment of an advisory
6 council of private sector representatives and an advisory
7 council of nonmember state representatives to consult with in
8 the administration of the agreement.

9 Section 7. [NEW MATERIAL] MEMBER STATES. -- The agreement
10 is an accord among member states in furtherance of their
11 governmental functions. The agreement permits each member
12 state to establish and maintain a cooperative, uniform,
13 simplified system to apply sales taxes and use taxes pursuant
14 to the law of the member state.

15 Section 8. [NEW MATERIAL] LIMITED BINDING AND BENEFICIAL
16 EFFECT. --

17 A. The agreement binds and benefits only this state
18 and other member states. Only a member state is an intended
19 beneficiary of the agreement. A benefit to a person other than
20 a member state is established by the law of this state and
21 member states and not by the terms of the agreement.

22 B. A person shall not:

23 (1) have a cause of action or a defense
24 pursuant to the agreement; and

25 (2) challenge an action or inaction of a

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1 department, agency, political subdivision or instrumentality of
2 this state on the grounds that the action or inaction is not
3 consistent with the agreement.

4 C. A law of this state or the application of the
5 law is valid despite the inconsistency of the law or its
6 application with the agreement.

7 Section 9. [NEW MATERIAL] LIABILITY. --

8 A. A certified service provider is liable for sales
9 taxes and use taxes due from each member state on each sales
10 transaction that it processes for the seller except as
11 otherwise provided by this section. A seller that contracts
12 with the certified service provider is not liable to this state
13 for sales tax or use tax due on a transaction processed by the
14 certified service provider unless the seller misrepresents the
15 type of item it sells or commits fraud. In the absence of
16 probable cause that the seller has committed fraud or made a
17 material misrepresentation, the seller is not subject to audit
18 on transactions processed by the certified service provider. A
19 seller is subject to audit for a transaction not processed by
20 the certified service provider. Member states acting jointly
21 may:

22 (1) audit data pertaining to the seller that
23 is stored in the certified automated system; and

24 (2) review procedures of the seller to
25 determine if the certified automated system functions properly

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1 and the extent to which the transactions of the seller are
2 processed by this certified service provider.

3 B. A certified service provider is responsible for
4 the proper functioning of a certified automated system and is
5 liable to this state for underpayments of tax attributable to
6 system errors. A seller that uses a certified automated system
7 is liable to this state for reporting and remitting tax.

8 C. A seller that has a proprietary system for
9 determining the amount of tax due on a transaction and has
10 agreed to establish a performance standard for the system is
11 liable for failure of the system to meet the standard.

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

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

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

24 B. "department" means the taxation and revenue
25 department, the secretary or any employee of the department

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1 exercising authority lawfully delegated to that employee by the
2 secretary;

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

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

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

15 F. "Internal Revenue Code" means the Internal
16 Revenue Code of 1986, as amended;

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

22 H. "local option compensating tax" means a tax
23 authorized to be imposed by a county or municipality upon the
24 taxpayer's use of property, as the term "use" is defined in the
25 Gross Receipts and Compensating Tax Act, and required to be

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1 collected by the department at the same time and in the same
2 manner as the compensating tax; "local option compensating tax"
3 includes the compensating taxes imposed pursuant to the
4 Municipal Local Option Gross Receipts Taxes Act, Supplemental
5 Municipal Gross Receipts Tax Act, County Local Option Gross
6 Receipts Taxes Act, Local Hospital Gross Receipts Tax Act,
7 County Correctional Facility Gross Receipts Tax Act and such
8 other acts as may be enacted authorizing counties or
9 municipalities to impose taxes on use of property, which taxes
10 are to be collected by the department in the same time and in
11 the same manner as it collects the compensating tax;

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

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1 collects the gross receipts tax;

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

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

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

18 [~~L-~~] M. "paid" includes the term "paid over";

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

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

21 [~~O-~~] P. "person" means any individual, estate,
22 trust, receiver, cooperative association, club, corporation,
23 company, firm, partnership, limited liability company, limited
24 liability partnership, joint venture, syndicate, other
25 association or gas, water or electric utility owned or operated

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1 by a county or municipality; "person" also means, to the extent
2 permitted by law, a federal, state or other governmental unit
3 or subdivision, or an agency, department or instrumentality
4 thereof; and "person", as used in Sections 7-1-72 through
5 7-1-74 NMSA 1978, also includes an officer or employee of a
6 corporation, a member or employee of a partnership or any
7 individual who, as such, is under a duty to perform any act in
8 respect of which a violation occurs;

9 [P-] Q. "property" means property or rights to
10 property;

11 [Q-] R. "property or rights to property" means any
12 tangible property, real or personal, or any intangible property
13 of a taxpayer;

14 [R-] S. "secretary" means the secretary of taxation
15 and revenue and, except for purposes of Subsection B of Section
16 7-1-4 NMSA 1978 and Subsection E of Section 7-1-24 NMSA 1978,
17 also includes the deputy secretary or a division director or
18 deputy division director delegated by the secretary;

19 [S-] T. "secretary or the secretary's delegate"
20 means the secretary or any employee of the department
21 exercising authority lawfully delegated to that employee by the
22 secretary;

23 [T-] U. "security" means money, property or rights
24 to property or a surety bond;

25 [U-] V. "state" means any state of the United

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1 States, the District of Columbia, the commonwealth of Puerto
2 Rico and any territory or possession of the United States;

3 ~~[V.-]~~ W. "tax" means the total amount of each tax
4 imposed and required to be paid, withheld and paid or collected
5 and paid under provision of any law made subject to
6 administration and enforcement according to the provisions of
7 the Tax Administration Act and, unless the context otherwise
8 requires, includes the amount of any interest or civil penalty
9 relating thereto; "tax" also means any amount of any abatement
10 of tax made or any credit, rebate or refund paid or credited by
11 the department under any law subject to administration and
12 enforcement under the provisions of the Tax Administration Act
13 to any person contrary to law and includes, unless the context
14 requires otherwise, the amount of any interest or civil penalty
15 relating thereto;

16 ~~[W.-]~~ X. "taxpayer" means a person liable for
17 payment of any tax, a person responsible for withholding and
18 payment or for collection and payment of any tax or a person to
19 whom an assessment has been made, if the assessment remains
20 unabated or the amount thereof has not been paid; and

21 ~~[X.-]~~ Y. "tax return preparer" means a person who
22 prepares for others for compensation or who employs one or more
23 persons to prepare for others for compensation any return of
24 income tax, a substantial portion of any return of income tax,
25 any claim for refund with respect to income tax or a

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1 substantial portion of any claim for refund with respect to
2 income tax; provided that a person shall not be a "tax return
3 preparer" merely because such person:

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

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

10 (3) prepares as a trustee or other fiduciary
11 an income tax return or claim for refund with respect to income
12 tax for any person. "

13 Section 11. Section 7-1-6.10 NMSA 1978 (being Laws 1983,
14 Chapter 211, Section 15, as amended) is amended to read:

15 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND. --

16 A. A distribution pursuant to Section 7-1-6.1 NMSA
17 1978 shall be made to the state road fund in an amount equal to
18 the net receipts attributable to the taxes, surcharges,
19 penalties and interest imposed pursuant to the Gasoline Tax Act
20 and to the taxes, surtaxes, fees, penalties and interest
21 imposed pursuant to the Special Fuels Supplier Tax Act and the
22 Alternative Fuel Tax Act less:

23 (1) the amount distributed to the state
24 aviation fund pursuant to Subsection B of Section 7-1-6.7 NMSA
25 1978;

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1 (2) the amount distributed to the motorboat
2 fuel tax fund pursuant to Section 7-1-6.8 NMSA 1978;

3 (3) the amount distributed to municipalities
4 and counties pursuant to Subsection A of Section 7-1-6.9 NMSA
5 1978;

6 (4) the amount distributed to the county
7 government road fund pursuant to Section 7-1-6.19 NMSA 1978;

8 (5) the amount distributed to the local
9 governments road fund pursuant to Section 7-1-6.39 NMSA 1978;

10 (6) the amount distributed to the
11 municipalities pursuant to Section 7-1-6.27 NMSA 1978;

12 (7) the amount distributed to the municipal
13 arterial program of the local governments road fund pursuant to
14 Section 7-1-6.28 NMSA 1978; and

15 (8) the amount distributed to a qualified
16 tribe pursuant to a gasoline tax sharing agreement entered into
17 between the secretary of [~~highway and~~] transportation and the
18 qualified tribe pursuant to the provisions of Section
19 67-3-8.1 NMSA 1978.

20 B. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made to the state road fund in an amount equal to
22 the net receipts attributable to the taxes, [~~fees~~] interest and
23 penalties from the Weight Distance Tax Act. "

24 Section 12. Section 7-1-6.12 NMSA 1978 (being Laws 1983,
25 Chapter 211, Section 17, as amended) is amended to read:

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1 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION
2 GROSS RECEIPTS TAXES--REVENUES FROM LOCAL OPTION COMPENSATING
3 TAXES. --

4 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
5 shall be made to each municipality for which the department is
6 collecting a local option gross receipts tax imposed by that
7 municipality in an amount, subject to any increase or decrease
8 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
9 receipts attributable to the local option gross receipts tax
10 imposed by that municipality, less any deduction for
11 administrative cost determined and made by the department
12 pursuant to the provisions of the act authorizing imposition by
13 that municipality of the local option gross receipts tax and
14 any additional administrative fee withheld pursuant to
15 Subsection C of Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA
16 1978.

17 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978
18 shall be made to each municipality for which the department is
19 collecting a local option compensating tax imposed by that
20 municipality in an amount, subject to any increase or decrease
21 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
22 receipts attributable to the local option compensating tax
23 imposed by that municipality."

24 Section 13. Section 7-1-6.13 NMSA 1978 (being Laws 1983,
25 Chapter 211, Section 18, as amended) is amended to read:

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1 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
2 GROSS RECEIPTS TAXES--REVENUES FROM LOCAL OPTION COMPENSATING
3 TAXES. --

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

17 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978
18 shall be made to each county for which the department is
19 collecting a local option compensating tax imposed by that
20 county in an amount, subject to any increase or decrease made
21 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
22 receipts attributable to the local option compensating tax
23 imposed by that county.

24 [~~B-~~] C. In lieu of a distribution pursuant to
25 Subsection A of this section to a class B county with a

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1 population, as shown in the last federal decennial census, of
2 more than twenty-five thousand and a net taxable value in the
3 2002 property tax year of less than two hundred million dollars
4 (\$200,000,000), the department shall make a distribution of the
5 following amounts to the largest municipality in that county
6 for the purpose of maintaining and operating a hospital:

7 (1) amounts attributable to the second
8 one-eighth percent increment of the local option gross receipts
9 tax; and

10 (2) amounts attributable to the special county
11 hospital gross receipts tax."

12 Section 14. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
13 Chapter 211, Section 20, as amended) is amended to read:

14 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
15 MUNICIPALITIES OR COUNTIES. --

16 A. The provisions of this section apply to:

17 (1) any distribution to a municipality of
18 gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or
19 of interstate telecommunications gross receipts tax pursuant to
20 Section 7-1-6.36 NMSA 1978;

21 (2) any transfer to a municipality with
22 respect to any local option gross receipts tax or local option
23 compensating tax imposed by that municipality;

24 (3) any transfer to a county with respect to
25 any local option gross receipts tax or local option

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1 compensating tax imposed by that county;

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

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

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

9 (7) any distribution to a municipality or a
10 county of cigarette taxes pursuant to Sections 7-1-6.11,
11 7-12-15 and 7-12-16 NMSA 1978;

12 (8) any distribution to a county from the
13 county government road fund pursuant to Section 7-1-6.26 NMSA
14 1978;

15 (9) any distribution to a municipality of
16 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and

17 (10) any distribution to a municipality,
18 county, school district or special district of oil and gas ad
19 valorem production tax reduced as a result of a refund
20 requested in December 1998 with respect to production of carbon
21 di oxide.

22 B. If the secretary determines that any prior
23 distribution or transfer to a political subdivision was
24 erroneous, the secretary shall increase or decrease the next
25 distribution or transfer amount for that political subdivision

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1 after the determination, except as provided in Subsection C, D
2 or E of this section, by the amount necessary to correct the
3 error. Subject to the provisions of Subsection E of this
4 section, the secretary shall notify the political subdivision
5 of the amount of each increase or decrease.

6 C. No decrease shall be made to current or future
7 distributions or transfers to a political subdivision for any
8 excess distribution or transfer made to that political
9 subdivision more than one year prior to the calendar year in
10 which the determination of the secretary was made.

11 D. The secretary, in lieu of recovery from the next
12 distribution or transfer amount, may recover an excess
13 distribution or transfer of one hundred dollars (\$100) or more
14 to the political subdivision in installments from current and
15 future distributions or transfers to that political subdivision
16 pursuant to an agreement with the officials of the political
17 subdivision whenever the amount of the distribution or transfer
18 decrease for the political subdivision exceeds ten percent of
19 the average distribution or transfer amount for that political
20 subdivision for the twelve months preceding the month in which
21 the secretary's determination is made; provided that for the
22 purposes of this subsection, the "average distribution or
23 transfer amount" shall be the arithmetic mean of the
24 distribution or transfer amounts within the twelve months
25 immediately preceding the month in which the determination is

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1 made.

2 E. Except for the provisions of this section, if
3 the amount by which a distribution or transfer would be
4 adjusted pursuant to Subsection B of this section is one
5 hundred dollars (\$100) or less, no adjustment or notice need be
6 made.

7 F. The secretary is authorized to decrease a
8 distribution to a municipality or county upon being directed
9 to do so by the secretary of finance and administration
10 pursuant to the State Aid Intercept Act or to redirect a
11 distribution to the New Mexico finance authority pursuant to
12 an ordinance or a resolution passed by the county or
13 municipality and a written agreement of the municipality or
14 county and the New Mexico finance authority. Upon direction
15 to decrease a distribution or notice to redirect a
16 distribution to a municipality or county, the secretary shall
17 decrease or redirect the next designated distribution, and
18 succeeding distributions as necessary, by the amount of the
19 state distributions intercept authorized by the secretary of
20 finance and administration pursuant to the State Aid
21 Intercept Act or by the amount of the state distribution
22 intercept authorized pursuant to an ordinance or a resolution
23 passed by the county or municipality and a written agreement
24 with the New Mexico finance authority. The secretary shall
25 transfer the state distributions intercept amount to the

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1 municipal or county treasurer or other person designated by
2 the secretary of finance and administration or to the New
3 Mexico finance authority pursuant to written agreement to pay
4 the debt service to avoid default on qualified local revenue
5 bonds or meet other local revenue bond, loan or other debt
6 obligations of the municipality or county to the New Mexico
7 finance authority. "

8 Section 15. A new section of the Tax Administration Act
9 is enacted to read:

10 "[NEW MATERIAL] LOCATION OF USE. --

11 A. For compensating tax and local option
12 compensating tax purposes, use of property occurs in the
13 jurisdiction in which:

14 (1) the buyer's place of business is located
15 if the buyer is engaging in business in New Mexico and uses
16 the property in furtherance of that business;

17 (2) the buyer's principal office is located
18 if the buyer is the state or a local government or an agency
19 or instrumentality of the state or a local government; or

20 (3) the buyer's residence is located if the
21 buyer is not engaging in business in New Mexico or does not
22 use the property in furtherance of business.

23 B. The department shall promulgate regulations to
24 determine where use will be attributed when the buyer has
25 more than one business location or residence in New Mexico. "

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1 Section 16. Section 7-1-6.39 NMSA 1978 (being Laws
2 1995, Chapter 6, Section 9) is amended to read:

3 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO
4 LOCAL GOVERNMENTS ROAD FUND. --A distribution pursuant to
5 Section 7-1-6.1 NMSA 1978 shall be made to the local
6 governments road fund in an amount equal to [~~eleven and~~
7 ~~eleven hundredths~~] eight and seven-tenths percent of the net
8 receipts attributable to the taxes, exclusive of penalties
9 and interest, from the special fuel excise tax imposed by the
10 Special Fuels Supplier Tax Act. "

11 Section 17. Section 7-1-6.40 NMSA 1978 (being Laws
12 1997, Chapter 182, Section 1, as amended) is amended to read:

13 "7-1-6.40. [~~DISTRIBUTION~~] DISTRIBUTIONS OF LIQUOR
14 EXCISE TAX--LOCAL DWI GRANT FUND--MUNICIPALITIES AND
15 COUNTIES. --

16 A. A distribution pursuant to Section 7-1-6.1
17 NMSA 1978 shall be made to the local DWI grant fund in an
18 amount equal to [~~thirty-four and fifty-seven hundredths~~]
19 twelve and three-tenths percent of the net receipts
20 attributable to the liquor excise tax.

21 B. A distribution pursuant to Section 7-1-6.1
22 NMSA 1978 shall be made to municipalities in an aggregate
23 amount equal to seven and six-tenths percent of the net
24 receipts attributable to the liquor excise tax. Each
25 municipality shall receive an amount derived by multiplying

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1 the aggregate amount to be distributed by a percentage that
2 is the sum of:

3 (1) fifty percent of a fraction, the
4 numerator of which is the population of the municipality
5 according to the most recent federal decennial census and the
6 denominator of which is the combined population of all
7 municipalities in the state according to the most recent
8 federal decennial census; and

9 (2) fifty percent of a fraction, the
10 numerator of which is the total taxable gross receipts in the
11 municipality for the previous fiscal year and the denominator
12 of which is the combined total taxable gross receipts of all
13 municipalities in the state for the previous fiscal year.

14 C. A distribution pursuant to Section 7-1-6.1
15 NMSA 1978 shall be made to counties in an aggregate amount
16 equal to one and four tenths percent of the net receipts
17 attributable to the liquor excise tax. Each county shall
18 receive an amount derived by multiplying the aggregate amount
19 to be distributed by a percentage that is the sum of:

20 (1) fifty percent of a fraction, the
21 numerator of which is the population of the county according
22 to the most recent federal decennial census and the
23 denominator of which is the combined population of all
24 counties in the state according to the most recent federal
25 decennial census; and

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1 (2) fifty percent of a fraction, the
2 numerator of which is the total taxable gross receipts in the
3 county for the previous fiscal year and the denominator of
4 which is the combined total taxable gross receipts of all
5 counties in the state for the previous fiscal year."

6 Section 18. Section 7-1-17 NMSA 1978 (being Laws 1965,
7 Chapter 248, Section 20, as amended) is amended to read:

8 "7-1-17. ASSESSMENT OF TAX--PRESUMPTION OF
9 CORRECTNESS.--

10 A. If the secretary or the secretary's delegate
11 determines that a taxpayer is liable for taxes in excess of
12 [~~ten dollars (\$10.00)~~] twenty-five dollars (\$25.00) that are
13 due and that have not been previously assessed to the
14 taxpayer, the secretary or the secretary's delegate shall
15 promptly assess the amount thereof to the taxpayer.

16 B. Assessments of tax are effective:

17 (1) when a return of a taxpayer is received
18 by the department showing a liability for taxes;

19 (2) when a document denominated "notice of
20 assessment of taxes", issued in the name of the secretary, is
21 mailed or delivered in person to the taxpayer against whom
22 the liability for tax is asserted, stating the nature and
23 amount of the taxes assertedly owed by the taxpayer to the
24 state, demanding of the taxpayer the immediate payment of the
25 taxes and briefly informing the taxpayer of the remedies

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1 available to the taxpayer; or

2 (3) when an effective jeopardy assessment is
3 made as provided in the Tax Administration Act.

4 C. Any assessment of taxes or demand for payment
5 made by the department is presumed to be correct.

6 D. When taxes have been assessed to any taxpayer
7 and remain unpaid, the secretary or the secretary's delegate
8 may demand payment at any time except as provided otherwise
9 by Section 7-1-19 NMSA 1978. "

10 Section 19. Section 7-1-24 NMSA 1978 (being Laws 1965,
11 Chapter 248, Section 26, as amended) is amended to read:

12 "7-1-24. ADMINISTRATIVE HEARING--PROCEDURE. --

13 A. Any taxpayer may dispute the assessment to the
14 taxpayer of any amount of tax, the application to the
15 taxpayer of any provision of the Tax Administration Act or
16 the denial of or failure to either allow or deny a claim for
17 refund made in accordance with Section 7-1-26 NMSA 1978 by
18 filing with the secretary a written protest against the
19 assessment or against the application to the taxpayer of the
20 provision or against the denial of or the failure to allow or
21 deny the amount claimed to have been erroneously paid as tax.
22 Every protest shall identify the taxpayer and the tax
23 involved and state the grounds for the taxpayer's protest and
24 the affirmative relief requested. The statement of grounds
25 for protest shall specify individual grounds upon which the

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1 protest is based and a summary statement of the evidence
2 expected to be produced supporting each ground asserted, if
3 any; provided that the taxpayer may supplement the statement
4 at any time prior to ten days before any hearing conducted on
5 the protest pursuant to Subsection D of this section or, if a
6 scheduling order has been issued, in accordance with the
7 scheduling order. The secretary may, in appropriate cases,
8 provide for an informal conference before setting a hearing
9 of the protest or acting on any claim for refund.

10 B. Any protest by a taxpayer shall be filed
11 within thirty days of the date of the mailing to the taxpayer
12 by the department of the notice of assessment or mailing to,
13 or service upon, the taxpayer of other peremptory notice or
14 demand, or the date of mailing or filing a return. Upon
15 written request of the taxpayer made within the time
16 permitted for filing a protest, the secretary may grant an
17 extension of time, not to exceed sixty days, within which to
18 file the protest. If a protest is not filed within the time
19 required for filing a protest or, if an extension has been
20 granted, within the extended time, the secretary may proceed
21 to enforce collection of any tax if the taxpayer is
22 delinquent within the meaning of Section 7-1-16 NMSA 1978.
23 Upon written request of the taxpayer made after the time for
24 filing a protest but not more than sixty days after the
25 expiration of the time for filing a protest, the secretary

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1 may grant a retroactive extension of time, not to exceed
2 sixty days, within which to file the protest; provided that
3 the taxpayer demonstrates to the secretary's satisfaction
4 that the taxpayer was not able to file a protest or to
5 request an extension within the time to file the protest and
6 that the grounds for the protest have substantial merit. The
7 fact that the department did not mail the assessment or other
8 peremptory notice or demand by certified or registered mail
9 or otherwise demand and receive acknowledgment of receipt by
10 the taxpayer shall not be deemed to demonstrate the
11 taxpayer's inability to protest or request an extension
12 within the time for filing a protest within the required
13 time. The secretary shall not grant a retroactive extension
14 if a levy has already been served under Section 7-1-31 or
15 7-1-33 NMSA 1978 or a jeopardy assessment has been made under
16 Section 7-1-59 NMSA 1978. No proceedings other than those to
17 enforce collection of any amount assessed as tax and to
18 protect the interest of the state by injunction, as provided
19 in Sections 7-1-31, 7-1-33, 7-1-34, 7-1-40, 7-1-53, 7-1-56
20 and 7-1-58 NMSA 1978, are stayed by timely filing of a
21 protest under this section.

22 C. Claims for refund shall be filed as provided
23 for in Section 7-1-26 NMSA 1978.

24 D. Upon timely receipt of a protest, the
25 department or hearing officer shall promptly set a date for

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1 hearing and on that date hear the protest or claim.

2 E. A hearing officer shall be designated by the
3 secretary to conduct the hearing. Taxpayers may appear at a
4 hearing for themselves or be represented by a bona fide
5 employee, an attorney, a certified public accountant or a
6 registered public accountant. Hearings shall not be open to
7 the public except upon request of the taxpayer and may be
8 postponed or continued at the discretion of the hearing
9 officer.

10 F. A hearing officer shall not engage or
11 participate in any way as an employee of the department in
12 the areas of enforcement or formulating general tax policy
13 other than to conduct hearings. A taxpayer may request that
14 the secretary determine whether a hearing officer has engaged
15 or participated in tax policy or enforcement in a way that
16 might reasonably be expected to affect the hearing officer's
17 impartiality in a particular matter. The secretary may
18 designate another hearing officer for the matter to avoid
19 actual or apparent prejudice.

20 G. A hearing officer shall not engage in ex-parte
21 communications concerning the substantive issues of any
22 matter that has been protested while that matter is still
23 pending. If the secretary finds that a hearing officer has
24 engaged in prohibited ex-parte communications, the secretary
25 shall designate another hearing officer for that matter.

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1 H. In hearings before the hearing officer, the
2 taxpayer may elect that the Rules of Civil Procedure for the
3 District Courts apply to the proceedings. The secretary
4 shall prescribe by regulation the manner in which an election
5 shall be made. In the absence of such an election, the
6 technical rules of evidence shall not apply, but in ruling on
7 the admissibility of evidence, the hearing officer may
8 require reasonable substantiation of statements or records
9 tendered, the accuracy or truth of which is in reasonable
10 doubt. A taxpayer may request a written ruling on any
11 contested question of evidence in a matter in which the
12 taxpayer has filed a written protest and that protest is
13 pending.

14 I. In hearings before the hearing officer when
15 the Rules of Civil Procedure for the District Courts [~~shall~~]
16 do not apply, [~~but~~] the hearing shall be conducted so that
17 both complaints and defenses are amply and fairly presented.
18 To this end, the hearing officer shall hear arguments, permit
19 discovery, entertain and dispose of motions, require written
20 expositions of the case as the circumstances justify and
21 render a decision in accordance with the law and the evidence
22 presented and admitted. A taxpayer may request a written
23 ruling on any contested question of procedure in a matter in
24 which the taxpayer has filed a written protest and that
25 protest is pending.

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

13 K. A taxpayer with two or more protests
14 containing related issues may request that such protests be
15 combined and heard jointly. The designated hearing officer
16 shall grant the request to combine protests unless it would
17 create an unreasonable burden on the department.

18 L. Nothing in this section shall be construed to
19 authorize any criminal proceedings hereunder or to authorize
20 an administrative protest of the issuance of a subpoena or
21 summons. "

22 Section 20. Section 7-1-26 NMSA 1978 (being Laws 1965,
23 Chapter 248, Section 28, as amended) is amended to read:

24 "7-1-26. CLAIM FOR REFUND. --

25 A. Any person who believes that an amount of tax
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1 has been paid by or withheld from that person in excess of
2 that for which the person was liable, who has been denied any
3 credit or rebate claimed or who claims a prior right to
4 property in the possession of the department pursuant to a
5 levy made under authority of Sections 7-1-31 through 7-1-34
6 NMSA 1978 may claim a refund by directing to the secretary,
7 within the time limited by the provisions of Subsections D, E
8 and F of this section, a written claim for refund. Except as
9 provided in Subsection J of this section, a refund claim
10 shall include the taxpayer's name, address and identification
11 number, the type of tax for which a refund is being claimed,
12 the sum of money being claimed, the period for which
13 overpayment was made and the basis for the refund. As used
14 in this subsection, "basis for the refund" means a brief
15 statement of the facts and the law on which the claim is
16 based. Upon receipt of a claim for refund of gross receipts
17 tax, compensating tax, personal income tax for years other
18 than the current tax year or corporate income tax for years
19 other than the current tax year, other than a claim described
20 in Subsection J of this section, the department shall
21 promptly send a notice to the person filing the claim stating
22 that it has received the claim and indicating whether it
23 considers the claim to be complete. The department and the
24 person filing the claim may agree to designate the claim as a
25 protective claim.

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

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

9 (2) For a claim other than a protective
10 claim, if the department has neither granted nor denied any
11 portion of a claim for refund within one hundred twenty days
12 of the date the claim was mailed or delivered to the
13 department, the person may refile it within the time limits
14 set forth in Subsection C of this section or may within
15 ninety days elect to pursue one, but only one, of the
16 remedies in Subsection C of this section. After the
17 expiration of the two hundred ten days from the date the
18 claim was mailed or delivered to the department, the
19 department may not approve or disapprove the claim unless the
20 person has pursued one of the remedies under Subsection C of
21 this section.

22 (3) For a protective claim, if the
23 department has not acted within one hundred twenty days from
24 either the date of a final decision in the lead case from
25 which appeal may not be taken or the last date on which

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1 appeal may be taken when no appeal is taken, any part of the
2 claim not granted or denied is denied.

3 C. A person may elect to pursue one, but only
4 one, of the remedies in Paragraphs (1) and (2) of this
5 subsection. In any case, if a person does timely pursue more
6 than one remedy, the person shall be deemed to have elected
7 the first remedy invoked. The remedies are as follows:

8 (1) the person may direct to the secretary a
9 written protest against the denial of, or failure to either
10 allow or deny the claim or portion thereof, which shall be
11 set for hearing by a hearing officer designated by the
12 secretary promptly after the receipt of the protest in
13 accordance with the provisions of Section 7-1-24 NMSA 1978,
14 and pursue the remedies of appeal from decisions adverse to
15 the protestant as provided in Section 7-1-25 NMSA 1978; or

16 (2) the person may commence a civil action
17 in the district court for Santa Fe county by filing a
18 complaint setting forth the circumstance of the claimed
19 overpayment, alleging that on account thereof the state is
20 indebted to the plaintiff in the amount stated, together with
21 any interest allowable, demanding the refund to the plaintiff
22 of that amount and reciting the facts of the claim for
23 refund. The plaintiff or the secretary may appeal from any
24 final decision or order of the district court to the court of
25 appeals.

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1 D. Except as otherwise provided in Subsections E
2 and F of this section, no credit or refund of any amount may
3 be allowed or made to any person unless as the result of a
4 claim made by that person as provided in this section:

5 (1) within three years of the end of the
6 calendar year in which:

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

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

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

20 (2) when an amount of a claim for credit
21 under the provisions of the Investment Credit Act, Laboratory
22 Partnership with Small Business Tax Credit Act, Technology
23 Jobs Tax Credit Act, Capital Equipment Tax Credit Act or
24 similar act or for the rural job tax credit pursuant to
25 Sections 7-2E-1 and 7-2E-2 NMSA 1978 or similar credit has

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1 been denied, the taxpayer may claim a refund of the credit no
2 later than one year after the date of the denial;

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

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

20 (5) when a taxpayer has been assessed a
21 tax on or after July 1, 1993 under Subsection B, C or D of
22 Section 7-1-18 NMSA 1978 and when the assessment applies to a
23 period ending at least three years prior to the beginning of
24 the year in which the assessment was made, the taxpayer may
25 claim a refund for the same tax for the period of the

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1 assessment or for any period following that period within one
2 year of the date of the assessment unless a longer period for
3 claiming a refund is provided in this section.

4 E. No credit or refund shall be allowed or made
5 to any person claiming a refund of gasoline tax under Section
6 7-13-11 NMSA 1978 unless notice of the destruction of the
7 gasoline was given the department within thirty days of the
8 actual destruction and the claim for refund is made within
9 six months of the date of destruction. No credit or refund
10 shall be allowed or made to any person claiming a refund of
11 gasoline tax under Section 7-13-17 NMSA 1978 unless the
12 refund is claimed within six months of the date of purchase
13 of the gasoline and the gasoline has been used at the time
14 the claim for refund is made.

15 F. If, as a result of an audit by the internal
16 revenue service or the filing of an amended federal return
17 changing a prior election or making any other change for
18 which federal approval is required by the Internal Revenue
19 Code, any adjustment of federal tax is made with the result
20 that there would have been an overpayment of tax if the
21 adjustment to federal tax had been applied to the taxable
22 period to which it relates, claim for credit or refund of
23 only that amount based on the adjustment may be made as
24 provided in this section within one year of the date of the
25 internal revenue service audit adjustment or payment of the

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1 federal refund or within the period limited by Subsection D
2 of this section, whichever expires later. Interest computed
3 at the rate specified in Subsection B of Section 7-1-68 NMSA
4 1978 shall be allowed on any such claim for refund from the
5 date one hundred twenty days after the claim is made until
6 the date the final decision to grant the credit or refund is
7 made.

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

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

21 I. For the purposes of this section, the term
22 "oil and gas tax return" means a return reporting tax due
23 with respect to oil, natural gas, liquid hydrocarbons or
24 carbon dioxide pursuant to the Oil and Gas Severance Tax Act,
25 the Oil and Gas Conservation Tax Act, the Oil and Gas

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1 Emergency School Tax Act, the Oil and Gas Ad Valorem
2 Production Tax Act, the Natural Gas Processors Tax Act or the
3 Oil and Gas Production Equipment Ad Valorem Tax Act.

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

16 K. For the purposes of this section:

17 (1) "protective claim" means a claim for
18 refund filed by a person asserting that the person's
19 entitlement to a refund will be established by a final
20 decision of a New Mexico court of competent jurisdiction on a
21 claim for refund or protest previously filed by that person
22 or another; and

23 (2) "lead case" means the previously filed
24 claim or protest described in Paragraph (1) of this
25 subsection.

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1 L. Disposition of a protective claim shall be
2 postponed until a final decision is reached in the lead
3 case. "

4 Section 21. Section 7-1-67 NMSA 1978 (being Laws 1965,
5 Chapter 248, Section 68, as amended) is amended to read:

6 "7-1-67. INTEREST ON DEFICIENCIES. --

7 A. If a tax imposed is not paid on or before the
8 day on which it becomes due, interest shall be paid to the
9 state on that amount from the first day following the day on
10 which the tax becomes due, without regard to any extension of
11 time or installment agreement, until it is paid, except that:

12 (1) for income tax imposed on a member of
13 the armed services of the United States serving in a combat
14 zone under orders of the president of the United States,
15 interest shall accrue only for the period beginning the day
16 after any applicable extended due date if the tax is not
17 paid;

18 (2) if the amount of interest due at the
19 time payment is made is less than one dollar (\$1.00), then no
20 interest shall be due;

21 (3) if demand is made for payment of a tax,
22 including accrued interest, and if the tax is paid within ten
23 days after the date of the demand, no interest on the amount
24 paid shall be imposed for the period after the date of the
25 demand;

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1 (4) if a managed audit is completed by the
2 taxpayer on or before the date required, as provided in the
3 agreement for the managed audit, and payment of any tax found
4 to be due is made in full within thirty days of the date the
5 secretary has mailed or delivered an assessment for the tax
6 to the taxpayer, no interest shall be due on the assessed
7 tax;

8 (5) when, as the result of an audit or a
9 managed audit, an overpayment of a tax is credited against an
10 underpayment of tax pursuant to Section 7-1-29 NMSA 1978,
11 interest shall accrue from the date the tax was due until the
12 tax is deemed paid;

13 (6) if the department does not issue an
14 assessment for the tax program and period within the time
15 provided in Subsection D of Section 7-1-11.2 NMSA 1978,
16 interest shall be paid from the first day following the day
17 on which the tax becomes due until the tax is paid, excluding
18 the period between either:

19 (a) the one hundred eightieth day
20 after giving a notice of outstanding records or books of
21 account and the date of the assessment of the tax; or

22 (b) the ninetieth day after the
23 expiration of the additional time requested by the taxpayer
24 to comply, if such request was granted, and the date of the
25 assessment of the tax; and

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1 (7) if the taxpayer was not provided with
2 proper notices as required in Section 7-1-11.2 NMSA 1978,
3 interest shall be paid from the first day following the day
4 on which the tax becomes due until the tax is paid, excluding
5 the period between one hundred eighty days prior to the date
6 of assessment and the date of assessment.

7 B. Interest due to the state under Subsection A
8 or ~~[D]~~ E of this section shall be:

9 (1) through June 30, 2004, at the rate of
10 fifteen percent a year, computed on a daily basis [~~provided~~
11 ~~that~~];

12 (2) from July 1, 2004 through December 31,
13 2005, at the rate of ten percent a year computed on a daily
14 basis; and

15 (3) on and after January 1, 2006, at the
16 underpayment rate for the period determined in accordance
17 with Section 6621 of the Internal Revenue Code.

18 C. If a different rate than the rate established
19 by Subsection B of this section is specified by a compact or
20 other interstate agreement to which New Mexico is a party,
21 [~~that~~] the rate specified by the compact or other agreement
22 shall be applied to amounts due under the compact or other
23 agreement.

24 ~~[C-]~~ D. Nothing in this section shall be
25 construed to impose interest on interest or interest on the

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1 amount of any penalty.

2 ~~[D-]~~ E. If any tax required to be paid in
3 accordance with Section 7-1-13.1 NMSA 1978 is not paid in the
4 manner required by that section, interest shall be paid to
5 the state on the amount required to be paid in accordance
6 with Section 7-1-13.1 NMSA 1978. If interest is due under
7 this subsection and is also due under Subsection A of this
8 section, interest shall be due and collected only pursuant to
9 Subsection A of this section."

10 Section 22. Section 7-1-68 NMSA 1978 (being Laws 1965,
11 Chapter 248, Section 69, as amended by Laws 2003, Chapter 2,
12 Section 1 and by Laws 2003, Chapter 439, Section 6) is
13 amended to read:

14 "7-1-68. INTEREST ON OVERPAYMENTS. --

15 A. As provided in this section, interest shall be
16 allowed and paid on the amount of tax overpaid by a person
17 that is subsequently refunded or credited to that person.

18 B. Interest on overpayments of tax shall accrue
19 and be paid:

20 (1) through June 30, 2004, at the rate of
21 fifteen percent a year, computed on a daily basis [~~provided~~
22 ~~that~~];

23 (2) from July 1, 2004 through December 31,
24 2005, at the rate of ten percent a year computed on a daily
25 basis; and

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(3) on and after January 1, 2006, at the underpayment rate for the period determined in accordance with Section 6621 of the Internal Revenue Code.

C. If a different rate than the rate established by Subsection B of this section is specified by a compact or other interstate agreement to which New Mexico is a party, [that] the rate specified by the compact or other agreement shall apply to amounts due under the compact or other agreement.

~~[C.]~~ D. Unless otherwise provided by this section, interest on an overpayment not arising from an assessment by the department shall be paid from the date of the claim for refund until a date preceding by not more than thirty days the date of the credit or refund to any person; interest on an overpayment arising from an assessment by the department shall be paid from the date of overpayment until a date preceding by not more than thirty days the date of the credit or refund to any person.

E. Interest on a refund or credit of tax paid on a deduction initially disallowed by the department for failure to produce a proper nontaxable transaction certificate or not claimed by the taxpayer on a timely filed original return shall be paid from the date on which the taxpayer produces to the department proof that the nontaxable transaction certificate has been obtained.

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1 ~~[D-]~~ F. No interest shall be allowed or paid with
2 respect to an amount credited or refunded if:

3 (1) the amount of interest due is less than
4 one dollar (\$1.00);

5 (2) the credit or refund is made within:

6 (a) fifty-five days of the date of the
7 claim for refund of income tax, pursuant to either the Income
8 Tax Act or the Corporate Income and Franchise Tax Act for the
9 tax year immediately preceding the tax year in which the
10 claim is made; or

11 (b) seventy-five days of the date of
12 the claim for refund of gasoline tax to users of gasoline off
13 the highways;

14 (3) the credit or refund is made within one
15 hundred twenty days of the date of the claim for refund of
16 income tax, pursuant to the Income Tax Act or the Corporate
17 Income and Franchise Tax Act, for any tax year more than one
18 year prior to the year in which the claim is made;

19 (4) Sections 6611(f) and 6611(g) of the
20 Internal Revenue Code, as those sections may be amended or
21 renumbered, prohibit payment of interest for federal income
22 tax purposes;

23 (5) the credit or refund is made within
24 sixty days of the date of the claim for refund of any tax
25 other than income tax;

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1 (6) the credit results from overpayments
2 found in an audit of multiple reporting periods and applied
3 to underpayments found in that audit or refunded as a net
4 overpayment to the taxpayer pursuant to Section 7-1-29 NMSA
5 1978;

6 (7) the department applies the credit or
7 refund to an intercept program, to the taxpayer's estimated
8 payment prior to the due date for the estimated payment, or
9 to offset prior liabilities of the taxpayer pursuant to
10 Subsection E of Section 7-1-29 NMSA 1978; [~~or~~]

11 (8) the credit or refund results from
12 overpayments the department finds pursuant to Subsection F of
13 Section 7-1-29 NMSA 1978 that exceed the refund claimed by
14 the taxpayer on the return; or

15 (9) the credit or refund is in settlement of
16 a protective claim, as defined in Section 7-1-26 NMSA 1978;
17 provided that interest shall be paid with respect to the
18 period from the date of the final unappealable decision in
19 the lead case until a date preceding by not more than thirty
20 days the date the credit or refund is paid on the protective
21 claim.

22 [~~E.-~~] G. Nothing in this section shall be
23 construed to require the payment of interest upon interest. "

24 Section 23. Section 7-1-69 NMSA 1978 (being Laws 1965,
25 Chapter 248, Section 70, as amended) is amended to read:

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1 "7-1-69. CIVIL PENALTY FOR FAILURE TO PAY TAX OR FILE A
2 RETURN. --

3 A. Except as provided in Subsection C of this
4 section, in the case of failure due to negligence or
5 disregard of department rules and regulations, but without
6 intent to evade or defeat a tax, to pay when due the amount
7 of tax required to be paid, to pay in accordance with the
8 provisions of Section 7-1-13.1 NMSA 1978 when required to do
9 so or to file by the date required a return regardless of
10 whether a tax is due, there shall be added to the amount
11 assessed a penalty in an amount equal to the greater of:

12 (1) two percent per month or any fraction of
13 a month from the date the tax was due multiplied by the
14 amount of tax due but not paid, not to exceed ten percent of
15 the tax due but not paid;

16 (2) two percent per month or any fraction of
17 a month from the date the return was required to be filed
18 multiplied by the tax liability established in the late
19 return, not to exceed ten percent of the tax liability
20 established in the late return; or

21 (3) a minimum of [~~five dollars (\$5.00)~~]
22 twenty-five dollars (\$25.00), but the [~~five dollar (\$5.00)~~]
23 minimum penalty shall not apply to taxes levied under the
24 Income Tax Act or taxes administered by the department
25 pursuant to Subsection B of Section 7-1-2 NMSA 1978.

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1 B. No penalty shall be assessed against a
2 taxpayer if the failure to pay an amount of tax when due
3 results from a mistake of law made in good faith and on
4 reasonable grounds.

5 C. If a different penalty is specified in a
6 compact or other interstate agreement to which New Mexico is
7 a party, the penalty provided in the compact or other
8 interstate agreement shall be applied to amounts due under
9 the compact or other interstate agreement at the rate and in
10 the manner prescribed by the compact or other interstate
11 agreement.

12 D. In the case of failure, with willful intent to
13 evade or defeat a tax, to pay when due the amount of tax
14 required to be paid, there shall be added to the amount fifty
15 percent of the tax or a minimum of twenty-five dollars
16 (\$25.00), whichever is greater, as penalty.

17 E. If demand is made for payment of a tax,
18 including penalty imposed pursuant to this section, and if
19 the tax is paid within ten days after the date of such
20 demand, no penalty shall be imposed for the period after the
21 date of the demand with respect to the amount paid.

22 F. If a taxpayer makes electronic payment of a
23 tax but the payment does not include all of the information
24 required by the department pursuant to the provisions of
25 Section 7-1-13.1 NMSA 1978 and if the department does not

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1 receive the required information within five business days
2 from the later of the date a request by the department for
3 that information is received by the taxpayer or the due date,
4 the taxpayer shall be subject to a penalty of two percent per
5 month or any fraction of a month from the fifth day following
6 the date the request is received. If a penalty is imposed
7 under Subsection A of this section with respect to the same
8 transaction for the same period, no penalty shall be imposed
9 under this subsection.

10 G. No penalty shall be imposed on:

11 (1) tax due in excess of tax paid in
12 accordance with an approved estimated basis pursuant to
13 Section 7-1-10 NMSA 1978;

14 (2) tax due as the result of a managed
15 audit; or

16 (3) tax that is deemed paid by crediting
17 overpayments found in an audit or managed audit of multiple
18 periods pursuant to Section 7-1-29 NMSA 1978. "

19 Section 24. Section 7-2-5.2 NMSA 1978 (being Laws 1985,
20 Chapter 114, Section 1, as amended) is amended to read:

21 "7-2-5.2. EXEMPTION--INCOME OF PERSONS SIXTY-FIVE AND
22 OLDER OR BLIND.--Any individual sixty-five years of age or
23 older or who, for federal income tax purposes, is blind may
24 claim an exemption in an amount specified in Subsections A
25 through C of this section not to exceed eight thousand

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1 dollars (\$8,000) of income includable except for this
2 exemption in net income. Individuals having income both
3 within and without this state shall apportion this exemption
4 in accordance with regulations of the secretary.

5 A. For married individuals filing separate
6 returns, for any taxable year beginning on or after January
7 1, 1987:

8		The maximum amount of
9	If adjusted	exemption allowable under
10	gross income is:	this section shall be:
11	Not over \$15,000	\$8,000
12	Over \$15,000 but not over \$16,500	\$7,000
13	Over \$16,500 but not over \$18,000	\$6,000
14	Over \$18,000 but not over \$19,500	\$5,000
15	Over \$19,500 but not over \$21,000	\$4,000
16	Over \$21,000 but not over \$22,500	\$3,000
17	Over \$22,500 [but not over \$24,000]	\$2,000 <u>\$2,500</u>
18	[Over \$24,000 but not over \$25,500	\$1,000
19	Over \$25,500	0].

20 B. For heads of household, surviving spouses and
21 married individuals filing joint returns, for any taxable year
22 beginning on or after January 1, 1987:

23		The maximum amount of
24	If adjusted	exemption allowable under
25	gross income is:	this section shall be:

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1 2004, is amended to read:

2 "7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by
3 Section 7-2-3 NMSA 1978 shall be at the following rates for any
4 taxable year beginning in 2004:

5 A. For married individuals filing separate returns:

6 If the taxable income is:	The tax shall be:
7 Not over \$4,000	1.7% of taxable income
8 Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of 9 excess over \$ 4,000
10 Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of 11 excess over \$ 8,000
12 Over \$ 12,000 but not over \$ 20,000	\$ 384 plus 6.0% of 13 excess over \$ 12,000
14 Over \$ 20,000	\$ 864 plus 6.8% of 15 excess over \$ 20,000.

16 B. For heads of household, surviving spouses and
17 married individuals filing joint returns:

18 If the taxable income is:	The tax shall be:
19 Not over \$8,000	1.7% of taxable income
20 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of 21 excess over \$ 8,000
22 Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of 23 excess over \$ 16,000
24 Over \$ 24,000 but not over \$ 40,000	\$ 768 plus 6.0% of 25 excess over \$ 24,000

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underscored material = new
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1 Over \$ 40, 000 \$ 1, 728 plus 6. 8% of
2 excess over \$ 40, 000.

3 C. For single individuals and for estates and
4 trusts:

5 If the taxable income is:	The tax shall be:
6 Not over \$5, 500	1. 7% of taxable income
7 Over \$ 5, 500 but not over \$ 11, 000	\$ 93. 50 plus 3. 2% of
8	excess over \$ 5, 500
9 Over \$ 11, 000 but not over \$ 16, 000	\$ 269. 50 plus 4. 7% of
10	excess over \$ 11, 000
11 Over \$ 16, 000 but not over \$ 26, 000	\$ 504. 50 plus 6. 0% of
12	excess over \$ 16, 000
13 Over \$ 26, 000	\$1, 104. 50 plus 6. 8% of
14	excess over \$ 26, 000.

15 ~~[D. For heads of household filing returns:~~

16 If the taxable income is:	The tax shall be:
17 Not over \$7, 000	1. 7% of taxable income
18 Over \$ 7, 000 but not over \$ 14, 000	\$ 119 plus 3. 2% of
19 	excess over \$ 7, 000
20 Over \$ 14, 000 but not over \$ 20, 000	\$ 343 plus 4. 7% of
21 	excess over \$ 14, 000
22 Over \$ 20, 000 but not over \$ 33, 000	\$ 625 plus 6. 0% of
23 	excess over \$ 20, 000
24 Over \$ 33, 000	\$1, 405 plus 6. 8% of
25 	excess over \$ 33, 000.

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[bracketed material] = delete

1 E.] D. The tax on the sum of any lump-sum amounts
2 included in net income is an amount equal to five multiplied by
3 the difference between:

4 (1) the amount of tax due on the taxpayer's
5 taxable income; and

6 (2) the amount of tax that would be due on an
7 amount equal to the taxpayer's taxable income and twenty percent
8 of the taxpayer's lump-sum amounts included in net income. "

9 Section 26. Section 7-2-7 NMSA 1978 (being Laws 2003,
10 Chapter 2, Section 4), which is to become effective January 1,
11 2005, is amended to read:

12 "7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by
13 Section 7-2-3 NMSA 1978 shall be at the following rates for any
14 taxable year beginning in 2005:

15 A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000	\$ 384 plus 6.0% of excess over \$ 12,000.

24 B. For heads of household, surviving spouses and
25 married individuals filing joint returns:

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underscored material = new
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1	If the taxable income is:	The tax shall be:
2	Not over \$8,000	1.7% of taxable income
3	Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
4		excess over \$ 8,000
5	Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
6		excess over \$ 16,000
7	Over \$ 24,000	\$ 768 plus 6.0% of
8		excess over \$ 24,000.

9 C. For single individuals and for estates and
10 trusts:

11	If the taxable income is:	The tax shall be:
12	Not over \$5,500	1.7% of taxable income
13	Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of
14		excess over \$ 5,500
15	Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of
16		excess over \$ 11,000
17	Over \$ 16,000	\$ 504.50 plus 6.0% of
18		excess over \$ 16,000.

19 ~~[D. For heads of household filing returns:~~

20	If the taxable income is:	The tax shall be:
21	Not over \$7,000	1.7% of taxable income
22	Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of
23		excess over \$ 7,000
24	Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of
25		excess over \$ 14,000

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1 ~~Over \$ 20,000~~ ~~\$ 625 plus 6.0% of~~
2 ~~excess over \$ 20,000.~~

3 E.] D. The tax on the sum of any lump-sum amounts
4 included in net income is an amount equal to five multiplied by
5 the difference between:

6 (1) the amount of tax due on the taxpayer's
7 taxable income; and

8 (2) the amount of tax that would be due on an
9 amount equal to the taxpayer's taxable income and twenty percent
10 of the taxpayer's lump-sum amounts included in net income. "

11 Section 27. Section 7-2-7 NMSA 1978 (being Laws 2003,
12 Chapter 2, Section 5), which is to become effective January 1,
13 2006, is amended to read:

14 "7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by
15 Section 7-2-3 NMSA 1978 shall be at the following rates for any
16 taxable year beginning in 2006:

17 A. For married individuals filing separate returns:

18 If the taxable income is:	The tax shall be:
19 Not over \$4,000	1.7% of taxable income
20 Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of 21 excess over \$ 4,000
22 Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of 23 excess over \$ 8,000
24 Over \$ 12,000	\$ 384 plus 5.3% of 25 excess over \$ 12,000.

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underscored material = new
[bracketed material] = delete

1 ~~Over \$ 14,000 but not over \$ 20,000 \$ 343 plus 4.7% of~~
2 ~~_____ excess over \$ 14,000~~
3 ~~Over \$ 20,000 \$ 625 plus 5.3% of~~
4 ~~_____ excess over \$ 20,000.~~

5 E.] D. The tax on the sum of any lump-sum amounts
6 included in net income is an amount equal to five multiplied by
7 the difference between:

8 (1) the amount of tax due on the taxpayer's
9 taxable income; and

10 (2) the amount of tax that would be due on an
11 amount equal to the taxpayer's taxable income and twenty percent
12 of the taxpayer's lump-sum amounts included in net income. "

13 Section 28. Section 7-2-7 NMSA 1978 (being Laws 2003,
14 Chapter 2, Section 6), which is to become effective January 1,
15 2007, is amended to read:

16 "7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by
17 Section 7-2-3 NMSA 1978 shall be at the following rates for any
18 taxable year beginning on or after January 1, 2007:

19 A. For married individuals filing separate returns:

20 If the taxable income is:	The tax shall be:
21 Not over \$4,000	1.7% of taxable income
22 Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of
23	excess over \$ 4,000
24 Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of
25	excess over \$ 8,000

underscored material = new
[bracketed material] = delete

1 Over \$ 12, 000 \$ 384 plus 4.9% of
2 excess over \$ 12, 000.

3 B. For heads of household, surviving spouses and
4 married individuals filing joint returns:

5 If the taxable income is:	The tax shall be:
6 Not over \$8, 000	1.7% of taxable income
7 Over \$ 8, 000 but not over \$ 16, 000	\$ 136 plus 3.2% of
8	excess over \$ 8, 000
9 Over \$ 16, 000 but not over \$ 24, 000	\$ 392 plus 4.7% of
10	excess over \$ 16, 000
11 Over \$ 24, 000	\$ 768 plus 4.9% of
12	excess over \$ 24, 000.

13 C. For single individuals and for estates and
14 trusts:

15 If the taxable income is:	The tax shall be:
16 Not over \$5, 500	1.7% of taxable income
17 Over \$ 5, 500 but not over \$ 11, 000	\$ 93.50 plus 3.2% of
18	excess over \$ 5, 500
19 Over \$ 11, 000 but not over \$ 16, 000	\$ 269.50 plus 4.7% of
20	excess over \$ 11, 000
21 Over \$ 16, 000	\$ 504.50 plus 4.9% of
22	excess over \$ 16, 000.

23 ~~[D. For heads of household filing returns:~~

24 ~~—— If the taxable income is: —— The tax shall be:~~

25 ~~Not over \$7, 000 —— 1.7% of taxable income~~

underscored material = new
[bracketed material] = delete

1 ~~Over \$ 7,000 but not over \$ 14,000 \$ 119 plus 3.2% of~~
2 ~~_____ excess over \$ 7,000~~
3 ~~Over \$ 14,000 but not over \$ 20,000 \$ 343 plus 4.7% of~~
4 ~~_____ excess over \$ 14,000~~
5 ~~Over \$ 20,000 \$ 625 plus 4.9% of~~
6 ~~_____ excess over \$ 20,000.~~

7 E.] D. The tax on the sum of any lump-sum amounts
8 included in net income is an amount equal to five multiplied by
9 the difference between:

10 (1) the amount of tax due on the taxpayer's
11 taxable income; and

12 (2) the amount of tax that would be due on an
13 amount equal to the taxpayer's taxable income and twenty percent
14 of the taxpayer's lump-sum amounts included in net income. "

15 Section 29. Section 7-2-14 NMSA 1978 (being Laws 1972,
16 Chapter 20, Section 2, as amended) is amended to read:

17 "7-2-14. [~~LOW-INCOME COMPREHENSIVE TAX REBATE~~] FAMILY AND
18 INDIVIDUAL REBATE. --

19 A. Except as otherwise provided in Subsection B of
20 this section, any resident who files an individual New Mexico
21 income tax return and who is not a dependent of another
22 individual may claim a tax rebate for a portion of state and
23 local taxes to which the resident has been subject during the
24 taxable year for which the return is filed. The tax rebate may
25 be claimed even though the resident has no income taxable under

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1 the Income Tax Act. A husband and wife who file separate
2 returns for a taxable year in which they could have filed a
3 joint return may each claim only one-half of the tax rebate that
4 would have been allowed on a joint return.

5 B. No claim for the tax rebate provided in this
6 section shall be filed by a resident who was an inmate of a
7 public institution for more than six months during the taxable
8 year for which the tax rebate could be claimed or who was not
9 physically present in New Mexico for at least six months during
10 the taxable year for which the tax rebate could be claimed.

11 C. For the purposes of this section, the total
12 number of exemptions for which a tax rebate may be claimed or
13 allowed is determined by adding the number of federal exemptions
14 allowable for federal income tax purposes for each individual
15 included in the return who is domiciled in New Mexico plus two
16 additional exemptions for each individual domiciled in New
17 Mexico included in the return who is sixty-five years of age or
18 older plus one additional exemption for each individual
19 domiciled in New Mexico included in the return who, for federal
20 income tax purposes, is blind plus one exemption for each minor
21 child or stepchild of the resident who would be a dependent for
22 federal income tax purposes if the public assistance
23 contributing to the support of the child or stepchild was
24 considered to have been contributed by the resident.

25 D. The tax rebate provided for in this section may

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1 be claimed in the amount shown in the following table:

2 Modified gross And the total number

3 income is: of exemptions is:

4 [~~----- But Not ----- 6 or~~

5 ~~Over ----- Over ----- 1 ----- 2 ----- 3 ----- 4 ----- 5 ----- More~~

6 ~~\$ ----- 0 ----- \$ ----- 500 ----- \$120 ----- \$160 ----- \$200 ----- \$240 ----- \$280 ----- \$320~~

7 ~~----- 500 ----- 1, 000 ----- 135 ----- 195 ----- 250 ----- 310 ----- 350 ----- 415~~

8 ~~----- 1, 000 ----- 1, 500 ----- 135 ----- 195 ----- 250 ----- 310 ----- 350 ----- 435~~

9 ~~----- 1, 500 ----- 2, 000 ----- 135 ----- 195 ----- 250 ----- 310 ----- 350 ----- 450~~

10 ~~----- 2, 000 ----- 2, 500 ----- 135 ----- 195 ----- 250 ----- 310 ----- 350 ----- 450~~

11 ~~----- 2, 500 ----- 3, 000 ----- 135 ----- 195 ----- 250 ----- 310 ----- 350 ----- 450~~

12 ~~----- 3, 000 ----- 3, 500 ----- 135 ----- 195 ----- 250 ----- 310 ----- 350 ----- 450~~

13 ~~----- 3, 500 ----- 4, 000 ----- 135 ----- 195 ----- 250 ----- 310 ----- 355 ----- 450~~

14 ~~----- 4, 000 ----- 4, 500 ----- 135 ----- 195 ----- 250 ----- 310 ----- 355 ----- 450~~

15 ~~----- 4, 500 ----- 5, 000 ----- 125 ----- 190 ----- 240 ----- 305 ----- 355 ----- 450~~

16 ~~----- 5, 000 ----- 5, 500 ----- 115 ----- 175 ----- 230 ----- 295 ----- 355 ----- 430~~

17 ~~----- 5, 500 ----- 6, 000 ----- 105 ----- 155 ----- 210 ----- 260 ----- 315 ----- 410~~

18 ~~----- 6, 000 ----- 7, 000 ----- 90 ----- 130 ----- 170 ----- 220 ----- 275 ----- 370~~

19 ~~----- 7, 000 ----- 8, 000 ----- 80 ----- 115 ----- 145 ----- 180 ----- 225 ----- 295~~

20 ~~----- 8, 000 ----- 9, 000 ----- 70 ----- 105 ----- 135 ----- 170 ----- 195 ----- 240~~

21 ~~----- 9, 000 ----- 10, 000 ----- 65 ----- 95 ----- 115 ----- 145 ----- 175 ----- 205~~

22 ~~10, 000 ----- 11, 000 ----- 60 ----- 80 ----- 100 ----- 130 ----- 155 ----- 185~~

23 ~~11, 000 ----- 12, 000 ----- 55 ----- 70 ----- 90 ----- 110 ----- 135 ----- 160~~

24 ~~12, 000 ----- 13, 000 ----- 50 ----- 65 ----- 85 ----- 100 ----- 115 ----- 140~~

25 ~~13, 000 ----- 14, 000 ----- 50 ----- 65 ----- 85 ----- 100 ----- 115 ----- 140~~

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1	14,000	15,000	45	60	75	90	105	120	
2	15,000	16,000	40	55	70	85	95	110	
3	16,000	17,000	35	50	65	80	85	105	
4	17,000	18,000	30	45	60	70	80	95	
5	18,000	19,000	25	35	50	60	70	80	
6	19,000	20,000	20	30	40	50	60	65	
7	20,000	21,000	15	25	30	40	50	55	
8	21,000	22,000	10	20	25	35	40	45]	
9	<u>But Not</u>								<u>7 or</u>
10	<u>Over</u>	<u>Over</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>More</u>
11	<u>\$ 0</u>	<u>\$1,000</u>	<u>\$180</u>	<u>\$281</u>	<u>\$373</u>	<u>\$460</u>	<u>\$515</u>	<u>\$605</u>	<u>\$704</u>
12	<u>1,000</u>	<u>3,000</u>	<u>180</u>	<u>281</u>	<u>373</u>	<u>460</u>	<u>515</u>	<u>640</u>	<u>745</u>
13	<u>3,000</u>	<u>5,000</u>	<u>180</u>	<u>281</u>	<u>373</u>	<u>460</u>	<u>520</u>	<u>640</u>	<u>745</u>
14	<u>5,000</u>	<u>6,000</u>	<u>160</u>	<u>261</u>	<u>353</u>	<u>445</u>	<u>520</u>	<u>620</u>	<u>722</u>
15	<u>6,000</u>	<u>7,000</u>	<u>135</u>	<u>216</u>	<u>293</u>	<u>370</u>	<u>440</u>	<u>560</u>	<u>652</u>
16	<u>7,000</u>	<u>8,000</u>	<u>125</u>	<u>201</u>	<u>268</u>	<u>330</u>	<u>390</u>	<u>485</u>	<u>564</u>
17	<u>8,000</u>	<u>9,000</u>	<u>115</u>	<u>191</u>	<u>258</u>	<u>320</u>	<u>360</u>	<u>430</u>	<u>500</u>
18	<u>9,000</u>	<u>10,000</u>	<u>103</u>	<u>181</u>	<u>238</u>	<u>295</u>	<u>340</u>	<u>395</u>	<u>459</u>
19	<u>10,000</u>	<u>11,000</u>	<u>85</u>	<u>166</u>	<u>223</u>	<u>280</u>	<u>320</u>	<u>375</u>	<u>436</u>
20	<u>11,000</u>	<u>12,000</u>	<u>65</u>	<u>156</u>	<u>213</u>	<u>260</u>	<u>300</u>	<u>350</u>	<u>407</u>
21	<u>12,000</u>	<u>13,000</u>	<u>50</u>	<u>144</u>	<u>208</u>	<u>250</u>	<u>280</u>	<u>330</u>	<u>383</u>
22	<u>13,000</u>	<u>14,000</u>	<u>50</u>	<u>137</u>	<u>208</u>	<u>250</u>	<u>280</u>	<u>330</u>	<u>383</u>
23	<u>14,000</u>	<u>15,000</u>	<u>45</u>	<u>120</u>	<u>198</u>	<u>240</u>	<u>270</u>	<u>310</u>	<u>360</u>
24	<u>15,000</u>	<u>16,000</u>	<u>40</u>	<u>105</u>	<u>193</u>	<u>235</u>	<u>260</u>	<u>300</u>	<u>348</u>
25	<u>16,000</u>	<u>17,000</u>	<u>35</u>	<u>90</u>	<u>170</u>	<u>230</u>	<u>250</u>	<u>295</u>	<u>343</u>

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1	<u>17,000</u>	<u>18,000</u>	<u>30</u>	<u>78</u>	<u>155</u>	<u>220</u>	<u>245</u>	<u>285</u>	<u>331</u>
2	<u>18,000</u>	<u>19,000</u>	<u>25</u>	<u>61</u>	<u>130</u>	<u>210</u>	<u>235</u>	<u>270</u>	<u>313</u>
3	<u>19,000</u>	<u>20,000</u>	<u>20</u>	<u>49</u>	<u>105</u>	<u>195</u>	<u>225</u>	<u>255</u>	<u>296</u>
4	<u>20,000</u>	<u>21,000</u>	<u>15</u>	<u>37</u>	<u>80</u>	<u>175</u>	<u>215</u>	<u>245</u>	<u>284</u>
5	<u>21,000</u>	<u>22,000</u>	<u>10</u>	<u>20</u>	<u>70</u>	<u>160</u>	<u>205</u>	<u>235</u>	<u>273</u>
6	<u>22,000</u>	<u>23,000</u>	<u>0</u>	<u>0</u>	<u>45</u>	<u>115</u>	<u>155</u>	<u>183</u>	<u>220</u>
7	<u>23,000</u>	<u>24,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>105</u>	<u>145</u>	<u>176</u>	<u>210</u>
8	<u>24,000</u>	<u>25,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>60</u>	<u>135</u>	<u>169</u>	<u>200</u>
9	<u>25,000</u>	<u>26,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>45</u>	<u>125</u>	<u>145</u>	<u>190</u>
10	<u>26,000</u>	<u>27,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>30</u>	<u>115</u>	<u>138</u>	<u>180</u>
11	<u>27,000</u>	<u>28,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>15</u>	<u>105</u>	<u>131</u>	<u>170</u>
12	<u>28,000</u>	<u>29,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>95</u>	<u>124</u>	<u>150</u>
13	<u>29,000</u>	<u>30,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>45</u>	<u>117</u>	<u>130</u>
14	<u>30,000</u>	<u>31,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>30</u>	<u>105</u>	<u>120</u>
15	<u>31,000</u>	<u>32,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>93</u>	<u>115</u>
16	<u>32,000</u>	<u>33,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>81</u>	<u>100</u>
17	<u>33,000</u>	<u>34,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>45</u>	<u>85</u>
18	<u>34,000</u>	<u>35,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>30</u>	<u>73</u>
19	<u>35,000</u>	<u>36,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>15</u>	<u>61</u>
20	<u>36,000</u>	<u>37,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>49</u>
21	<u>37,000</u>	<u>38,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>37</u>
22	<u>38,000</u>	<u>39,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>25.</u>

23 E. If a taxpayer's modified gross income is zero,
24 the taxpayer may claim a credit in the amount shown in the
25 first row of the table appropriate for the taxpayer's number of
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1 exemptions.

2 F. The tax rebates provided for in this section may
3 be deducted from the taxpayer's New Mexico income tax liability
4 for the taxable year. If the tax rebates exceed the taxpayer's
5 income tax liability, the excess shall be refunded to the
6 taxpayer.

7 G. For purposes of this section:

8 (1) "dependent" means "dependent" as defined
9 by Section 152 of the Internal Revenue Code of 1986, as that
10 section may be amended or renumbered, but also includes any
11 minor child or stepchild of the resident who would be a
12 dependent for federal income tax purposes if the public
13 assistance contributing to the support of the child or
14 stepchild was considered to have been contributed by the
15 resident; and

16 (2) "modified gross income" means "modified
17 gross income" as defined in Section 7-2-2 NMSA 1978 but also
18 includes the value of food stamp program benefits."

19 Section 30. A new section of the Income Tax Act is
20 enacted to read:

21 "[NEW MATERIAL] ADDITIONAL EXEMPTION AMOUNT. --

22 A. An individual may claim an additional exemption
23 amount as specified in Subsections B, C and D of this section;
24 provided that the additional exemption amount shall not exceed
25 an amount equal to the number of federal exemptions multiplied

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1 by three thousand dollars (\$3,000) of income includable, except
2 for this exemption, in net income. Individuals having income
3 both within and without this state shall apportion this
4 exemption in accordance with regulations of the secretary.

5 B. For single individuals:

6 (1) if the number of federal exemptions is
7 one, the additional exemption amount shall be three thousand
8 dollars (\$3,000) less fifteen percent of the amount obtained by
9 subtracting eight thousand dollars (\$8,000) from the adjusted
10 gross income;

11 (2) if the number of federal exemptions is
12 two, the additional exemption amount for each federal exemption
13 shall be three thousand dollars (\$3,000) less fifteen percent
14 of the amount obtained by subtracting eleven thousand dollars
15 (\$11,000) from the adjusted gross income;

16 (3) if the number of federal exemptions is
17 three, the additional exemption amount for each federal
18 exemption shall be three thousand dollars (\$3,000) less fifteen
19 percent of the amount obtained by subtracting fourteen thousand
20 dollars (\$14,000) from the adjusted gross income;

21 (4) if the number of federal exemptions is
22 four, the additional exemption amount for each federal
23 exemption shall be three thousand dollars (\$3,000) less fifteen
24 percent of the amount obtained by subtracting seventeen
25 thousand dollars (\$17,000) from the adjusted gross income;

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1 (5) if the number of federal exemptions is
2 five, the additional exemption amount for each federal
3 exemption shall be three thousand dollars (\$3,000) less fifteen
4 percent of the amount obtained by subtracting twenty thousand
5 dollars (\$20,000) from the adjusted gross income;

6 (6) if the number of federal exemptions is
7 six, the additional exemption amount for each federal exemption
8 shall be three thousand dollars (\$3,000) less fifteen percent
9 of the amount obtained by subtracting twenty-three thousand
10 dollars (\$23,000) from the adjusted gross income; and

11 (7) if the number of federal exemptions is
12 seven or more, the additional exemption amount for each federal
13 exemption shall be three thousand dollars (\$3,000) less fifteen
14 percent of the amount obtained by subtracting twenty-six
15 thousand dollars (\$26,000) from the adjusted gross income.

16 C. For heads of household, surviving spouses and
17 married individuals filing joint returns:

18 (1) if the number of federal exemptions is
19 one, the additional exemption amount shall be three thousand
20 dollars (\$3,000) less fifteen percent of the amount obtained by
21 subtracting twelve thousand dollars (\$12,000) from the adjusted
22 gross income;

23 (2) if the number of federal exemptions is
24 two, the additional exemption amount for each federal exemption
25 shall be three thousand dollars (\$3,000) less fifteen percent

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1 of the amount obtained by subtracting fifteen thousand dollars
2 (\$15,000) from the adjusted gross income;

3 (3) if the number of federal exemptions is
4 three, the additional exemption amount for each federal
5 exemption shall be three thousand dollars (\$3,000) less fifteen
6 percent of the amount obtained by subtracting eighteen thousand
7 dollars (\$18,000) from the adjusted gross income;

8 (4) if the number of federal exemptions is
9 four, the additional exemption amount for each federal
10 exemption shall be three thousand dollars (\$3,000) less fifteen
11 percent of the amount obtained by subtracting twenty-one
12 thousand dollars (\$21,000) from the adjusted gross income;

13 (5) if the number of federal exemptions is
14 five, the additional exemption amount for each federal
15 exemption shall be three thousand dollars (\$3,000) less fifteen
16 percent of the amount obtained by subtracting twenty-four
17 thousand dollars (\$24,000) from the adjusted gross income;

18 (6) if the number of federal exemptions is
19 six, the additional exemption amount for each federal exemption
20 shall be three thousand dollars (\$3,000) less fifteen percent
21 of the amount obtained by subtracting twenty-seven thousand
22 dollars (\$27,000) from the adjusted gross income; and

23 (7) if the number of federal exemptions is
24 seven or more, the additional exemption amount for each federal
25 exemption shall be three thousand dollars (\$3,000) less fifteen

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1 percent of the amount obtained by subtracting thirty thousand
2 dollars (\$30,000) from the adjusted gross income.

3 D. For married individuals filing separate returns:

4 (1) if the number of federal exemptions is
5 one, the additional exemption amount shall be three thousand
6 dollars (\$3,000) less fifteen percent of the amount obtained by
7 subtracting six thousand dollars (\$6,000) from the adjusted
8 gross income;

9 (2) if the number of federal exemptions is
10 two, the additional exemption amount for each federal exemption
11 shall be three thousand dollars (\$3,000) less fifteen percent
12 of the amount obtained by subtracting seven thousand five
13 hundred dollars (\$7,500) from the adjusted gross income;

14 (3) if the number of federal exemptions is
15 three, the additional exemption amount for each federal
16 exemption shall be three thousand dollars (\$3,000) less fifteen
17 percent of the amount obtained by subtracting nine thousand
18 dollars (\$9,000) from the adjusted gross income;

19 (4) if the number of federal exemptions is
20 four, the additional exemption amount for each federal
21 exemption shall be three thousand dollars (\$3,000) less fifteen
22 percent of the amount obtained by subtracting ten thousand five
23 hundred dollars (\$10,500) from the adjusted gross income;

24 (5) if the number of federal exemptions is
25 five, the additional exemption amount for each federal

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1 exemption shall be three thousand dollars (\$3,000) less fifteen
2 percent of the amount obtained by subtracting twelve thousand
3 dollars (\$12,000) from the adjusted gross income;

4 (6) if the number of federal exemptions is
5 six, the additional exemption amount for each federal exemption
6 shall be three thousand dollars (\$3,000) less fifteen percent
7 of the amount obtained by subtracting thirteen thousand five
8 hundred dollars (\$13,500) from the adjusted gross income; and

9 (7) if the number of federal exemptions is
10 seven or more, the additional exemption amount for each federal
11 exemption shall be three thousand dollars (\$3,000) less fifteen
12 percent of the amount obtained by subtracting fifteen thousand
13 dollars (\$15,000) from the adjusted gross income.

14 E. For the purposes of this section, "federal
15 exemption" means an exemption allowable for federal income tax
16 purposes for an individual included in the return who is
17 domiciled in New Mexico.

18 F. In lieu of the computations required to
19 determine the amount of the additional exemption provided by
20 this section, the secretary may adopt regulations allowing the
21 use of tables to determine the additional exemption amount.
22 The tables may be established either by regulation or
23 instruction but shall be computed substantially on the basis of
24 the computations prescribed in this section. "

25 Section 31. [NEW MATERIAL] BUSINESS SERVICES TAX

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1 CREDIT. --

2 A. The tax credit provided in this section may be
3 referred to as the "business services tax credit". An eligible
4 taxpayer may apply for, and the taxation and revenue department
5 may allow, a tax credit in an amount equal to six hundred
6 twenty-five thousandths percent of qualified business service
7 expenditures by the taxpayer.

8 B. The business services tax credit may be claimed
9 by an eligible taxpayer for qualified business service
10 expenditures paid on or after July 1, 2004 and within three
11 years of the end of the calendar year in which the expenditure
12 was made.

13 C. The business services tax credit may be claimed
14 against state gross receipts tax, compensating tax or
15 withholding tax for which the taxpayer would be liable for a
16 tax reporting period in which the qualified business service
17 expenditure was paid or later periods. In no case may the
18 credit taken exceed the total gross receipts tax, compensating
19 tax or withholding tax due for the reporting period. After the
20 initial reporting period in which part of the credit for a
21 qualified expenditure was claimed, any excess credit may be
22 carried forward and used in future reporting periods.

23 D. For the purposes of this section:

24 (1) "department means "department" as defined
25 in the Tax Administration Act;

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1 (2) "eligible taxpayer" means "taxpayer" as
2 defined in the Tax Administration Act but does not include:

3 (a) a federal, state or other
4 governmental unit or subdivision or an agency, department,
5 institution or instrumentality thereof; or

6 (b) a taxpayer qualified to take the
7 exemption granted under Section 7-9-29 NMSA 1978; and

8 (3) "qualified business service expenditure"
9 means an amount paid to purchase services performed in New
10 Mexico if the receipts from that purchase are subject to gross
11 receipts tax and are not eligible for a deduction or exemption
12 from the gross receipts tax, but does not include expenditures
13 for:

14 (a) entertainment or recreational
15 services, including expenditures not deductible for purposes of
16 determining net income under the Internal Revenue Code and
17 expenditures deductible only under Section 274 of the Internal
18 Revenue Code;

19 (b) janitorial services;

20 (c) repair and maintenance services;

21 (d) services in respect to which the
22 taxpayer applies for and is granted any other New Mexico tax
23 credit; and

24 (e) gross receipts taxes.

25 E. The department shall provide forms and

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1 instructions for claiming the business services tax credit as a
2 reduction of tax due on the tax return on which the taxpayer
3 reports gross receipts tax, compensating tax or withholding tax.

4 F. The department shall administer the business
5 services tax credit pursuant to the provisions of the Tax
6 Administration Act.

7 Section 32. A new section of the Gross Receipts and
8 Compensating Tax Act is enacted to read:

9 "[NEW MATERIAL] HIGH-WAGE JOBS TAX CREDIT. --

10 A. A taxpayer who is an eligible employer may apply
11 for, and the taxation and revenue department may allow, a tax
12 credit for each new high-wage economic-based job. The credit
13 provided in this section may be referred to as the "high-wage
14 jobs tax credit".

15 B. The high-wage jobs tax credit may be claimed and
16 allowed in an amount equal to ten percent of the wages
17 distributed to an eligible employee in a new high-wage
18 economic-based job, but shall not exceed twelve thousand
19 dollars (\$12,000).

20 C. The high-wage jobs tax credit may be claimed by
21 an eligible employer for each new high-wage economic-based job
22 performed for the year in which the new high-wage economic-
23 based job is created and for the three following qualifying
24 periods.

25 D. A new high-wage economic-based job shall not be

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1 eligible for a credit pursuant to this section unless the
2 eligible employer's total number of employees with new high-
3 wage economic-based jobs on the last day of the qualifying
4 period at the location at which the job is performed or based
5 is at least one more than the number on the day prior to the
6 date the job was created.

7 E. With respect to each new high-wage economic-
8 based job for which an eligible employer seeks the high-wage
9 jobs tax credit, the employer shall certify:

10 (1) the amount of wages paid to each eligible
11 employee in a new high-wage economic-based job during each
12 qualifying period;

13 (2) the number of weeks the position was
14 occupied during the qualifying period;

15 (3) whether the new high-wage economic-based
16 job was performed or based in:

17 (a) a municipality with a population of
18 forty thousand or more according to the most recent federal
19 decennial census;

20 (b) a municipality with a population of
21 less than forty thousand according to the most recent federal
22 decennial census; or

23 (c) the unincorporated area of a county;
24 and

25 (4) the total number of employees employed by

1 the employer at the job location on the day prior to the
2 qualifying period and on the last day of the qualifying period.

3 F. To receive a high-wage jobs tax credit with
4 respect to any qualifying period, an eligible employer shall
5 apply to the taxation and revenue department on forms and in
6 the manner prescribed by the department. The application shall
7 include a certification made pursuant to Subsection E of this
8 section.

9 G. The credit provided in this section may be
10 deducted from the modified combined tax liability of a
11 taxpayer. If the credit exceeds the modified combined tax
12 liability of the taxpayer, the excess shall be refunded to the
13 taxpayer.

14 H. As used in this section:

15 (1) "eligible employee" means an individual
16 who is employed by an eligible employer and who is a resident
17 of New Mexico; "eligible employee" does not include an
18 individual who:

19 (a) bears any of the relationships
20 described in Paragraphs (1) through (8) of 26 U. S. C. Section
21 152(a) to the employer or, if the employer is a corporation, to
22 an individual who owns, directly or indirectly, more than fifty
23 percent in value of the outstanding stock of the corporation
24 or, if the employer is an entity other than a corporation, to
25 an individual who owns, directly or indirectly, more than fifty

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1 percent of the capital and profits interest in the entity;

2 (b) if the employer is an estate or
3 trust, is a grantor, beneficiary or fiduciary of the estate or
4 trust or is an individual who bears any of the relationships
5 described in Paragraphs (1) through (8) of 26 U. S. C. Section
6 152(a) to a grantor, beneficiary or fiduciary of the estate or
7 trust;

8 (c) is a dependent, as that term is
9 described in 26 U. S. C. Section 152(a)(9), of the employer or,
10 if the taxpayer is a corporation, of an individual who owns,
11 directly or indirectly, more than fifty percent in value of the
12 outstanding stock of the corporation or, if the employer is an
13 entity other than a corporation, of an individual who owns,
14 directly or indirectly, more than fifty percent of the capital
15 and profits interests in the entity or, if the employer is an
16 estate or trust, of a grantor, beneficiary or fiduciary of the
17 estate or trust; or

18 (d) is working or has worked as an
19 employee or as an independent contractor for an entity that
20 directly or indirectly owns stock in a corporation of the
21 eligible employer or other interest of the eligible employer
22 that represents fifty percent or more of the total voting power
23 of that entity or has a value equal to fifty percent or more of
24 the capital and profits interest in the entity;

25 (2) "eligible employer" means an employer

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1 that:

2 (a) made more than fifty percent of its
3 sales to persons outside New Mexico during the most recent
4 twelve months of the employer's modified combined tax liability
5 reporting periods ending prior to claiming a high-wage jobs tax
6 credit; and

7 (b) is eligible for training assistance
8 pursuant to Section 21-19-7 NMSA 1978;

9 (3) "modified combined tax liability" means
10 the total liability for the reporting period for the gross
11 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
12 any tax collected at the same time and in the same manner as
13 the gross receipts tax, including the compensating tax,
14 withholding tax, interstate telecommunications gross receipts
15 tax, surcharges imposed by Section 63-9D-5 NMSA 1978 and the
16 surcharge imposed by Section 63-9F-11 NMSA 1978, minus the
17 amount of any credit other than the high-wage jobs tax credit
18 applied against any or all of these taxes or surcharges; but
19 "modified combined tax liability" excludes all amounts
20 collected with respect to local option gross receipts taxes;

21 (4) "new high-wage economic-based job" means a
22 job created by an eligible employer on or after July 1, 2004
23 and prior to July 1, 2009 that is occupied for at least forty-
24 eight weeks of a qualifying period by an eligible employee who
25 is paid wages calculated for the qualifying period to be at

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1 least:

2 (a) forty thousand dollars (\$40,000) if
3 the job is performed or based in a municipality with a
4 population of forty thousand or more according to the most
5 recent federal decennial census; and

6 (b) twenty-eight thousand dollars
7 (\$28,000) if the job is performed or based in a municipality
8 with a population of less than forty thousand according to the
9 most recent federal decennial census or in the unincorporated
10 area of a county;

11 (5) "qualifying period" means the period of
12 twelve months beginning on the day an eligible employee begins
13 working in a new high-wage economic-based job or the period of
14 twelve months beginning on the anniversary of the day an
15 eligible employee began working in a new high-wage economic-
16 based job; and

17 (6) "wages" means wages as defined in
18 Paragraphs (1), (2) and (3) of 26 U. S. C. Section 51(c)."

19 Section 33. A new section of the Gross Receipts and
20 Compensating Tax Act is enacted to read:

21 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--RESEARCH AND
22 DEVELOPMENT SMALL BUSINESSES. --

23 A. Receipts of a qualified research and development
24 small business may be deducted from gross receipts to the
25 extent that such receipts are directly related to the subject

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1 matter of its qualified research, as defined in Paragraph (3)
2 of Subsection B of this section. The deduction provided by
3 this section may be claimed only for a period ending thirty-
4 five consecutive calendar months after the first calendar month
5 for which the deduction is claimed by the taxpayer or by a
6 person to whom the taxpayer is a successor pursuant to Section
7 7-1-61 NMSA 1978.

8 B. As used in this section:

9 (1) "qualified research and development small
10 business" means a business, including a corporation, general
11 partnership, limited partnership, limited liability company,
12 sole proprietorship or other similar entity, that:

13 (a) employed no more than twenty-five
14 employees on a full-time-equivalent basis in any prior calendar
15 month;

16 (b) had total revenues of no more than
17 ten million dollars (\$10,000,000) in any prior fiscal year;

18 (c) did not in any prior calendar month
19 have more than fifty percent of its voting securities or other
20 equity interest with the right to designate or elect the board
21 of directors or other governing body of the qualified business
22 owned directly or indirectly by another business; and

23 (d) has made qualified research
24 expenditures for the period of twelve calendar months ending
25 with the month for which the deduction is sought of at least

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1 twenty percent of its total revenues for those twelve calendar
2 months;

3 (2) "qualified research expenditure" means an
4 expenditure in connection with qualified research, but does not
5 include any expenditure on research funded by any grant,
6 contract or similar mechanism by another person or governmental
7 entity, and does not include any expenditure on property that
8 is owned by a municipality or county in connection with an
9 industrial revenue bond project or property for which the
10 taxpayer has received any credit pursuant to the Capital
11 Equipment Tax Credit Act, the Investment Credit Act or the
12 Technology Jobs Tax Credit Act; and

13 (3) "qualified research" means research:

14 (a) that is undertaken for the purpose
15 of discovering information that is technological in nature and
16 the application of which is intended to be useful in the
17 development of a new or improved business component of the
18 taxpayer; and

19 (b) in which substantially all
20 activities constitute elements of a process of experimentation
21 related to new or improved function, performance, reliability
22 or quality, but not related to style, taste, cosmetic or
23 seasonal design factors. "

24 Section 34. A new section of the Gross Receipts and
25 Compensating Tax Act is enacted to read:

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1 " ~~[NEW MATERIAL]~~ DEDUCTION-- COMPENSATING TAX-- RESEARCH AND
2 DEVELOPMENT SMALL BUSINESSES. --

3 A. A qualified research and development small
4 business may deduct the value of tangible personal property in
5 computing the compensating tax due if the property is used in
6 connection with a qualified research expenditure. The
7 deduction provided by this section may be claimed only for a
8 period ending thirty-five consecutive calendar months after the
9 first calendar month for which the deduction is claimed.

10 B. As used in this section:

11 (1) "qualified research and development small
12 business" means a business, including a corporation, general
13 partnership, limited partnership, limited liability company,
14 sole proprietorship or other similar entity, that:

15 (a) employed no more than twenty-five
16 employees on a full-time-equivalent basis in any prior calendar
17 month;

18 (b) had total revenues of no more than
19 ten million dollars (\$10,000,000) in any prior fiscal year;

20 (c) did not in any prior calendar month
21 have more than fifty percent of its voting securities or other
22 equity interest with the right to designate or elect the board
23 of directors or other governing body of the qualified business
24 owned directly or indirectly by another business; and

25 (d) has made qualified research

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1 expenditures for the period of twelve calendar months ending
2 with the month for which the deduction is sought of at least
3 twenty percent of its total revenues for those twelve calendar
4 months;

5 (2) "qualified research expenditure" means an
6 expenditure in connection with qualified research, but does not
7 include any expenditure on research funded by any grant,
8 contract or similar mechanism by another person or governmental
9 entity, and does not include any expenditure on property that
10 is owned by a municipality or county in connection with an
11 industrial revenue bond project or property for which the
12 taxpayer has received any credit pursuant to the Capital
13 Equipment Tax Credit Act, the Investment Credit Act or the
14 Technology Jobs Tax Credit Act; and

15 (3) "qualified research" means research:
16 (a) that is undertaken for the purpose
17 of discovering information that is technological in nature and
18 the application of which is intended to be useful in the
19 development of a new or improved business component of the
20 taxpayer; and

21 (b) in which substantially all
22 activities constitute elements of a process of experimentation
23 related to new or improved function, performance, reliability
24 or quality, but not related to style, taste, cosmetic or
25 seasonal design factors. "

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1 Section 35. A new section of the Gross Receipts and
2 Compensating Tax Act is enacted to read:

3 " [NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--CERTAIN
4 RECEIPTS FROM SERVICES PROVIDED BY LICENSED HEALTH CARE
5 PRACTITIONERS. --

6 A. Receipts of a licensed health care practitioner
7 from payments by a managed health care provider for medicare
8 part C services or commercial contract services may be deducted
9 from gross receipts.

10 B. As used in this section:

11 (1) "commercial contract services" means
12 health care services performed pursuant to a contract with a
13 managed health care provider other than those health care
14 services provided for medicare patients pursuant to Title 18 of
15 the federal Social Security Act or for medicaid patients
16 pursuant to Title 19 or Title 21 of the federal Social Security
17 Act;

18 (2) "licensed health care practitioner" means:

19 (a) a chiropractic physician licensed
20 pursuant to the provisions of the Chiropractic Physician
21 Practice Act;

22 (b) a dentist or dental hygienist
23 licensed pursuant to the provisions of the Dental Health Care
24 Act;

25 (c) a physician or physician assistant

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1 licensed pursuant to the provisions of the Medical Practice
2 Act;

3 (d) an osteopathic physician licensed
4 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
5 or an osteopathic physician's assistant licensed pursuant to
6 the provisions of the Osteopathic Physicians' Assistants Act;

7 (e) a doctor of oriental medicine
8 licensed pursuant to the provisions of the Acupuncture and
9 Oriental Medicine Practice Act;

10 (f) a podiatrist licensed pursuant to
11 the provisions of the Podiatry Act;

12 (g) a psychologist licensed pursuant to
13 the provisions of the Professional Psychologist Act;

14 (h) a registered nurse or licensed
15 practical nurse licensed pursuant to the provisions of the
16 Nursing Practice Act;

17 (i) a registered lay midwife registered
18 by the department of health;

19 (j) a physical therapist licensed
20 pursuant to the provisions of the Physical Therapy Act;

21 (k) an optometrist licensed pursuant to
22 the provisions of the Optometry Act;

23 (l) a registered occupational therapist
24 registered pursuant to the provisions of the Occupational
25 Therapy Act;

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1 (m) a respiratory care practitioner
2 licensed pursuant to the provisions of the Respiratory Care
3 Act;

4 (n) a clinical laboratory accredited
5 pursuant to 42 USCA 263; and

6 (o) a speech-language pathologist or
7 audiologist licensed pursuant to the Speech-Language Pathology,
8 Audiology and Hearing Aid Dispensing Practices Act;

9 (3) "managed health care provider" means a
10 person licensed by the insurance division of the public
11 regulation commission that provides for the delivery of
12 comprehensive basic health care services and medically
13 necessary services to individuals enrolled in a plan through
14 its own employed health care providers or by contracting with
15 selected or participating health care providers; and

16 (4) "medicare part C services" means services
17 performed pursuant to a contract with a managed health care
18 provider for medicare patients pursuant to Title 18 of the
19 federal Social Security Act. "

20 Section 36. A new section of the Gross Receipts and
21 Compensating Tax Act is enacted to read:

22 "[NEW MATERIAL] EXEMPTION--GROSS RECEIPTS TAX--RECEIPTS
23 FROM CERTAIN ATHLETIC CONTESTS, SPORTING EVENTS AND CONCERTS. --

24 Exempted from the gross receipts tax are:

25 A. receipts from promoting professional contests

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1 subject to the regulatory fee imposed pursuant to Section
2 60-2A-23 NMSA 1978 and from exhibiting live professional
3 contests subject to the supervisory fee imposed pursuant to
4 Section 60-2A-26 NMSA 1978;

5 B. receipts from ticket sales or admission fees for
6 professional contests as defined in Section 60-2A-2 NMSA 1978,
7 auto racing and one-time sporting events; and

8 C. receipts from ticket sales or admission fees for
9 a live concert held at a venue capable of accommodating at
10 least two thousand five hundred persons. "

11 Section 37. Section 7-9-3.2 NMSA 1978 (being Laws 1991,
12 Chapter 8, Section 1, as amended) is amended to read:

13 "7-9-3.2. ADDITIONAL DEFINITION. --

14 A. As used in the Gross Receipts and Compensating
15 Tax Act, "governmental gross receipts" means all receipts of
16 the state or any agency, institution, instrumentality or
17 political subdivision thereof from:

18 (1) the sale of tangible personal property
19 other than water from facilities open to the general public;

20 (2) the performance of or admissions to
21 recreational, athletic or entertainment services or events in
22 facilities open to the general public;

23 (3) refuse collection, refuse disposal or
24 both;

25 (4) sewage services; [and]

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1 (5) the sale of water by a utility owned or
2 operated by a county, municipality or other political
3 subdivision of the state; and

4 (6) the renting of parking, docking or tie-
5 down spaces or the granting of permission to park vehicles, tie
6 down aircraft or dock boats.

7 "Governmental gross receipts" includes receipts from the
8 sale of tangible personal property handled on consignment when
9 sold from facilities open to the general public but excludes
10 cash discounts taken and allowed, governmental gross receipts
11 tax payable on transactions reportable for the period and any
12 type of time-price differential.

13 B. As used in this section, "facilities open to the
14 general public" does not include point of sale registers or
15 electronic devices at a bookstore owned or operated by a public
16 post-secondary educational institution when the registers or
17 devices are utilized in the sale of textbooks or other
18 materials required for courses at the institution to a student
19 enrolled at the institution who displays a valid student
20 identification card. "

21 Section 38. Section 7-9-7 NMSA 1978 (being Laws 1966,
22 Chapter 47, Section 7, as amended) is amended to read:

23 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
24 "COMPENSATING TAX". --

25 A. For the privilege of using tangible property in
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1 New Mexico, there is imposed on the person using the property
2 an excise tax equal to five percent of the value of tangible
3 property that was:

4 (1) manufactured by the person using the
5 property in the state;

6 (2) acquired outside this state as the result
7 of a transaction that would have been subject to the gross
8 receipts tax had it occurred within this state; or

9 (3) acquired as the result of a transaction
10 which was not initially subject to the compensating tax imposed
11 by Paragraph (2) of this subsection or the gross receipts tax
12 but which transaction, because of the buyer's subsequent use of
13 the property, should have been subject to the compensating tax
14 imposed by Paragraph (2) of this subsection or the gross
15 receipts tax.

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

23 C. For the privilege of using services rendered in
24 New Mexico, there is imposed on the person using such services
25 an excise tax equal to five percent of the value of the

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1 services at the time they were rendered. The services, to be
2 taxable under this subsection, must have been rendered as the
3 result of a transaction which was not initially subject to the
4 gross receipts tax but which transaction, because of the
5 buyer's subsequent use of the services, should have been
6 subject to the gross receipts tax.

7 D. For the privilege of using services performed
8 outside New Mexico, the product of which is initially used in
9 New Mexico, there is imposed an excise tax equal to five
10 percent of the value of the services at the time they were
11 performed. The services, to be taxable under this subsection,
12 must have been performed by a seller that has no nexus with
13 this state in a transaction that would have been subject to the
14 gross receipts tax had it occurred within this state. The
15 department may promulgate rules to establish the value of the
16 services performed and to apportion fairly the value when the
17 services are performed or delivered simultaneously in more than
18 one state.

19 ~~D.~~ E. The tax imposed by this section shall be
20 referred to as the "compensating tax". "

21 Section 39. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
22 Chapter 45, Section 1, as amended) is amended to read:

23 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION
24 ACTIONS WITH RESPECT TO CERTAIN COMPENSATING TAX LIABILITIES. --

25 A. The department shall take no action to enforce

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1 collection of compensating tax or any local option compensating
2 tax due on purchases made by an individual if:

3 (1) the property is used only for nonbusiness
4 purposes;

5 (2) the property is not a manufactured home;

6 and

7 (3) the individual is not an agent for
8 collection of compensating tax pursuant to Section 7-9-10 NMSA
9 1978.

10 B. The prohibition in Subsection A of this section
11 does not prevent the department from enforcing collection of
12 compensating tax or any local option compensating tax on
13 purchases from persons who are not individuals, who are agents
14 for collection pursuant to Section 7-9-10 NMSA 1978 or who use
15 the property in the course of engaging in business in New
16 Mexico or from enforcing collection of compensating tax or any
17 local option compensating tax due on purchase of manufactured
18 homes. "

19 Section 40. Section 7-9-9 NMSA 1978 (being Laws 1966,
20 Chapter 47, Section 9, as amended) is amended to read:

21 "7-9-9. LIABILITY OF USER FOR PAYMENT OF COMPENSATING TAX
22 AND LOCAL OPTION COMPENSATING TAX. -- Any person in New Mexico
23 using property on the value of which compensating tax and local
24 option compensating tax is payable but has not been paid is
25 liable to the state for payment of the compensating tax and

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1 applicable local option compensating tax, but this liability is
2 discharged if the buyer has paid the compensating tax and
3 applicable local option compensating tax to the seller for
4 payment over to the department. "

5 Section 41. A new section of the Gross Receipts and
6 Compensating Tax Act is enacted to read:

7 "[NEW MATERIAL] CREDIT--COMPENSATING TAX--MUNICIPAL
8 COMPENSATING TAX PAID.--A credit shall be allowed for each
9 reporting period against the compensating tax for an amount of
10 the municipal compensating tax equal to:

11 A. one-half percent of the value of property for
12 which the taxpayer is liable for that reporting period if the
13 rate of the municipal compensating tax in effect at the time of
14 the use was at least one-half percent; or

15 B. one-fourth percent of the value of property for
16 which the taxpayer is liable for that reporting period if the
17 rate of the municipal compensating tax in effect at the time of
18 the use was one-fourth percent. "

19 Section 42. Section 7-9-22 NMSA 1978 (being Laws 1969,
20 Chapter 144, Section 15, as amended) is amended to read:

21 "7-9-22. EXEMPTION--GROSS RECEIPTS TAX--VEHICLES.--
22 Exempted from the gross receipts tax are the receipts from
23 selling vehicles on which a tax is imposed by the Motor Vehicle
24 Excise Tax Act, [~~and on~~] vehicles subject to registration under
25 Section 66-3-16 NMSA 1978 and vehicles exempt from the motor

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1 vehicle excise tax pursuant to Subsection F of Section 7-14-6
2 NMSA 1978. "

3 Section 43. Section 7-9-23 NMSA 1978 (being Laws 1969,
4 Chapter 144, Section 16, as amended) is amended to read:

5 "7-9-23. EXEMPTION--COMPENSATING TAX--VEHICLES. --Exempted
6 from the compensating tax is the use of vehicles on which the
7 tax imposed by the Motor Vehicle Excise Tax Act has been paid,
8 [~~and on~~] the use of vehicles subject to registration under
9 Section 66-3-16 NMSA 1978 and the use of vehicles exempt from
10 the motor vehicle excise tax pursuant to Subsection F of
11 Section 7-14-6 NMSA 1978. "

12 Section 44. Section 7-9-43 NMSA 1978 (being Laws 1966,
13 Chapter 47, Section 13, as amended) is amended to read:

14 "7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER
15 EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS [~~RENEWAL~~]. --

16 A. [~~All nontaxable transaction certificates of the~~
17 ~~appropriate series executed by buyers or lessees should be in~~
18 ~~the possession of the seller or lessor for nontaxable~~
19 ~~transactions at the time the return is due for receipts from~~
20 ~~the transactions. If the seller or lessor is not in possession~~
21 ~~of the required nontaxable transaction certificates within~~
22 ~~sixty days from the date that the notice requiring possession~~
23 ~~of these nontaxable transaction certificates is given the~~
24 ~~seller or lessor by the department, deductions claimed by the~~
25 ~~seller or lessor that require delivery of these nontaxable~~

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1 ~~transaction certificates shall be disallowed. The~~ Nontaxable
2 transaction certificates shall contain the information and be
3 in a form prescribed by the department. The department by
4 regulation may deem to be nontaxable transaction certificates
5 documents issued by other states or the multistate tax
6 commission to taxpayers not required to be registered in New
7 Mexico. Only buyers or lessees who have a registration number
8 or have applied for a registration number and have not been
9 refused one under Subsection C of Section 7-1-12 NMSA 1978
10 shall execute nontaxable transaction certificates issued by the
11 department. If the seller or lessor has been given an
12 identification number for tax purposes by the department, the
13 seller or lessor shall disclose that identification number to
14 the buyer or lessee prior to or upon acceptance of a nontaxable
15 transaction certificate. When the seller or lessor accepts a
16 nontaxable transaction certificate [~~within the required time~~
17 ~~and~~] in good faith that the buyer or lessee will employ the
18 property or service transferred in a nontaxable manner, the
19 properly executed nontaxable transaction certificate shall be
20 conclusive evidence, and the only material evidence, that the
21 proceeds from the transaction are deductible from the seller's
22 or lessor's gross receipts.

23 B. Notwithstanding any other provision of the Gross
24 Receipts and Compensating Tax Act, when a seller or lessor
25 required by provisions of this act to have a nontaxable

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1 transaction certificate to claim a deduction is unable to
2 obtain the required nontaxable transaction certificate because
3 the buyer or lessee has initiated bankruptcy proceedings under
4 federal bankruptcy laws, is dead or no longer exists as a
5 business entity, the department shall allow the deduction upon
6 presentation of other evidence acceptable to the secretary that
7 the taxpayer is entitled to claim the deduction.

8 [B-] C. Properly executed documents required to
9 support the deductions provided in Sections 7-9-57, 7-9-58 and
10 7-9-74 NMSA 1978 should be in the possession of the seller at
11 the time the return is due for receipts from the transactions.
12 If the seller is not in possession of these documents [~~within~~
13 ~~sixty days from the date that the notice requiring possession~~
14 ~~of these documents is given to the seller by the department~~] on
15 a date not later than thirty days prior to the date of a formal
16 hearing on a protest that requires the documents to establish
17 the taxpayer's entitlement to any deduction under protest, the
18 deductions claimed by the seller or lessor that require
19 delivery of these documents shall be disallowed. These
20 documents shall contain the information and be in a form
21 prescribed by the department. When the seller accepts these
22 documents within the required time and in good faith that the
23 buyer will employ the property or service transferred in a
24 nontaxable manner, the properly executed documents shall be
25 conclusive evidence, and the only material evidence, that the

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1 proceeds from the transaction are deductible from the seller's
2 gross receipts.

3 ~~[C.— Notice, as used in this section, is sufficient~~
4 ~~if the notice is mailed or served as provided in Subsection A~~
5 ~~of Section 7-1-9 NMSA 1978.— Notice by the department under~~
6 ~~this section shall not be given prior to the commencement of an~~
7 ~~audit of the seller required to be in possession of the~~
8 ~~documents.~~

9 ~~D.— On January 1, 2005, every nontaxable transaction~~
10 ~~certificate, except for nontaxable transaction certificates of~~
11 ~~the series applicable to the twelve-year period beginning~~
12 ~~January 1, 2005 and issued by the department prior to that~~
13 ~~date, is void with respect to transactions after December 31,~~
14 ~~2004.— The department shall issue separate series of nontaxable~~
15 ~~transaction certificates for the twelve-year period beginning~~
16 ~~January 1, 2005 and for each twelve-year period beginning on~~
17 ~~January 1 of every twelfth year succeeding calendar year 2005.—~~
18 ~~A series of nontaxable transaction certificates issued by the~~
19 ~~department for any twelve-year period may be executed by buyers~~
20 ~~or lessees for transactions occurring within or prior to that~~
21 ~~twelve-year period but is not valid for transactions occurring~~
22 ~~after that twelve-year period, except the nontaxable~~
23 ~~transaction certificates issued by the department for the~~
24 ~~period January 1, 1992 to December 31, 2001 may be executed by~~
25 ~~buyers or lessees for transactions occurring prior to December~~

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1 ~~31, 2004. For administrative convenience, the department may~~
2 ~~accept and approve qualifying applications for the privilege of~~
3 ~~executing nontaxable transaction certificates and pre-issue~~
4 ~~certificates of any series within the six-month period~~
5 ~~immediately preceding the beginning of the twelve-year period~~
6 ~~to which the series of nontaxable transaction certificates~~
7 ~~applies.~~

8 E.] D. To exercise the privilege of executing
9 appropriate nontaxable transaction certificates, a buyer or
10 lessee shall apply to the department for permission to execute
11 nontaxable transaction certificates, except with respect to
12 documents issued by other states or the multistate tax
13 commission that the department has deemed to be nontaxable
14 transaction certificates. If a person is shown on the
15 department's records to be a delinquent taxpayer or to have a
16 non-filed period, the department may refuse to approve the
17 application of the person until the person has filed returns
18 for all non-filed periods and is no longer shown to be a
19 delinquent taxpayer, and the taxpayer may protest that refusal
20 pursuant to Section 7-1-24 NMSA 1978. Upon the department's
21 approval of the application, the buyer or lessee may request
22 appropriate nontaxable transaction certificates for execution
23 by the buyer or lessee; provided that if a person is shown on
24 the department's records to be a delinquent taxpayer or to have
25 a non-filed period, the department may refuse to issue

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1 nontaxable transaction certificates to the person until the
2 person has filed returns for all non-filed periods and is no
3 longer shown to be a delinquent taxpayer. The taxpayer may
4 protest that refusal pursuant to Section 7-1-24 NMSA 1978. The
5 department may require a buyer or lessee requesting and
6 receiving nontaxable transaction certificates for execution by
7 that buyer or lessee to report to the department the names,
8 addresses and identification numbers assigned by the department
9 of the sellers and lessors to whom they have delivered
10 nontaxable transaction certificates. The department may
11 require a seller or lessor engaged in business in New Mexico to
12 report to the department the names, addresses and federal
13 employer identification numbers or state identification numbers
14 for tax purposes issued by the department of the buyers or
15 lessees from whom the seller or lessor has accepted nontaxable
16 transaction certificates. "

17 Section 45. Section 7-12-7 NMSA 1978 (being Laws 1971,
18 Chapter 77, Section 7, as amended) is amended to read:

19 "7-12-7. SALE OF STAMPS--PRICES. --

20 A. The department shall sell stamps to any person
21 who sells in New Mexico cigarettes manufactured by that person
22 and to any person who receives on consignment or buys unstamped
23 cigarettes for sale, gift or consumption in New Mexico;
24 provided [~~such persons are~~] that the person is registered with
25 the department [~~under~~] pursuant to the provisions of Section

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1 7-1-12 NMSA 1978. Stamps shall be sold at their face value.

2 ~~[with the following discounts:~~

3 ~~(1) four percent less than the face value of~~
4 ~~the first thirty thousand dollars (\$30,000) of stamps purchased~~
5 ~~in one calendar month;~~

6 ~~(2) three percent less than the face value of~~
7 ~~the second thirty thousand dollars (\$30,000) of stamps~~
8 ~~purchased in one calendar month; and~~

9 ~~(3) two percent less than the face value of~~
10 ~~all stamps purchased in excess of sixty thousand dollars~~
11 ~~(\$60,000) in one calendar month.~~

12 ~~B. If the face value of stamps sold in a single~~
13 ~~sale is less than one thousand dollars (\$1,000), the discount~~
14 ~~provided for in this section shall not be allowed.~~

15 ~~C.]~~ B. Payment for stamps shall be made on or
16 before the twenty-fifth day of the month following the month in
17 which the sale of stamps by the department is made. "

18 Section 46. Section 7-14-4 NMSA 1978 (being Laws 1988,
19 Chapter 73, Section 14) is amended to read:

20 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE
21 TAX. --

22 A. The rate of the motor vehicle excise tax is
23 ~~[three]~~ four percent and is applied to the price paid for the
24 vehicle. If the price paid does not represent the value of the
25 vehicle in the condition that existed at the time it was

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1 acquired, the tax rate shall be applied to the reasonable value
2 of the vehicle in such condition at such time. However,
3 allowances granted for vehicle trade-ins may be deducted from
4 the price paid or the reasonable value of the vehicle
5 purchased.

6 B. Notwithstanding the provisions of Subsection A
7 of this section, the minimum amount of motor vehicle excise tax
8 imposed pursuant to Subsection 7-14-3 shall be twenty dollars
9 (\$20.00). "

10 Section 47. Section 7-14-6 NMSA 1978 (being Laws 1988,
11 Chapter 73, Section 16, as amended) is amended to read:

12 "7-14-6. EXEMPTIONS FROM TAX. --

13 A. Persons who acquire a vehicle out of state
14 thirty or more days before establishing a domicile in this
15 state are exempt from the tax if the vehicle was acquired for
16 personal use.

17 B. Persons applying for a certificate of title for
18 a vehicle registered in another state are exempt from the tax
19 if they have previously registered and titled the vehicle in
20 New Mexico and have owned the vehicle continuously since that
21 time.

22 C. Certificates of title for all vehicles owned by
23 this state or any political subdivision are exempt from the
24 tax.

25 D. A vehicle subject to registration under Section
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1 66-3-16 NMSA 1978 is exempt from the tax.

2 E. Persons who acquire vehicles for subsequent
3 lease shall be exempt from the tax if:

4 (1) the person does not use the vehicle in any
5 manner other than holding it for lease or sale or leasing or
6 selling it in the ordinary course of business;

7 (2) the lease is for a term of more than six
8 months;

9 (3) the receipts from the subsequent lease are
10 subject to the gross receipts tax; and

11 (4) the vehicle does not have a gross vehicle
12 weight of over twenty-six thousand pounds.

13 F. Vehicles that are manufactured to operate
14 exclusively on alternative fuel or are gasoline-electric hybrid
15 vehicles with a United States environmental protection agency
16 fuel economy rating of at least twenty-two and one-half miles
17 per gallon are eligible for a one-time exemption from the tax
18 at the time of the issuance of the original certificate of
19 title for the vehicle. For purposes of this subsection,
20 "alternative fuel" means natural gas, liquefied petroleum gas,
21 electricity, hydrogen, a fuel mixture containing not less than
22 eighty-five percent ethanol or methanol, a fuel mixture
23 containing not less than twenty percent vegetable oil or a
24 water-phased hydrocarbon fuel emulsion consisting of a
25 hydrocarbon base and water in an amount not less than twenty

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1 percent by volume of the total water-phased fuel emulsion."

2 Section 48. Section 7-14A-3.1 NMSA 1978 (being Laws 1993,
3 Chapter 359, Section 1) is amended to read:

4 "7-14A-3.1. IMPOSITION AND RATE--LEASED VEHICLE
5 SURCHARGE.--There is imposed a surcharge on the leasing of a
6 vehicle to another person by a person engaging in business in
7 New Mexico if the lease is subject to the leased vehicle gross
8 receipts tax. The amount of this surcharge is [~~two dollars~~
9 ~~(\$2.00)~~] four dollars (\$4.00) for each day [~~each~~] the vehicle
10 is leased by the person. The surcharge may be referred to as
11 the "leased vehicle surcharge". "

12 Section 49. Section 7-15A-2 NMSA 1978 (being Laws 1988,
13 Chapter 73, Section 29) is amended to read:

14 "7-15A-2. DEFINITIONS.--As used in the Weight Distance
15 Tax Act:

16 A. "bus" means [~~every~~] a motor vehicle designed and
17 used for the transportation of [~~persons~~] a person and [~~every~~] a
18 motor vehicle, other than a taxicab, designed and used for the
19 transportation of [~~persons~~] a person for compensation;

20 B. "declared gross weight" means the declared gross
21 weight for purposes of the Motor Transportation Act;

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

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1 D. "gross vehicle weight" means the weight of a
2 vehicle without load, plus the weight of [~~any~~] a load [~~thereon~~]
3 upon the vehicle;

4 E. "motor vehicle" means [~~every~~] a vehicle [~~which~~]
5 that is self-propelled and [~~every~~] a vehicle [~~which~~] that is
6 propelled by electric power obtained from batteries or from
7 overhead trolley wires, but not operated upon rails;

8 F. "person" means [~~any~~]:

9 (1) an individual, estate, trust, receiver,
10 cooperative association, club, corporation, company, firm,
11 partnership, joint venture, syndicate or other association;
12 [~~"person" also means~~] and

13 (2) to the extent permitted by law, [~~any~~] a
14 federal, state or other governmental unit or subdivision or an
15 agency, department or instrumentality [~~thereof~~] of the federal,
16 state or other governmental unit;

17 G. "registrant" means [~~any~~] a person who has
18 registered the vehicle pursuant to the laws of this state or
19 another state;

20 H. "secretary" means the secretary of taxation and
21 revenue or the secretary's delegate;

22 I. "tax" means the weight distance tax imposed by
23 the Weight Distance Tax Act; [~~and~~]

24 J. "vehicle" means [~~every~~] a device in, upon or by
25 which [~~any~~] a person or property is or may be transported or

1 drawn upon a highway, including ~~any~~ a frame, chassis or body
2 of ~~any~~ a vehicle or motor vehicle, except ~~devices~~ a device
3 moved by human power or used exclusively upon stationary rails
4 or tracks; and

5 K. "weight distance tax identification permit"
6 means an administrative certificate that is issued by the
7 department and that identifies a specific vehicle as subject to
8 the tax imposed pursuant to the Weight Distance Tax Act. "

9 Section 50. Section 7-15A-6 NMSA 1978 (being Laws 1988,
10 Chapter 73, Section 33) is amended to read:

11 "7-15A-6. TAX RATE FOR MOTOR VEHICLES OTHER THAN BUSES--
12 REDUCTION OF RATE FOR ONE-WAY HAULS. --

13 A. For on-highway operations of motor vehicles
14 other than buses, the weight distance tax shall be computed in
15 accordance with the following schedule:

16 Declared Gross Weight	Tax Rate
17 (Gross Vehicle Weight)	(Mills per Mile)
18 26,000 to 28,000	[7.97] <u>11.32</u>
19 28,001 to 30,000	[8.60] <u>12.22</u>
20 30,001 to 32,000	[9.24] <u>13.13</u>
21 32,001 to 34,000	[9.87] <u>14.02</u>
22 34,001 to 36,000	[10.51] <u>14.93</u>
23 36,001 to 38,000	[11.14] <u>15.82</u>
24 38,001 to 40,000	[12.11] <u>17.20</u>
25 40,001 to 42,000	[13.06] <u>18.55</u>

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1	42,001 to 44,000	[14.01]	<u>19.90</u>
2	44,001 to 46,000	[14.97]	<u>21.26</u>
3	46,001 to 48,000	[15.93]	<u>22.63</u>
4	48,001 to 50,000	[16.88]	<u>23.98</u>
5	50,001 to 52,000	[17.84]	<u>25.34</u>
6	52,001 to 54,000	[18.79]	<u>26.69</u>
7	54,001 to 56,000	[19.75]	<u>28.05</u>
8	56,001 to 58,000	[20.71]	<u>29.42</u>
9	58,001 to 60,000	[21.66]	<u>30.77</u>
10	60,001 to 62,000	[22.61]	<u>32.12</u>
11	62,001 to 64,000	[23.58]	<u>33.49</u>
12	64,001 to 66,000	[24.53]	<u>34.84</u>
13	66,001 to 68,000	[25.48]	<u>36.19</u>
14	68,001 to 70,000	[26.43]	<u>37.54</u>
15	70,001 to 72,000	[27.40]	<u>38.92</u>
16	72,001 to 74,000	[28.41]	<u>40.36</u>
17	74,001 to 76,000	[29.46]	<u>41.85</u>
18	76,001 to 78,000	[30.55]	<u>43.39</u>
19	78,001 and over	[31.68]	<u>45.00.</u>

20 B. All motor vehicles for which the tax is computed
21 under Subsection A of this section shall pay a tax [~~which~~] that
22 is two-thirds of the tax computed under Subsection A of this
23 section if:

24 (1) the motor vehicle is customarily used for
25 one-way haul;

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1 (2) forty-five percent or more of the mileage
2 traveled by the motor vehicle for a registration year is
3 mileage [~~which~~] that is traveled empty of all load; and

4 (3) the registrant, owner or operator of the
5 vehicle attempting to qualify under this subsection has made a
6 sworn application to the department to be classified under this
7 subsection for a registration year and has given whatever
8 information is required by the department to determine the
9 eligibility of the vehicle to be classified under this
10 subsection and the vehicle has been so classified. "

11 Section 51. Section 7-15A-7 NMSA 1978 (being Laws 1988,
12 Chapter 73, Section 34) is amended to read:

13 "7-15A-7. TAX RATE FOR BUSES. -- For all buses, the weight
14 distance tax shall be computed in accordance with the following
15 schedule:

16 Declared Gross Weight	Tax Rate
17 (Gross Vehicle Weight)	(Mills per Mile)
18 26,000 to 28,000	[7.97] <u>11.32</u>
19 28,001 to 30,000	[8.60] <u>12.22</u>
20 30,001 to 32,000	[9.24] <u>13.13</u>
21 32,001 to 34,000	[9.87] <u>14.02</u>
22 34,001 to 36,000	[10.52] <u>14.93</u>
23 36,001 to 38,000	[11.15] <u>15.82</u>
24 38,001 to 40,000	[12.12] <u>17.20</u>
25 40,001 to 42,000	[13.07] <u>18.55</u>

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1	42,001 to 44,000	[14.02] <u>19.90</u>
2	44,001 to 46,000	[14.97] <u>21.26</u>
3	46,001 to 48,000	[15.94] <u>22.63</u>
4	48,001 to 50,000	[16.89] <u>23.98</u>
5	50,001 to 52,000	[17.85] <u>25.34</u>
6	52,001 to 54,000	[18.80] <u>26.69</u>
7	54,001 and over	[19.76] <u>28.05.</u> "

8 Section 52. A new section of the Weight Distance Tax Act
9 is enacted to read:

10 "[NEW MATERIAL] WEIGHT DISTANCE TAX IDENTIFICATION
11 PERMITS--SUSPENSION AND RENEWAL. --

12 A. An operator of a motor vehicle registered in this
13 state and subject to the weight distance tax shall display a
14 weight distance tax identification permit issued for that
15 vehicle to an enforcement officer of the department of public
16 safety upon demand of that employee and when the vehicle passes
17 through a port of entry.

18 B. The department may suspend or decline to renew a
19 weight distance tax identification permit for a motor vehicle
20 if the owner or operator of the vehicle does not comply with
21 the provisions of the Weight Distance Tax Act. "

22 Section 53. A new section of the Weight Distance Tax Act
23 is enacted to read:

24 "[NEW MATERIAL] WEIGHT DISTANCE TAX IDENTIFICATION PERMIT
25 ADMINISTRATIVE FEE. --

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1 A. A person that obtains a weight distance tax
2 identification permit shall pay an administrative fee to the
3 department for the reasonable and necessary expense that the
4 department incurs for processing and issuing a weight distance
5 tax identification permit. The fee shall be paid in addition
6 to a weight distance tax, special fuel excise tax and other use
7 fee imposed for the use of public highways of this state. The
8 department shall determine the amount of the fee pursuant to
9 regulation. The fee shall not exceed ten dollars (\$10.00).

10 B. The department shall deposit to the weight
11 distance tax identification permit administration fund all
12 proceeds from administrative fees collected by the department
13 pursuant to this section."

14 Section 54. A new section of the Weight Distance Tax Act
15 is enacted to read:

16 "[NEW MATERIAL] WEIGHT DISTANCE TAX IDENTIFICATION PERMIT
17 ADMINISTRATION FUND. --The "weight distance tax identification
18 permit administration fund" is created in the state treasury.
19 The purpose of the fund is to provide an account from which the
20 department may pay the costs of issuing and administering
21 weight distance tax identification permits. The fund shall
22 consist of administrative fees collected pursuant to the Weight
23 Distance Tax Act. Money in the fund shall be appropriated to
24 the department to pay for the cost of issuing and administering
25 weight distance tax identification permits. Disbursements from

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1 the fund shall be by warrant of the secretary of finance and
2 administration upon vouchers signed by the secretary or the
3 secretary's authorized representative. Money in the fund shall
4 not revert to the general fund at the end of a fiscal year."

5 Section 55. Section 7-16A-3 NMSA 1978 (being Laws 1992,
6 Chapter 51, Section 3, as amended) is amended to read:

7 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
8 SPECIAL FUEL EXCISE TAX. --

9 A. For the privilege of receiving or using special
10 fuel in this state, there is imposed an excise tax at a rate
11 provided in Subsection B of this section on each gallon of
12 special fuel received in New Mexico.

13 B. The tax imposed by Subsection A of this section
14 shall be [~~eighteen cents (\$.18)~~] twenty-three cents (\$.23) per
15 gallon of special fuel received or used in New Mexico.

16 C. The tax imposed by this section may be called
17 the "special fuel excise tax". "

18 Section 56. Section 7-17-5 NMSA 1978 (being Laws 1993,
19 Chapter 65, Section 8, as amended) is amended to read:

20 "7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX. -- There
21 is imposed on [~~any~~] a wholesaler who sells alcoholic beverages
22 on which the tax imposed by this section has not been paid an
23 excise tax, to be referred to as the "liquor excise tax", at
24 the following rates on alcoholic beverages sold:

25 A. on spirituous liquors, [~~one dollar sixty cents~~
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1 ~~(\$1.60)~~ three dollars eighty-six cents (\$3.86) per liter;

2 B. on beer, except as provided in Subsection E of
3 this section, [~~forty-one cents (\$.41)~~] one dollar forty-eight
4 cents (\$1.48) per gallon;

5 C. on wine, except as provided in Subsections D and
6 F of this section, [~~forty-five cents (\$.45)~~] one dollar
7 thirteen cents (\$1.13) per liter;

8 D. on fortified wine, one dollar fifty cents
9 (\$1.50) per liter;

10 E. on beer manufactured or produced by a
11 microbrewer and sold in this state, provided that proof is
12 furnished to the department that the beer was manufactured or
13 produced by a microbrewer, eight cents (\$.08) per gallon;

14 F. on wine manufactured or produced by a small
15 winer or winegrower and sold in this state, provided that proof
16 is furnished to the department that the wine was manufactured
17 or produced by a small winer or winegrower, ten cents (\$.10)
18 per liter on the first eighty thousand liters sold and twenty
19 cents (\$.20) per liter on all liters sold over eighty thousand
20 liters but less than five hundred sixty thousand liters; and

21 G. on cider, forty-one cents (\$.41) per gallon. "

22 Section 57. Section 7-19-12 NMSA 1978 (being Laws 1979,
23 Chapter 397, Section 3, as amended) is amended to read:

24 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL MUNICIPAL
25 GROSS RECEIPTS TAX AND SUPPLEMENTAL MUNICIPAL COMPENSATING

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1 TAX-- AUTHORIZATION FOR ISSUANCE OF SUPPLEMENTAL MUNICIPAL GROSS
2 RECEIPTS BONDS-- ELECTION REQUIRED. --

3 A. The majority of the members elected to the
4 governing body of a municipality may enact an ordinance
5 imposing an excise tax on any person engaging in business in
6 the municipality for the privilege of engaging in business in
7 the municipality. This tax is to be referred to as the
8 "supplemental municipal gross receipts tax". The rate of the
9 tax shall not exceed one percent of the gross receipts of the
10 person engaging in business and shall be imposed in one-fourth
11 percent increments if less than one percent.

12 B. An ordinance imposing a tax authorized by
13 Subsection A of this section shall also impose a tax for the
14 privilege of using property in the municipality if the use or
15 service is subject to the compensating tax. This tax shall be
16 referred to as the "supplemental municipal compensating tax".
17 The rate of the tax imposed pursuant to this subsection shall
18 be the same as the rate of tax imposed pursuant to Subsection A
19 of this section. If, at the time this 2003 act becomes
20 effective, a municipality has in effect any amount of
21 supplemental municipal gross receipts tax, a supplemental
22 municipal compensating tax is hereby imposed at the same rate,
23 effective on the effective date of this 2003 act.

24 [~~B.~~] C. The governing body of a municipality
25 enacting an ordinance imposing the tax authorized in

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1 ~~[Subsection A]~~ Subsections A and B of this section shall submit
2 the question of imposing such ~~[tax]~~ taxes and the question of
3 the issuance of supplemental municipal gross receipts bonds in
4 an amount not to exceed nine million dollars (\$9,000,000), for
5 which the revenue from the supplemental municipal gross
6 receipts tax and supplemental municipal compensating tax is
7 dedicated, to the qualified electors of the municipality at a
8 regular or special election.

9 ~~[C-]~~ D. The questions referred to in Subsection ~~[B]~~
10 C of this section shall be submitted to a vote of the qualified
11 electors of the municipality as two separate ballot questions,
12 which shall be substantially in the following form:

13 (1) "Shall the municipality be authorized to
14 issue supplemental municipal gross receipts bonds in an amount
15 of not exceeding _____ dollars for the purpose
16 of constructing and equipping and otherwise acquiring a
17 municipal water supply system?

18 For _____ Against _____"; and

19 (2) "Shall the municipality impose an excise
20 tax for the privilege of engaging in business in the
21 municipality which shall be known as the "supplemental
22 municipal gross receipts tax" and an excise tax on the use of
23 property in the municipality which shall be known as the
24 "supplemental municipal compensating tax", both of which shall
25 be imposed at a rate of _____ percent ~~[of the gross~~

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1 ~~receipts of the person engaging in business~~, the proceeds of
2 which are dedicated to the payment of supplemental municipal
3 gross receipts bonds?

4 For _____ Against _____".

5 ~~[D-]~~ E. Only those voters who are registered
6 electors who reside within the municipality shall be permitted
7 to vote on these two questions. The procedures for conducting
8 the election shall be substantially the same as the applicable
9 provisions in Sections 3-30-1, 3-30-6 and 3-30-7 NMSA 1978
10 relating to municipal debt.

11 ~~[E-]~~ F. If at an election called pursuant to this
12 section a majority of the voters voting on each of the two
13 questions vote in the affirmative on each [~~such~~] question,
14 [~~then~~] the ordinance imposing the supplemental municipal gross
15 receipts tax and supplemental municipal compensating tax shall
16 be approved. If at such election a majority of the voters
17 voting on such questions fail to approve any of the questions,
18 [~~then~~] the ordinance imposing the [~~tax~~] taxes shall be
19 disapproved and the questions required to be submitted by
20 Subsection [~~B~~] C of this section shall not be submitted to the
21 voters for a period of one year from the date of the election.

22 ~~[F-]~~ G. Any ordinance enacted under the provisions
23 of this section shall include an effective date of either July
24 1 or January 1, whichever date occurs first after the
25 expiration of at least [~~five~~] three months from the date of the

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1 election. A certified copy of any ordinance imposing a
2 supplemental municipal gross receipts tax and supplemental
3 municipal compensating tax shall be mailed to the [~~division~~]
4 department within five days after the ordinance is adopted by
5 the approval by the electorate. Any ordinance repealing the
6 imposition of a tax under the provisions of the Supplemental
7 Municipal Gross Receipts Tax Act shall become effective on
8 either July 1 or January 1, after the expiration of at least
9 [~~five~~] three months from the date the ordinance is repealed by
10 the governing body.

11 [~~G-~~] H. Nothing in this section is intended to or
12 does alter the effectiveness or validity of any actions taken
13 in accordance with Subsection G of Section 80 of Chapter 20 of
14 Laws 1986. "

15 Section 58. Section 7-19-13 NMSA 1978 (being Laws 1979,
16 Chapter 397, Section 4) is amended to read:

17 "7-19-13. ORDINANCE [~~MUST~~] SHALL CONFORM TO CERTAIN
18 PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT AND
19 REQUIREMENTS OF THE [~~DIVISION~~] DEPARTMENT. - -

20 A. Any ordinance imposing a supplemental municipal
21 gross receipts tax and supplemental municipal compensating tax
22 shall adopt by reference the same definitions and the same
23 provisions relating to exemptions and deductions as are
24 contained in the Gross Receipts and Compensating Tax Act then
25 in effect and as it may be amended from time to time.

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1 B. The governing body of any municipality imposing
2 or increasing the supplemental municipal gross receipts tax
3 ~~[must]~~ and supplemental municipal compensating tax shall adopt
4 the language of the model ordinance furnished to the
5 municipality by the ~~[division]~~ department for the portion of
6 the ordinance relating to the tax."

7 Section 59. Section 7-19-15 NMSA 1978 (being Laws 1979,
8 Chapter 397, Section 6, as amended) is amended to read:

9 "7-19-15. COLLECTION BY DEPARTMENT--TRANSFER OF
10 PROCEEDS--DEDUCTIONS.--

11 A. The department shall collect the supplemental
12 municipal gross receipts tax in the same manner and at the same
13 time it collects the state gross receipts tax. The department
14 shall collect the supplemental municipal compensating tax in
15 the same manner and at the same time it collects the
16 compensating tax.

17 B. The department shall withhold an administrative
18 fee pursuant to Section ~~[1 of this 1997 act]~~ 7-1-6.41 NMSA
19 1978. The department shall transfer to each municipality for
20 which it is collecting a supplemental municipal gross receipts
21 tax the amount of the tax collected less the administrative fee
22 withheld and less any disbursements for tax credits, refunds
23 and the payment of interest applicable to the supplemental
24 municipal gross receipts tax. The department shall transfer to
25 each municipality for which it is collecting a supplemental

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1 municipal compensating tax the amount of the tax collected less
2 any disbursements for tax credits, refunds and payment of
3 interest applicable to the supplemental municipal compensating
4 tax. Transfer of the [~~tax~~] taxes to a municipality shall be
5 made within the month following the month in which the [~~tax-is~~]
6 taxes are collected. "

7 Section 60. Section 7-19-16 NMSA 1978 (being Laws 1979,
8 Chapter 397, Section 7) is amended to read:

9 "7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND
10 ENFORCEMENT OF [~~TAX~~] TAXES. --

11 A. The [~~division~~] department shall interpret the
12 provisions of the Supplemental Municipal Gross Receipts Tax
13 Act.

14 B. The [~~division~~] department shall administer and
15 enforce the collection of the supplemental municipal gross
16 receipts tax and the supplemental municipal compensating tax,
17 and the Tax Administration Act applies to the administration
18 and enforcement of the [~~tax~~] taxes. "

19 Section 61. Section 7-19-18 NMSA 1978 (being Laws 1979,
20 Chapter 397, Section 9, as amended) is amended to read:

21 "7-19-18. SUPPLEMENTAL MUNICIPAL GROSS RECEIPTS TAX--
22 SUPPLEMENTAL MUNICIPAL COMPENSATING TAX--USE OF PROCEEDS--
23 RESTRICTION. --

24 A. The proceeds from the supplemental municipal
25 gross receipts tax and supplemental municipal compensating tax

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1 shall be deposited in a special improvement account of the
2 municipality and shall be used only for:

3 (1) the payment of the principal of, interest
4 on, any prior redemption premiums due in connection with and
5 other expenses related to the supplemental municipal gross
6 receipts bonds issued pursuant to the Supplemental Municipal
7 Gross Receipts Tax Act;

8 (2) the funding of any reserves and other
9 accounts in connection with such bonds;

10 (3) refunding bonds; and

11 (4) to the extent not needed for those
12 purposes, the improvement of the municipality's water system.

13 B. When any issue of supplemental municipal gross
14 receipts bonds is fully paid, the supplemental municipal gross
15 receipts tax and supplemental municipal compensating tax shall
16 cease to be imposed for that issue, but may continue to be
17 imposed for bonds enacted and approved pursuant to Section
18 7-19-12 NMSA 1978 and thereafter issued, or for refunding bonds
19 issued pursuant to Section [~~4 of this 1997 act~~] 7-19-17.1 NMSA
20 1978. Any money remaining in a special improvement account
21 after the obligations for supplemental municipal gross receipts
22 bonds and refunding bonds are fully paid may be transferred to
23 any other fund of the municipality."

24 Section 62. A new section of the Municipal Local Option
25 Gross Receipts Taxes Act is enacted to read:

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1 "[NEW MATERIAL] MUNICIPAL LOCAL OPTION COMPENSATING

2 TAXES. --

3 A. An ordinance imposing, increasing or repealing a
4 local option gross receipts tax authorized by the Municipal
5 Local Option Gross Receipts Taxes Act shall also impose,
6 increase or repeal a tax for the privilege of using property in
7 the municipality if the use of the property is subject to the
8 compensating tax. The rate of the municipal tax on use
9 imposed, increased or repealed shall be the same as the rate of
10 the local option gross receipts tax imposed, increased or
11 repealed.

12 B. If, at the time this 2003 act becomes effective,
13 a municipality has in effect a local option gross receipts tax
14 authorized by the Municipal Local Option Gross Receipts Taxes
15 Act, a municipal tax on use is hereby imposed at the same rate,
16 effective on the effective date of this 2003 act.

17 C. The municipal taxes on use authorized or imposed
18 by this section may be referred to generally as "municipal
19 local option compensating taxes". Each tax may be referred to
20 individually by reference to the local option gross receipts
21 tax with which it is associated. "

22 Section 63. 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 local option
2 gross receipts tax imposed pursuant to the provisions of the
3 Municipal Local Option Gross Receipts Taxes Act in the same
4 manner and at the same time it collects the state gross
5 receipts tax. The department shall collect the municipal local
6 option compensating taxes imposed pursuant to the provisions of
7 the Municipal Local Option Gross Receipts Taxes Act in the same
8 manner and at the same time it collects the compensating tax.

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

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1 C. With respect to the municipal gross receipts tax
2 imposed by a municipality pursuant to Section 7-19D-9 NMSA
3 1978, the department shall withhold the administrative fee
4 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978
5 only on that portion of the municipal gross receipts tax
6 arising from a municipal gross receipts tax rate in excess of
7 one-half [~~of one~~] percent. "

8 Section 64. A new section of the Local Hospital Gross
9 Receipts Tax Act is enacted to read:

10 "[NEW MATERIAL] MATCHING LOCAL HOSPITAL COMPENSATING
11 TAX. --An ordinance imposing, increasing or repealing a local
12 hospital gross receipts tax authorized by the Local Hospital
13 Gross Receipts Tax Act shall also impose, increase or repeal a
14 tax for the privilege of using property in the county if the
15 use of the property is subject to the compensating tax. This
16 tax may be referred to as the "local hospital compensating
17 tax". The rate of the local hospital compensating tax imposed,
18 increased or repealed shall be the same as the rate of local
19 hospital gross receipts tax imposed, increased or repealed.
20 If, at the time this 2003 act becomes effective, a county has
21 in effect a local hospital gross receipts tax, a local hospital
22 compensating tax is hereby imposed at the same rate, effective
23 on the effective date of this 2003 act. "

24 Section 65. Section 7-20C-6 NMSA 1978 (being Laws 1991,
25 Chapter 176, Section 6, as amended) is amended to read:

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1 "7-20C-6. COLLECTION BY DEPARTMENT-- TRANSFER OF
2 PROCEEDS-- DEDUCTIONS. --

3 A. The department shall collect the local hospital
4 gross receipts tax in the same manner and at the same time it
5 collects the state gross receipts tax. The department shall
6 collect the local hospital compensating tax in the same manner
7 and at the same time it collects the compensating tax.

8 B. The department shall withhold an administrative
9 fee pursuant to Section 7-1-6.41 NMSA 1978. Except as provided
10 in Subsection C of this section, the department shall transfer
11 to each county for which it is collecting such tax the amount
12 of the tax collected less the administrative fee withheld and
13 less any disbursements for tax credits, refunds and the payment
14 of interest applicable to the tax. The department shall
15 transfer to each county for which it is collecting the local
16 hospital compensating tax the amount of the tax collected less
17 any disbursements for tax credits, refunds and the payment of
18 interest applicable to the tax. Transfer [~~of the tax~~] to a
19 county shall be made within the month following the month in
20 which the tax is collected.

21 C. In lieu of a transfer pursuant to Subsection B
22 of this section to a class B county with a population, as shown
23 in the last federal decennial census, of more than twenty-five
24 thousand and a net taxable value in the 2002 property tax year
25 of less than two hundred million dollars (\$200,000,000), the

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1 department shall make the transfer to the largest municipality
2 in that county for the purpose of maintaining and operating a
3 hospital. "

4 Section 66. A new section of the County Local Option
5 Gross Receipts Taxes Act is enacted to read:

6 "[NEW MATERIAL] MATCHING LOCAL OPTION COMPENSATING TAX. --

7 A. An ordinance imposing, increasing or repealing a
8 local option gross receipts tax authorized by the County Local
9 Option Gross Receipts Taxes Act to be imposed on a county-wide
10 basis shall also impose, increase or repeal a tax for the
11 privilege of using property in the county if the use of the
12 property is subject to the compensating tax. The rate of
13 county tax on use imposed, increased or repealed shall be the
14 same as the rate of the local option gross receipts tax
15 imposed, increased or repealed.

16 B. An ordinance imposing, increasing or repealing a
17 local option gross receipts tax authorized by the County Local
18 Option Gross Receipts Taxes Act to be imposed only in the
19 county area shall also impose, increase or repeal a tax for the
20 privilege of using property in the county area if the use of
21 the property is subject to the compensating tax and if the
22 department is not prohibited pursuant to Section 7-9-7.1 NMSA
23 1978 from collecting the compensating tax on the use. The rate
24 of county area tax on use imposed, increased or repealed shall
25 be the same as the rate of the local option gross receipts tax

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1 imposed, increased or repealed.

2 C. If, at the time this 2003 act becomes effective,
3 a county has in effect a local option gross receipts tax
4 authorized to be imposed on a county-wide basis, a county tax
5 on use of property in the county is hereby imposed at the same
6 rate, effective on the effective date of this 2003 act. If, at
7 the time this 2003 act becomes effective, a county has in
8 effect a local option gross receipts tax authorized to be
9 imposed only in the county area, a county tax on use of
10 property in the county area is hereby imposed at the same rate,
11 effective on the effective date of this 2003 act.

12 D. The county taxes on use authorized or imposed by
13 this section may be referred to generally as "county local
14 option compensating taxes". Each tax may be referred to
15 individually by reference to the local option gross receipts
16 tax with which it is associated. "

17 Section 67. Section 7-20E-7 NMSA 1978 (being Laws 1993,
18 Chapter 354, Section 7, as amended) is amended to read:

19 "7-20E-7. COLLECTION BY DEPARTMENT-- TRANSFER OF
20 PROCEEDS-- DEDUCTIONS. --

21 A. The department shall collect each county local
22 option gross receipts tax imposed pursuant to the provisions of
23 the County Local Option Gross Receipts Taxes Act in the same
24 manner and at the same time it collects the state gross
25 receipts tax. The department shall collect each county local

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1 option compensating tax imposed pursuant to the provisions of
2 the County Local Option Gross Receipts Taxes Act in the same
3 manner and at the same time it collects the compensating tax.

4 B. The department shall withhold an administrative
5 fee pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA
6 1978. The department shall transfer to each county for which
7 it is collecting a county local option gross receipts tax
8 pursuant to the provisions of the County Local Option Gross
9 Receipts Taxes Act the amount of each county local option gross
10 receipts tax collected for that county, less the administrative
11 fee withheld and less any disbursements for tax credits,
12 refunds and the payment of interest applicable to the tax. The
13 department shall transfer to each county for which it is
14 collecting a county local option compensating tax pursuant to
15 the provisions of the County Local Option Gross Receipts Taxes
16 Act the amount of each local option compensating tax collected
17 for that county, less any disbursements for tax credits,
18 refunds and the payment of interest applicable to the tax. The
19 transfer to the county shall be made within the month following
20 the month in which the tax is collected. "

21 Section 68. Section 7-20F-3 NMSA 1978 (being Laws 1993,
22 Chapter 303, Section 3, as amended) is amended to read:

23 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS
24 TAX- - COUNTY CORRECTIONAL FACILITY COMPENSATING TAX- - AUTHORITY
25 TO IMPOSE- - RATE- - ORDINANCE REQUIREMENTS- - REFERENDUM - -

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1 A. The majority of the members elected to the
2 county board may enact an ordinance imposing on a county-wide
3 basis an excise tax not to exceed a rate of one-eighth [~~of one~~]
4 percent of the gross receipts of any person engaging in
5 business in the county, including all municipalities within the
6 county; provided that the voters of:

7 (1) a class A county described in Paragraph
8 (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B
9 county described in Paragraph (2) of Subsection A of Section
10 7-20F-2 NMSA 1978 have approved the issuance of general
11 obligation bonds of the county sufficient to pay at least
12 one-half of the costs of the construction and equipping of the
13 new county judicial-correctional facility for which the county
14 correctional facility gross receipts tax revenue is dedicated;
15 or

16 (2) a class B county described in Paragraph
17 (3) of Subsection A of Section 7-20F-2 NMSA 1978 have approved
18 the issuance of bonds by the New Mexico finance authority
19 sufficient to pay at least one-half of the costs of designing,
20 constructing, equipping, furnishing and otherwise improving the
21 new county correctional facility for which the county
22 correctional facility gross receipts tax revenue is dedicated.

23 B. The tax imposed pursuant to Subsection A of this
24 section may be referred to as the "county correctional facility
25 gross receipts tax". The county correctional facility gross

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1 receipts tax shall be imposed only once for the period
2 necessary for payment of the principal and interest on revenue
3 bonds issued pursuant to the County Correctional Facility Gross
4 Receipts Tax Act, but the period shall not exceed ten years
5 from the effective date of the ordinance imposing the tax.

6 C. An ordinance imposing a county correctional
7 facility gross receipts tax shall also impose a tax on the use
8 of property in the county if the use of the property is subject
9 to the compensating tax. This tax may be referred to as the
10 "county correctional facility compensating tax". The rate of
11 the county correctional facility compensating tax imposed shall
12 be the same as the rate of county correctional facility gross
13 receipts tax imposed. If, at the time this 2003 act becomes
14 effective, a county has in effect a county correctional
15 facility gross receipts tax, a county correctional facility
16 compensating tax is hereby imposed at the same rate, effective
17 on the effective date of this 2003 act.

18 [~~C.~~] D. Any ordinance imposing a county
19 correctional facility gross receipts tax and county
20 correctional facility compensating tax pursuant to this section
21 shall:

22 (1) impose the tax in any number of increments
23 of one-sixteenth [~~of one~~] percent not to exceed an aggregate
24 amount of one-eighth [~~of one~~] percent; provided that the rate
25 of the two taxes is the same;

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1 (2) specify that the imposition of the tax
2 will begin on either July 1 or January 1, whichever occurs
3 first after the expiration of at least three months from the
4 date that the department is notified personally or by mail by
5 the county that imposition of the county correctional facility
6 gross receipts tax and county correctional facility
7 compensating tax has been approved by a majority of the
8 registered voters in the county voting on the question; and

9 (3) dedicate the revenue from the county
10 correctional facility gross receipts tax and county
11 correctional facility compensating tax for the purpose of
12 constructing, purchasing, furnishing, equipping,
13 rehabilitating, expanding or improving a judicial-correctional
14 or a county correctional facility or the grounds of a judicial-
15 correctional or county correctional facility, including [~~but~~
16 ~~not limited to~~] acquiring and improving parking lots,
17 landscaping or any combination of the foregoing or to payment
18 of principal and interest on revenue bonds or refunding bonds
19 issued pursuant to the provisions of the County Correctional
20 Facility Gross Receipts Tax Act.

21 [~~D.~~] E. An ordinance imposing a county correctional
22 facility gross receipts tax and county correctional facility
23 compensating tax pursuant to this section shall not become
24 effective until after an election is held and a simple majority
25 of the qualified electors of the county voting in the election

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1 votes in favor of imposing the tax.

2 [E-] F. The [~~governing body~~] county board shall
3 adopt a resolution calling for an election within seventy-five
4 days of the date the ordinance is adopted on the question of
5 imposing the [~~tax~~] taxes and:

6 (1) in a class A county described in Paragraph
7 (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B
8 county described in Paragraph (2) of Subsection A of Section
9 7-20F-2 NMSA 1978, if a property tax at a rate necessary to
10 comply with the provisions of Subsection A of this section has
11 not been approved by the voters of the county, the question
12 submitted to the voters shall be the question of imposing a
13 county correctional facility gross receipts tax, a county
14 correctional facility compensating tax and a property tax at a
15 rate necessary for the issuance of general obligation bonds of
16 the county sufficient to comply with the provisions of the
17 County Correctional Facility Gross Receipts Tax Act; or

18 (2) in a class B county described in Paragraph
19 (3) of Subsection A of Section 7-20F-2 NMSA 1978, the question
20 to be submitted to the voters is "Shall a county correctional
21 facility gross receipts tax and a county correctional facility
22 compensating tax be imposed to repay bonds that will be issued
23 by the New Mexico finance authority in an amount sufficient to
24 pay at least one-half of the costs of designing, constructing,
25 equipping, furnishing and otherwise improving the new county

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1 correctional facility?".

2 [F-] G. The question shall be submitted to the
3 voters at any general election or special election called for
4 that purpose by the county board.

5 [G-] H. The election upon the question shall be
6 called, held, conducted and canvassed in substantially the same
7 manner as may be provided by law for general elections.

8 [H-] I. If the question of imposing the county
9 correctional facility gross receipts tax and a property tax, if
10 the question includes a property tax, fails, the board shall
11 not again propose imposition of a county correctional facility
12 gross receipts tax for a period of one year after the election.

13 [I-] J. Revenue produced by the imposition of a
14 county correctional facility gross receipts tax and a county
15 correctional facility compensating tax that is in excess of the
16 annual principal and interest due on bonds secured by a pledge
17 of the county correctional facility gross receipts tax and the
18 county correctional facility compensating tax may be
19 accumulated in a debt service reserve account until an amount
20 equal to the maximum amount permitted pursuant to the
21 provisions of the United States treasury regulations is
22 accumulated in the debt service reserve account. After the
23 debt service reserve account requirements have been met, the
24 excess revenue shall be accumulated in an extraordinary
25 mandatory redemption fund and annually used to redeem the bonds

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1 prior to their stated maturity date.

2 [J-] K. When all outstanding bonds have been paid,
3 whether from the debt service reserve, the redemption fund or
4 maturity, the ordinance shall be repealed if the [county
5 ~~correctional facility gross receipts tax~~] revenue from the
6 county correctional facility gross receipts tax and county
7 correctional facility compensating tax is no longer required
8 for the purposes for which it may be used pursuant to the
9 provisions of the County Correctional Facility Gross Receipts
10 Tax Act.

11 [K-] L. The repeal of an ordinance imposing a
12 county correctional facility gross receipts tax and a county
13 correctional facility compensating tax shall state that the
14 repeal shall be effective on January 1 or July 1, whichever
15 occurs first following the date the department is notified
16 personally or by mail by the county of the repeal. "

17 Section 69. Section 7-20F-5 NMSA 1978 (being Laws 1993,
18 Chapter 303, Section 5) is amended to read:

19 "7-20F-5. COLLECTION BY DEPARTMENT-- TRANSFER OF
20 PROCEEDS-- DEDUCTIONS. --

21 A. The department shall collect the county
22 correctional facility gross receipts tax in the same manner and
23 at the same time it collects the state gross receipts tax. The
24 department shall collect the county correctional facility
25 compensating tax in the same manner and at the same time it

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1 collects the compensating tax.

2 B. The department shall remit to each county for
3 which it is collecting a county correctional facility gross
4 receipts tax and a county correctional facility compensating
5 tax the amount of the [~~tax~~] taxes collected, less any
6 disbursement for tax credits, refunds and the payment of
7 interest applicable to the [~~county correctional facility gross~~
8 ~~receipts tax~~] taxes. Transfer [~~of the tax~~] to a county shall
9 be made within the month following the month in which the [~~tax~~
10 ~~is~~] taxes are collected."

11 Section 70. Section 7-20F-7 NMSA 1978 (being Laws 1993,
12 Chapter 303, Section 7) is amended to read:

13 "7-20F-7. REVENUE BONDS--AUTHORITY TO ISSUE--ORDINANCE
14 AUTHORIZING ISSUE--PLEDGE OF REVENUE.--

15 A. In addition to any other law authorizing a
16 county to issue revenue bonds, a county may issue revenue bonds
17 pursuant to the County Correctional Facility Gross Receipts Tax
18 Act for the purposes specified in that act. Revenue bonds
19 issued pursuant to the County Correctional Facility Gross
20 Receipts Tax Act may be referred to as "county correctional
21 facility gross receipts tax revenue bonds".

22 B. A county board, by majority vote, may adopt an
23 ordinance providing for issuance of revenue bonds pursuant to
24 the provisions of the County Correctional Facility Gross
25 Receipts Tax Act, the principal and interest of which shall be

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1 paid from the revenue derived by the county from the county
2 correctional facility gross receipts tax, the county
3 correctional facility compensating tax and any other revenue
4 that the county may dedicate to the payment of the revenue
5 bonds.

6 C. Revenue bonds or refunding revenue bonds issued
7 as authorized pursuant to the County Correctional Facility
8 Gross Receipts Tax Act are:

9 (1) not general obligations of the county; and
10 (2) collectible only from the county
11 correctional facility gross receipts tax, the county
12 correctional facility compensating tax and, if authorized,
13 other properly pledged revenues, and each bond shall be payable
14 solely from the properly pledged revenues and the bondholders
15 shall not look to any other county fund for the payment of the
16 interest and principal of the bonds. "

17 Section 71. Section 7-31-4 NMSA 1978 (being Laws 1959,
18 Chapter 54, Section 4, as amended) is amended to read:

19 "7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY
20 DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
21 LIABILITY.--

22 A. There is levied and shall be collected by the
23 department a privilege tax on the business of every person
24 severing products in this state. The measure of the tax shall
25 be:

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1 (1) on oil and on oil and other liquid
2 hydrocarbons removed from natural gas at or near the wellhead,
3 except as provided in Paragraphs (4) and (5) of this
4 subsection, [~~three and fifteen hundredths~~] four percent of the
5 taxable value determined pursuant to Section 7-31-5 NMSA 1978;

6 (2) on carbon dioxide, [~~three and fifteen~~
7 ~~hundredths~~] four percent of the taxable value determined
8 pursuant to Section 7-31-5 NMSA 1978;

9 (3) on natural gas, except as provided in
10 Paragraphs (6) and (7) of this subsection, four percent of the
11 taxable value determined pursuant to Section 7-31-5 NMSA 1978;

12 (4) on the oil and on other liquid
13 hydrocarbons removed from natural gas at or near the wellhead
14 from a stripper well property, [~~one and fifty eight hundredths~~]
15 two percent of the taxable value determined pursuant to Section
16 7-31-5 NMSA 1978; provided that the average annual taxable
17 value of oil was equal to or less than fifteen dollars (\$15.00)
18 per barrel in the calendar year preceding July 1 of the fiscal
19 year in which the tax rate is to be imposed;

20 (5) on the oil and on other liquid
21 hydrocarbons removed from natural gas at or near the wellhead
22 from a stripper well property, [~~two and thirty six hundredths~~]
23 three percent of the taxable value determined pursuant to
24 Section 7-31-5 NMSA 1978; provided that the average annual
25 taxable value of oil was greater than fifteen dollars (\$15.00)

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1 per barrel but not more than eighteen dollars (\$18.00) per
2 barrel in the calendar year preceding July 1 of the fiscal year
3 in which the tax rate is to be imposed;

4 (6) on the natural gas removed from a stripper
5 well property, two percent of the taxable value determined
6 pursuant to Section 7-31-5 NMSA 1978; provided that the average
7 annual taxable value of natural gas was equal to or less than
8 one dollar fifteen cents (\$1.15) per thousand cubic feet in the
9 calendar year preceding July 1 of the fiscal year in which the
10 tax rate is to be imposed; and

11 (7) on the natural gas removed from a stripper
12 well property, three percent of the taxable value determined
13 pursuant to Section 7-31-5 NMSA 1978; provided that the average
14 annual taxable value of natural gas was greater than one dollar
15 fifteen cents (\$1.15) per thousand cubic feet but not more than
16 one dollar thirty-five cents (\$1.35) per thousand cubic feet in
17 the calendar year preceding July 1 of the fiscal year in which
18 the tax rate is to be imposed.

19 B. Every interest owner, for the purpose of levying
20 this tax, is deemed to be in the business of severing products
21 and is liable for this tax to the extent of his interest in the
22 value of the products or to the extent of his interest as may
23 be measured by the value of the products.

24 C. Any Indian tribe, Indian pueblo or Indian is
25 liable for this tax to the extent authorized or permitted by

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1 law. "

2 Section 72. Section 9-11-6.2 NMSA 1978 (being Laws 1995,
3 Chapter 31, Section 3) is amended to read:

4 "9-11-6.2. ADMINISTRATIVE REGULATIONS, RULINGS,
5 INSTRUCTIONS AND ORDERS--PRESUMPTION OF CORRECTNESS.--

6 A. The secretary is empowered and directed to issue
7 and file as required by law all regulations, rulings,
8 instructions or orders necessary to implement and enforce any
9 provision of any law the administration and enforcement of
10 which the department, the secretary, any division of the
11 department or any director of any division of the department is
12 charged, including all rules and regulations necessary by
13 reason of any alteration of any such law. In order to
14 accomplish its purpose, this provision is to be liberally
15 construed.

16 B. Directives issued by the secretary shall be in
17 form substantially as follows:

18 (1) regulations shall be written statements of
19 the secretary of general application, interpreting and
20 exemplifying or implementing the ~~[statues]~~ statutes to which
21 they relate and may be issued in response to a request from a
22 taxpayer or other interested party;

23 (2) rulings shall be written statements of the
24 secretary, of limited application to one or a small number of
25 persons, interpreting the statutes to which they relate,

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1 ordinarily issued in response to a request for clarification of
2 the consequences of a specified set of circumstances;

3 (3) orders shall be written statements of the
4 secretary or a hearing officer or other delegate of the
5 secretary to implement a decision after a hearing; and

6 (4) instructions shall be other written
7 statements or directives of the secretary or secretary's
8 delegate not dealing with the merits of any law but otherwise
9 in aid of the accomplishment of the duties of the secretary.

10 C. To be effective, any ruling or regulation issued
11 by the secretary shall be reviewed by the attorney general or
12 other legal counsel of the department prior to being filed as
13 required by law, and the fact of the review shall be indicated
14 on the ruling or regulation.

15 D. To be effective, a regulation shall first be
16 issued as a proposed regulation and filed for public inspection
17 in the office of the secretary. Unless otherwise provided by
18 statute, no regulation affecting any person or agency outside
19 the department shall be adopted, amended or repealed without a
20 public hearing on the proposed action before the secretary or a
21 hearing officer designated by the secretary. The public
22 hearing shall be held in Santa Fe unless otherwise permitted by
23 statute. Notice of the subject matter of the regulation, the
24 action proposed to be taken, the time and place of the hearing,
25 the manner in which interested parties may present their views

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1 and the method by which copies of the proposed regulation,
2 proposed amendment or repeal of an existing regulation may be
3 obtained shall be published at least thirty days prior to the
4 hearing date in [a] the New Mexico register and mailed at least
5 thirty days prior to the hearing date to all persons who have
6 made a written request for advance notice of hearing. After
7 the proposed regulation has been on file for not less than
8 sixty days and a public hearing on the proposed action has been
9 held by the secretary or a hearing officer designated by the
10 secretary, the secretary may issue it as a final regulation by
11 signing the regulation and filing the regulation in the manner
12 required by law. The secretary shall not delegate the
13 authority to sign regulations.

14 E. In addition to filing copies of regulations with
15 the state records center as required by law, the secretary
16 shall maintain in the office of the secretary a duplicate
17 official set of current and superseded regulations, a set of
18 current and superseded rulings and such additional sets of
19 those regulations and rulings as appear necessary, which
20 duplicate or additional sets shall be available for inspection
21 by the public, but superseded regulations need be maintained
22 for no longer than ten years from the date of supersession.

23 F. The secretary shall develop and maintain a file
24 of names and addresses of individuals and professional and
25 industry groups having an interest in the promulgation of new,

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1 revised or proposed regulations. At convenient times, the
2 secretary shall distribute to these persons all such
3 regulations and all pertinent rulings, making such charges as
4 will defray the expense incurred in their physical preparation
5 and mailing. Such charges are appropriated to the department
6 to defray the costs of preparing and distributing regulations
7 and rulings.

8 G. Any regulation, ruling, instruction or order
9 issued by the secretary or order or instruction issued by a
10 hearing officer or other delegate of the secretary is presumed
11 to be a proper implementation of the provisions of the laws
12 that are charged to the department, the secretary, any division
13 of the department or any director of any division of the
14 department.

15 H. The extent to which regulations, rulings and
16 orders will have retroactive effect shall be stated and, if no
17 such statement is made, they will be applied prospectively
18 only. "

19 Section 73. Section 60-1-15 NMSA 1978 (being Laws 1933,
20 Chapter 55, Section 9, as amended) is amended to read:

21 "60-1-15. TAX LEVIED--CERTAIN LICENSE FEES AND TAXES
22 PROHIBITED. --

23 A. In addition to the daily tax provided in Section
24 60-1-8 NMSA 1978, a tax of two and three-sixteenths percent is
25 levied on the gross amount wagered each day at each place where

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1 horse racing is conducted by any state fair association
2 designated by law that in good faith conducts a public fair and
3 exhibition of stock and farming products or where horse racing
4 for profit is held. The tax shall be paid from the commissions
5 of the licensee.

6 ~~[B. To encourage the improvement of horse racing~~
7 ~~facilities for the benefit of the public, breeders and horse~~
8 ~~owners and to increase the revenue to the state from the~~
9 ~~increase in pari-mutuel wagering and tourism resulting from~~
10 ~~these improvements, not more than two percent of the tax levied~~
11 ~~under Subsection A of this section:~~

12 ~~(1) for the first two hundred fifty thousand~~
13 ~~dollars (\$250,000) of daily handle only, shall be offset for~~
14 ~~class A licensees by the amount that each licensee expends for~~
15 ~~capital improvements or in financing term investment in capital~~
16 ~~improvements at existing racetrack facilities and for class B~~
17 ~~licensees by the amount that the licensee expends for capital~~
18 ~~improvements, not to exceed fifty percent of the tax levied~~
19 ~~under this section, and by the amount the licensee expends for~~
20 ~~advertising, marketing and promoting horse racing in the state,~~
21 ~~not to exceed fifty percent of the tax levied under this~~
22 ~~section. The offset provided in this paragraph shall also~~
23 ~~apply to the daily handle generated at its facility by a~~
24 ~~licensee engaged solely in simulcasting pursuant to Section~~
25 ~~60-1-25 NMSA 1978. The term "capital improvement" means any~~

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1 ~~capital investment in items that are subject to depreciation~~
2 ~~under the United States Internal Revenue Code of 1986 and are~~
3 ~~approved by the state racing commission; and~~

4 ~~(2) for class A licensees for the period~~
5 ~~through June 30, 1995 for the total amount wagered each day on~~
6 ~~amounts in excess of two hundred fifty thousand dollars~~
7 ~~(\$250,000) but not in excess of three hundred fifty thousand~~
8 ~~dollars (\$350,000), shall be offset by the amount that each~~
9 ~~licensee expends for advertising, marketing and promoting horse~~
10 ~~racing in the state. The offset provided in this paragraph~~
11 ~~shall also apply to the daily handle generated at its facility~~
12 ~~by a licensee engaged solely in simulcasting pursuant to~~
13 ~~Section 60-1-25 NMSA 1978. The licensee is required to keep~~
14 ~~accurate records of any expenditures made pursuant to this~~
15 ~~paragraph, and the state auditor is required to audit the~~
16 ~~expenditures and submit his report to the state racing~~
17 ~~commission.]~~

18 B. The revenue from the tax imposed pursuant to
19 Subsection A of this section shall be distributed as follows:

20 ~~[C.]~~ (1) to compensate for the additional
21 municipal services required by the location of a racetrack
22 within a municipality, an amount of revenue ~~[derived from the~~
23 ~~tax levied on such a racetrack under Subsection A of this~~
24 ~~section, above the amount offset by capital expenditures and~~
25 ~~advertising as provided in Subsection B of this section]~~

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1 determined pursuant to the provisions of Section 60-1-15.2 NMSA
2 1978 shall be transferred to the municipal treasurer of the
3 municipality in which the track generating the revenue is
4 located for expenditure by the municipality in providing those
5 additional municipal services. [~~The amount to be transferred~~
6 ~~shall be determined in accordance with the provisions of~~
7 ~~Section 60-1-15.2 NMSA 1978~~];

8 (2) an amount equal to fifty percent of the
9 tax levied pursuant to Subsection A of this section on the
10 first two hundred fifty thousand dollars (\$250,000) of daily
11 handle of class A licensees plus an amount equal to fifty
12 percent of the tax levied by Subsection A of this section for
13 class B licensees shall be transferred to the state fair for
14 expenditure on capital improvements at the state fairgrounds
15 other than improvements of the casino and racetrack and related
16 facilities; and

17 (3) the amount remaining after the
18 distributions pursuant to Paragraphs (1) and (2) of this
19 subsection shall be deposited in the general fund.

20 [~~D-~~] C. Accurate records shall be kept by the
21 licensee to show all commissions, total gross amounts wagered
22 and breakage, as well as other information the state racing
23 commission may require. Records shall be open to inspection
24 and shall be audited by the commission or any of its authorized
25 representatives. Should [~~any~~] a licensee fail to keep records

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1 accurately and intelligibly, the commission may prescribe the
2 method in which the licensee shall keep records.

3 ~~[E. All remaining revenues collected as a result of~~
4 ~~the tax on the gross amount wagered shall be deposited in the~~
5 ~~state general fund.~~

6 F.] D. Notwithstanding any other provision of law,
7 no political subdivision of this state may impose any
8 occupational tax against a racetrack operating under authority
9 of a license granted by the state racing commission. No
10 political subdivision may levy an excise tax against any
11 racetrack operating under authority of a license granted by the
12 state racing commission, except that ~~[taxes imposed pursuant to~~
13 ~~the County Gross Receipts Tax Act, the County Fire Protection~~
14 ~~Excise Tax Act, the County Sales Tax Act, the Municipal Gross~~
15 ~~Receipts Tax Act, the Supplemental Municipal Gross Receipts Tax~~
16 ~~Act and the Special Municipal Gross Receipts Tax Act]~~ local
17 option gross receipts taxes may be imposed to the extent
18 permitted by law. "

19 Section 74. Section 60-2A-23 NMSA 1978 (being Laws 1980,
20 Chapter 90, Section 23, as amended) is amended to read:

21 "60-2A-23. ~~[PRIVILEGE TAX]~~ REGULATORY FEES ON
22 PROMOTIONS. --

23 A. In addition to any other taxes or fees provided
24 by law, there is imposed upon every promoter for the privilege
25 of promoting a professional ~~[contests]~~ contest a ~~[tax at the~~

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1 ~~rate of~~ regulatory fee in an amount determined pursuant to the
2 rules of the commission to be sufficient to cover the costs of
3 regulating the contest; provided that the fee may not exceed
4 four percent of the total gross receipts of any professional
5 contest conducted live in New Mexico.

6 B. The commission shall adopt rules and regulations
7 for the administration, collection and enforcement of the ~~[tax]~~
8 fee imposed ~~in~~ pursuant to this section.

9 C. As used in this section, "total gross receipts
10 of any professional contest" includes:

11 (1) the gross price charged for the sale,
12 lease or other exploitation of broadcasting, television or
13 motion picture rights of ~~[such]~~ the professional contest
14 without any deductions for commissions, brokerage fees,
15 distribution fees, advertising or other expenses or charges;

16 (2) the face value of all tickets sold and
17 complimentary tickets issued; and

18 (3) any sums received as consideration for
19 holding a professional contest at a particular location. "

20 Section 75. Section 60-2A-24 NMSA 1978 (being Laws 1980,
21 Chapter 90, Section 24) is amended to read:

22 "60-2A-24. ATHLETIC COMMISSION FUND. --The proceeds of the
23 ~~[privilege tax]~~ regulatory fee on promotions and of the
24 ~~[privilege tax]~~ supervisory fee on closed-circuit television or
25 motion pictures, together with any license fees or other fees

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1 authorized ~~[under]~~ pursuant to the Professional Athletic
2 Competition Act, shall be deposited with the state treasurer to
3 the credit of the "athletic commission fund", which is hereby
4 created. Expenditures from the athletic commission fund shall
5 only be made on vouchers issued and signed by the person
6 designated by the commission upon warrants drawn by the
7 department of finance and administration in accordance with the
8 budget approved by the department of finance and
9 administration. "

10 Section 76. Section 60-2A-25 NMSA 1978 (being Laws 1980,
11 Chapter 90, Section 25) is amended to read:

12 "60-2A-25. TIME OF PAYMENT OF ~~[PRIVILEGE TAX]~~ REGULATORY
13 FEE. --

14 A. Any person upon whom the ~~[privilege tax]~~
15 regulatory fee is imposed ~~[by]~~ pursuant to Section ~~[23 of the~~
16 ~~Professional Athletic Competition Act]~~ 60-2A-23 NMSA 1978
17 shall, within seventy-two hours after the completion of any
18 professional contest for which an admission fee is charged and
19 received or a contribution is requested and received, furnish
20 to the commission a written report on forms prescribed by the
21 commission showing:

22 (1) the number of tickets sold and issued or
23 sold or issued for ~~[such]~~ the professional contest;

24 (2) the amount of the gross receipts or value
25 thereof;

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1 (3) the amount of gross receipts derived from
2 the sale, lease or other exploitation of broadcasting, motion
3 picture or television rights of ~~[such]~~ the professional
4 contest, ~~[and]~~ without any deductions for commissions,
5 brokerage fees, distribution fees, advertising or any other
6 expenses or charges; and

7 (4) such other matters as the commission may
8 prescribe.

9 B. The commission or any of its authorized
10 employees may inspect the books, ticket stubs or any other data
11 necessary for the proper enforcement of the ~~[privilege tax]~~
12 regulatory fee and supervisory fee imposed ~~[in]~~ pursuant to the
13 Professional Athletic Competition Act. "

14 Section 77. Section 60-2A-26 NMSA 1978 (being Laws 1980,
15 Chapter 90, Section 26, as amended) is amended to read:

16 "60-2A-26. ~~[PRIVILEGE TAX]~~ SUPERVISORY FEE ON CLOSED-
17 CIRCUIT TELECASTS OR MOTION PICTURES--REPORT TO COMMISSION.--

18 A. Any person who charges and receives an admission
19 fee for exhibiting any live professional contest on a closed-
20 circuit telecast or motion picture shall, within seventy-two
21 hours after the event, furnish to the commission a verified
22 written report on a form prescribed by the commission showing
23 the number of tickets sold and issued or sold or issued and the
24 gross receipts for the exhibition without any deductions.

25 B. There is imposed a ~~[tax]~~ supervisory fee upon

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1 the privilege of exhibiting for an admission fee any live
2 professional contest [~~except a live professional boxing contest~~
3 ~~held in New Mexico between the effective date of this 1997 act~~
4 ~~and July 1, 1999]~~ on a closed-circuit telecast or motion
5 picture. [~~The rate of the tax imposed is~~] A supervisory fee is
6 imposed in an amount determined pursuant to the rules of the
7 commission to be sufficient to cover the costs of supervising
8 the exhibition; provided that the fee may not exceed five
9 percent of the gross receipts derived from the exhibition.

10 C. The [~~privilege tax~~] fee imposed [in] pursuant to
11 this section shall be administered, collected, enforced and the
12 proceeds deposited as provided in Section 60-2A-24 NMSA 1978. "

13 Section 78. Section 60-2A-27 NMSA 1978 (being Laws 1980,
14 Chapter 90, Section 27) is amended to read:

15 "60-2A-27. PENALTY--NONPAYMENT OF FEE. --Any person who
16 willfully attempts to evade or defeat any [~~tax~~] regulatory or
17 supervisory fee or the payment thereof imposed [~~by~~] pursuant to
18 the Professional Athletic Competition Act is guilty of a fourth
19 degree felony. "

20 Section 79. Section 60-2A-28 NMSA 1978 (being Laws 1980,
21 Chapter 90, Section 28) is amended to read:

22 "60-2A-28. CIVIL PENALTY. --In the case of failure due to
23 negligence or disregard of rules and regulations of the
24 commission, but without intent to defraud, to pay when due any
25 amount of [~~tax~~] regulatory or supervisory fee required to be

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1 paid by the Professional Athletic Competition Act, there shall
2 be added to the amount two percent per month or a fraction
3 [~~thereof~~] of a month from the date the tax was due or from the
4 date the report was required to be filed, not to exceed ten
5 percent [~~thereof~~] of the fee due. "

6 Section 80. A new section of the Professional Athletic
7 Competition Act is enacted to read:

8 "[NEW MATERIAL] COOPERATIVE AGREEMENTS WITH TRIBAL
9 GOVERNMENTS. --

10 A. The commission may enter into a cooperative
11 agreement with an Indian nation, tribe or pueblo whose tribal
12 lands lie wholly or partly in New Mexico for the exchange of
13 information and for the reciprocal, joint or common direction,
14 management or control of professional contests conducted, held
15 or given in New Mexico. To be effective, an agreement must be
16 signed by the governor of this state.

17 B. Money collected by the commission on behalf of
18 an Indian nation, tribe or pueblo in accordance with an
19 agreement entered into pursuant to this section is not money of
20 this state and shall be collected and disbursed in accordance
21 with the terms of the agreement, notwithstanding any other
22 provision of law.

23 C. Nothing in an agreement entered into pursuant to
24 this section shall be construed as an assertion or an admission
25 by either this state or by the Indian nation, tribe or pueblo

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1 that the fees of one have precedence over the fees of the other
2 when the person, event or transaction is subject to the
3 jurisdiction of both governments. An agreement entered into
4 pursuant to this section shall be construed solely as an
5 agreement between the two party governments and shall not alter
6 or affect the government-to-government relations between this
7 state and any other Indian nation, tribe or pueblo. "

8 Section 81. Section 66-3-3.1 NMSA 1978 (being Laws 1992,
9 Chapter 106, Section 7, as amended) is amended to read:

10 "66-3-3.1. TAX IDENTIFICATION CARD. --The department shall
11 implement a system for identifying motor carriers subject to
12 the weight distance tax and special fuel user permit
13 requirements, including an identifying number for each motor
14 carrier covered by the system. Annually, the department shall
15 issue ~~[a tax identification card in]~~ one or more ~~[copies to]~~
16 original tax identification cards sufficient for the number of
17 vehicles specified by each motor carrier who applies for a tax
18 identification card; provided that ~~[the card shall be renewed~~
19 ~~automatically each year as long as]~~ the motor carrier continues
20 to be subject to and in compliance with the weight distance tax
21 and special fuel user permit requirements. The tax
22 identification card shall contain the department's identifying
23 number for the motor carrier and ~~[such]~~ other information ~~[as]~~
24 that the department deems necessary. "

25 Section 82. Section 66-6-1 NMSA 1978 (being Laws 1978,

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1 Chapter 35, Section 336, as amended) is amended to read:

2 "66-6-1. MOTORCYCLES--REGISTRATION FEES.--

3 A. For the registration of motorcycles, the
4 department shall collect the following fees for a twelve-month
5 registration period:

6 (1) for a motorcycle having not more than two
7 wheels in contact with the ground, [~~eleven dollars (\$11.00)~~]
8 fifteen dollars (\$15.00); and

9 (2) for a motorcycle having three wheels in
10 contact with the ground or having a sidecar, [~~eleven dollars~~
11 ~~(\$11.00)~~] fifteen dollars (\$15.00).

12 B. In addition to other fees required by this
13 section, the department shall collect for each motorcycle an
14 annual tire recycling fee of one dollar (\$1.00) for a twelve-
15 month registration period."

16 Section 83. Section 66-6-2 NMSA 1978 (being Laws 1978,
17 Chapter 35, Section 337, as amended) is amended to read:

18 "66-6-2. PASSENGER VEHICLES--REGISTRATION FEES.--For the
19 registration of motor vehicles other than motorcycles, trucks,
20 buses and tractors, the division shall collect the following
21 fees for each twelve-month registration period:

22 A. for a vehicle whose gross factory shipping
23 weight is not more than two thousand pounds, [~~twenty dollars~~
24 ~~(\$20.00)~~] twenty-seven dollars (\$27.00); provided, however,
25 that after five years of registration, calculated from the date

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1 when the vehicle was first registered in this or another state,
2 the fee is [~~sixteen dollars (\$16.00)~~] twenty-one dollars
3 (\$21.00);

4 B. for a vehicle whose gross factory shipping
5 weight is more than two thousand but not more than three
6 thousand pounds, [~~twenty-nine dollars (\$29.00)~~] thirty-nine
7 dollars (\$39.00); provided, however, that after five years of
8 registration, calculated from the date when the vehicle was
9 first registered in this or another state, the fee is [~~twenty-~~
10 ~~three dollars (\$23.00)~~] thirty-one dollars (\$31.00);

11 C. for a vehicle whose gross factory shipping
12 weight is more than three thousand pounds, [~~forty-two dollars~~
13 ~~(\$42.00)~~] fifty-six dollars (\$56.00); provided, however, that
14 after five years of registration, calculated from the date when
15 the vehicle was first registered in this or another state, the
16 fee is [~~thirty-four dollars (\$34.00)~~] forty-five dollars
17 (\$45.00); and

18 D. for a vehicle registered pursuant to the
19 provisions of this section, a tire recycling fee of one dollar
20 fifty cents (\$1.50). "

21 Section 84. Section 66-6-3 NMSA 1978 (being Laws 1978,
22 Chapter 35, Section 338, as amended) is amended to read:

23 "66-6-3. TRAILERS--REGISTRATION FEES. --

24 A. For the registration of freight trailers and
25 utility trailers, the following fees shall be collected:

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1 (1) for the permanent registration or
2 reregistration of freight trailers, [~~ten dollars (\$10.00)~~]
3 thirteen dollars (\$13.00);

4 (2) for the annual registration of each
5 utility trailer not permanently registered, [~~five dollars~~
6 ~~(\$5.00) plus one dollar (\$1.00)~~] seven dollars (\$7.00) plus one
7 dollar (\$1.00) for each one hundred pounds or major fraction
8 thereof of actual empty weight over five hundred pounds actual
9 empty weight; except that in the case of travel trailers,
10 actual empty weight shall be one-half of the gross factory
11 shipping weight or, if gross factory shipping weight is not
12 available, then actual empty weight shall be one-half of actual
13 gross vehicle weight; and

14 (3) for the permanent registration of utility
15 trailers not used in commerce that have a gross vehicle weight
16 of less than six thousand one pounds, [~~twenty-five dollars~~
17 ~~(\$25.00) plus five dollars (\$5.00)~~] thirty-three dollars
18 (\$33.00) plus seven dollars (\$7.00) for each one hundred pounds
19 or major fraction thereof of actual empty weight over five
20 hundred pounds actual empty weight; except that in the case of
21 travel trailers, actual empty weight shall be one-half of the
22 gross factory shipping weight or, if gross factory shipping
23 weight is not available, then actual empty weight shall be one-
24 half of actual gross vehicle weight and for the reregistration
25 of such utility trailers upon their sale or transfer, [~~five~~

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1 ~~dollars (\$5.00)]~~ seven dollars (\$7.00).

2 B. At the option of the owner of a fleet of fifty
3 or more utility trailers wishing to register them in New
4 Mexico, the [~~motor vehicle~~] division shall issue a registration
5 and registration plate for each trailer in the fleet, the
6 registration and registration plate to expire on the last day
7 of the final month of a five-year period. Registrations and
8 registration plates shall be issued for five years only if the
9 owner of the trailers meets the following requirements:

10 (1) application is made on forms prescribed by
11 the [~~motor vehicle~~] division and payment of the proper fee is
12 made;

13 (2) upon the option of the director,
14 presentation is made at the time of registration of a surety
15 bond, certificate of deposit or of other financial security;
16 and

17 (3) payment is made by the fleet owner of all
18 registration fees due each year prior to the expiration date.
19 If such fees are not paid, all registrations and registration
20 plates in the fleet shall be canceled. "

21 Section 85. Section 66-6-4 NMSA 1978 (being Laws 1978,
22 Chapter 35, Section 339, as amended) is amended to read:

23 "66-6-4. REGISTRATION FEES--TRUCKS, TRUCK TRACTORS, ROAD
24 TRACTORS AND BUSES. --

25 A. Within their respective jurisdictions, the motor
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1 vehicle division and the motor transportation division of the
2 department of public safety shall charge registration fees for
3 trucks, truck tractors, road tractors and buses, except as
4 otherwise provided by law, according to the schedule of
5 Subsection B of this section.

6	B. Declared Gross Weight	Fee
7	001 to 4,000	[\$30] <u>\$ 40</u>
8	4,001 to 6,000	[41] <u>55</u>
9	6,001 to 8,000	[52] <u>69</u>
10	8,001 to 10,000	[63] <u>84</u>
11	10,001 to 12,000	[74] <u>99</u>
12	12,001 to 14,000	[85] <u>113</u>
13	14,001 to 16,000	[96] <u>128</u>
14	16,001 to 18,000	[107] <u>143</u>
15	18,001 to 20,000	[118] <u>157</u>
16	20,001 to 22,000	[129] <u>172</u>
17	22,001 to 24,000	[140] <u>187</u>
18	24,001 to 26,000	[151] <u>201</u>
19	26,001 to 48,000	[88.50] <u>118</u>
20	48,001 and over	[129.50] <u>172.</u>

21 C. All trucks whose declared gross weight or whose
22 gross vehicle weight is less than twenty-six thousand pounds,
23 after five years of registration, calculated from the date when
24 the vehicle was first registered in this or another state,
25 shall be charged registration fees at eighty percent of the

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1 rate set out in Subsection B of this section.

2 D. All trucks with a gross vehicle weight of more
3 than twenty-six thousand pounds and all truck tractors and road
4 tractors used to tow freight trailers shall be registered on
5 the basis of combination gross vehicle weight.

6 E. All trucks with a gross vehicle weight of twenty-
7 six thousand pounds or less shall be registered on the basis of
8 gross vehicle weight. A trailer, semitrailer or pole trailer
9 towed by a truck of such gross vehicle weight shall be
10 classified as a utility trailer for registration purposes
11 unless otherwise provided by law.

12 F. All farm vehicles having a declared gross weight
13 of more than six thousand pounds shall be charged registration
14 fees of two-thirds of the rate of the respective fees provided
15 in this section and shall be issued distinctive registration
16 plates. "Farm vehicle" means ~~any~~ a vehicle owned by a person
17 whose principal occupation is farming or ranching and which
18 vehicle is used principally in the transportation of farm and
19 ranch products to market and farm and ranch supplies and
20 livestock from the place of purchase to farms and ranches in
21 this state; provided that the vehicle is not used for hire.

22 G. In addition to other registration fees imposed by
23 this section, beginning July 1, 1994, there is imposed at the
24 time of registration an annual tire recycling fee of one dollar
25 fifty cents (\$1.50) on each vehicle subject to a registration

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1 fee pursuant to this section, except for vehicles with a
2 declared gross weight of greater than twenty-six thousand
3 pounds upon which registration fees are imposed by Subsection B
4 of this section.

5 H. [~~Four~~] Three percent of registration fees of
6 trucks having from twenty-six thousand one pounds to forty-
7 eight thousand pounds declared gross vehicle weight is to be
8 transferred to the tire recycling fund pursuant to the
9 provisions of Section 66-6-23 NMSA 1978.

10 I. [~~Five~~] Three and seventy-five hundredths percent
11 of registration fees of trucks in excess of forty-eight
12 thousand pounds declared gross vehicle weight is to be
13 transferred to the tire recycling fund pursuant to the
14 provisions of Section 66-6-23 NMSA 1978. "

15 Section 86. Section 66-6-5 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 340, as amended) is amended to read:

17 "66-6-5. BUS REGISTRATION FEES. --All buses shall pay the
18 registration fees provided in Section 66-6-4 NMSA 1978, except
19 for school buses and buses operated by religious or nonprofit
20 charitable organizations for the express purpose of the
21 organization for which the annual registration fee is [~~five~~
22 ~~dollars (\$5.00)~~] seven dollars (\$7.00). In addition to other
23 registration fees imposed by this section, beginning July 1,
24 1994, there is imposed at the time of registration an annual
25 tire recycling fee of fifty cents (\$.50) per wheel that is in

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1 contact with the ground on each vehicle subject to a
2 registration fee pursuant to this section. "

3 Section 87. Section 66-6-8 NMSA 1978 (being Laws 1978,
4 Chapter 35, Section 343, as amended) is amended to read:

5 "66-6-8. BUS REGISTRATION--AGRICULTURAL LABOR FEES. --

6 A. A bus that has a normal seating capacity of forty
7 passengers or less and that is used exclusively for the
8 transportation of agricultural laborers may be registered upon
9 payment to the division of a fee of [~~twenty-five dollars~~
10 ~~(\$25.00)~~] thirty-three dollars (\$33.00).

11 B. In addition to the registration fee imposed by
12 this section, there is imposed at the time of registration an
13 annual tire recycling fee of fifty cents (\$.50) per wheel that
14 is in contact with the ground on each vehicle subject to a
15 registration fee pursuant to this section.

16 C. Application for registration of a bus [~~under~~
17 pursuant to] this section shall be made in the form prescribed
18 by the division and shall be accompanied by an affidavit that
19 the bus will be used exclusively for the transportation of
20 agricultural laborers. Upon registration, the bus is exempt
21 from tariff-filing requirements of the public regulation
22 commission. "

23 Section 88. Section 66-6-9 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 344) is amended to read:

25 "66-6-9. FEE FOR FERTILIZER TRAILERS. --In lieu of the

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1 registration fee provided for in Section [~~64-6-3 NMSA 1953~~]
2 66-6-3 NMSA 1978, the division shall collect a registration fee
3 of [~~five dollars (\$5.00)~~] seven dollars (\$7.00) for each
4 trailer used on the highways of this state by any commercial
5 fertilizer company solely for the delivery or distribution of
6 liquid fertilizer to a farmer; provided [~~such~~] the trailer has
7 an empty weight not in excess of three thousand five hundred
8 pounds. "

9 Section 89. Section 66-6-10 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 345, as amended) is amended to read:

11 "66-6-10. REGISTRATION FEES FOR MANUFACTURED HOMES AND
12 TRAVEL TRAILERS-- DIVISION TO NOTIFY COUNTY ASSESSOR OF
13 MANUFACTURED HOME REGISTRATION. --

14 A. For the registration of each manufactured home,
15 the division shall collect a fee of [~~five dollars (\$5.00)~~]
16 seven dollars (\$7.00).

17 B. The division shall compile and transmit to each
18 county assessor each year a list of the manufactured homes that
19 are registered with the division showing [~~his~~] the assessor's
20 county as the principal location of the manufactured home. The
21 listing shall include all data pertinent to and necessary for
22 the county assessor to value the manufactured homes in
23 accordance with valuation [~~regulations~~] rules promulgated by
24 the property tax division [~~under~~] pursuant to Section 7-36-26
25 NMSA 1978. The listing required by this subsection shall be

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1 transmitted no later than thirty days following the close of
2 the annual registration process and shall be supplemented no
3 less often than every thirty days to provide information to the
4 appropriate county assessors on registrations occurring
5 throughout the year.

6 C. At the time a person registers [~~his~~] a
7 manufactured home and pays the fee required by this section,
8 [~~he~~] the person shall be notified in writing by the division
9 that the information required by Subsection B of this section
10 will be furnished to the county assessor of the county of the
11 principal location of the manufactured home and that the
12 manufactured home is subject to property taxation under the
13 Property Tax Code. "

14 Section 90. Section 66-6-12 NMSA 1978 (being Laws 1978,
15 Chapter 35, Section 347) is amended to read:

16 "66-6-12. FEES FOR SCHOOL BUSES. --

17 A. Registration fees for school buses used solely for
18 the purpose of transportation of school children and other
19 school activities shall be [~~five dollars (\$5.00)~~] seven dollars
20 (\$7.00) a year.

21 B. The application for registration of a school bus
22 shall be accompanied by the certificate of the director of
23 transportation of the [~~state department of~~] public education
24 department stating that the vehicle is used solely and
25 exclusively as a school bus. [~~No~~] A passenger car shall not be

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1 considered [~~as~~] a school bus for the purposes of this section."

2 Section 91. Section 66-6-23.1 NMSA 1978 (being Laws 1999,
3 Chapter 49, Section 8) is amended to read:

4 "66-6-23.1. FORMULAIC DISTRIBUTION. --

5 A. The balance from Section 66-6-23 NMSA 1978 shall
6 be transferred or distributed by the state treasurer on or
7 before the last day of the month next after its receipt, as
8 follows:

9 (1) [~~sixty-six and five hundred forty-one~~
10 ~~thousandths~~] seventy-four and sixty-five hundredths percent
11 shall be distributed to the state road fund;

12 (2) [~~ten and thirty-two thousandths~~] seven and
13 six-tenths percent shall be transferred to each county in the
14 proportion, determined by the department in accordance with
15 Subsection B of this section, that the registration fees for
16 vehicles in that county are to the total registration fees for
17 vehicles in all counties;

18 (3) [~~ten and thirty-two thousandths~~] seven and
19 six-tenths percent shall be transferred to the counties, with
20 each county receiving an amount equal to the proportion,
21 determined by the secretary of [~~highway and~~] transportation in
22 accordance with Subsection D of this section, that the mileage
23 of public roads maintained by the county is to the total
24 mileage of public roads maintained by all counties of the
25 state. Amounts distributed to each county in accordance with

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1 this paragraph shall be credited to the respective county road
2 fund and be used for the improvement and maintenance of the
3 public roads in the county and to pay for the acquisition of
4 rights of way and material pits. For this purpose, the board
5 of county commissioners of each of the respective counties
6 shall certify by April 1 of each year to the secretary of
7 ~~[highway and]~~ transportation the total mileage as of April 1 of
8 that year; provided that in their report, the boards of county
9 commissioners shall identify each of the public roads
10 maintained by them by name, route and location. By agreement
11 and in cooperation with the ~~[state highway and]~~ department of
12 transportation ~~[department]~~, the boards of county commissioners
13 of the various counties may use or designate any of the funds
14 provided in this paragraph for ~~[any]~~ a federal aid program;

15 (4) ~~[five and three hundred fifty-eight~~
16 ~~thousandths]~~ four and six-hundredths percent shall be allocated
17 among the counties in the proportion, determined by the
18 department in accordance with Subsection B of this section,
19 that the registration fees for vehicles in that county are to
20 the total registration fees for vehicles in all counties. The
21 amount allocated to each county shall be transferred to the
22 incorporated municipalities within the county in the
23 proportion, determined by the department of finance and
24 administration in accordance with Subsection C of this section,
25 that the sum of net taxable value, as that term is defined in

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1 the Property Tax Code, plus the assessed value, as that term is
2 used in the Oil and Gas Ad Valorem Production Tax Act and in
3 the Oil and Gas Production Equipment Ad Valorem Tax Act,
4 determined for the incorporated municipality is to the sum of
5 net taxable value plus assessed value determined for all
6 incorporated municipalities within the county. Amounts
7 transferred to incorporated municipalities pursuant to the
8 provisions of this paragraph shall be used for the
9 construction, maintenance and repair of streets within the
10 municipality and for payment of paving assessments against
11 property owned by federal, county or municipal governments. In
12 [~~any~~] a county in which there are no incorporated
13 municipalities, the amount allocated pursuant to this paragraph
14 shall be transferred to the county government road fund and
15 used in accordance with the provisions of Paragraph (3) of this
16 subsection; and

17 (5) [~~eight and thirty seven thousandths~~] six and
18 nine-hundredths percent shall be allocated among the counties
19 in the proportion, determined by the department of finance and
20 administration in accordance with Subsection C of this section,
21 that the registration fees for vehicles in that county are to
22 the total registration fees for vehicles in all counties. The
23 amount allocated to each county shall be transferred to the
24 county and incorporated municipalities within the county in the
25 proportion, determined by the department of finance and

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1 administration in accordance with Subsection B of this section,
2 that the computed taxes due for the county and each
3 incorporated municipality within the county bear to the total
4 computed taxes due for the county and incorporated
5 municipalities within the county. For the purposes of this
6 paragraph, the term "computed taxes due" for ~~[any]~~ a
7 jurisdiction means the sum of the net taxable value, as that
8 term is defined in the Property Tax Code, plus the assessed
9 value, as that term is used in the Oil and Gas Ad Valorem
10 Production Tax Act and in the Oil and Gas Production Equipment
11 Ad Valorem Tax Act, for that jurisdiction multiplied by an
12 average of the rates for residential and nonresidential
13 property imposed for that jurisdiction pursuant to Subsection B
14 of Section 7-37-7 NMSA 1978.

15 B. To carry out the provisions of this section,
16 during the month of June of each year:

17 (1) the department shall determine and certify
18 to the department of finance and administration the proportions
19 ~~[which]~~ that the department is required to determine pursuant
20 to Subsection A of this section using information for the
21 preceding calendar year on the number of vehicles registered in
22 each county based on the address of the owner or place where
23 the vehicle is principally located, the registration fees for
24 the vehicles registered in each county, the total number of
25 vehicles registered in the state and the total registration

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1 fees for all vehicles registered in the state; and

2 (2) the department of finance and administration
3 shall determine the proportions that the department of finance
4 and administration is required to determine pursuant to
5 ~~[Subsection B of this section]~~ this subsection based upon the
6 net taxable value, as that term is defined in the Property Tax
7 Code, and the assessed value, as that term is used in the Oil
8 and Gas Ad Valorem Production Tax Act and the Oil and Gas
9 Production Equipment Ad Valorem Tax Act, for the preceding tax
10 year and the tax rates imposed pursuant to Subsection B of
11 Section 7-37-7 NMSA 1978 in the preceding September.

12 C. By June 30 of each year, the department of finance
13 and administration shall determine the appropriate percentage
14 of money to be transferred to each county and municipality for
15 each purpose in accordance with Subsection A of this section
16 based upon the proportions determined by or certified to the
17 department of finance and administration. The percentages
18 determined shall be used to compute the amounts to be
19 transferred to the counties and municipalities during the
20 succeeding fiscal year.

21 D. The board of county commissioners of each of the
22 respective counties shall, by April 1 of every year, certify
23 reports to the secretary of ~~[highway and]~~ transportation of the
24 total mileage of public roads maintained by each county as of
25 April 1 of every year; provided that in their reports, the

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1 boards of county commissioners shall identify each of the
2 public roads maintained by them by name, route and location.
3 By July 1 of every year, the secretary of [~~highway and~~]
4 transportation shall verify the reports of the counties and
5 revise, if necessary, the total mileage of public roads
6 maintained by each county. The mileage verified by the
7 secretary of [~~highway and~~] transportation shall be the official
8 mileage of public roads maintained by each county.
9 Distribution of amounts to [~~any~~] a county for road purposes
10 shall be made in accordance with this section.

11 E. If a county has not made the required mileage
12 certification pursuant to Section 67-3-28.3 NMSA 1978 by April
13 1 of any year, the secretary of [~~highway and~~] transportation
14 shall estimate the mileage maintained by those counties for the
15 purpose of making distribution to all counties, and the amount
16 calculated to be distributed each month to those counties not
17 certifying mileage shall be reduced by one-third each month for
18 that fiscal year, and that amount not distributed to those
19 counties shall be distributed equally to all counties that have
20 certified mileages. "

21 Section 92. Section 66-7-413 NMSA 1978 (being Laws 1978,
22 Chapter 35, Section 484, as amended by Laws 2003, Chapter 141,
23 Section 4 and by Laws 2003, Chapter 142, Section 23 and by Laws
24 2003, Chapter 359, Section 42 and also by Laws 2003, Chapter
25 361, Section 1) is amended to read:

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1 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL
2 NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES. --

3 A. The department of public safety and local highway
4 authorities may, in their discretion, upon application in
5 writing and good cause being shown, issue a special permit in
6 writing authorizing the applicant to operate or move a vehicle
7 or load of a size or weight exceeding the ~~maximum~~ specified in
8 Sections 66-7-401 through 66-7-416 NMSA 1978 on [~~any~~] a highway
9 under the jurisdiction of the state transportation commission
10 or local authorities. Except for the movement of manufactured
11 homes, a permit may be granted, in cases of emergency, for the
12 transportation of loads on a certain unit or combination of
13 equipment for a specified period of time not to exceed one
14 year, and the permit shall contain the route to be traversed,
15 the type of load to be transported and any other restrictions
16 or conditions deemed necessary by the body granting the permit.
17 In every other case, the permit shall be issued for a single
18 trip and may designate the route to be traversed and contain
19 any other restrictions or conditions deemed necessary by the
20 body granting the permit. Every permit shall be carried in the
21 vehicle to which it refers and shall be opened for inspection
22 to any peace officer. It is a misdemeanor for [~~any~~] a person
23 to violate [~~any of the conditions~~] a condition or [~~terms~~] term
24 of the special permit.

25 B. The department of public safety shall charge and

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1 collect, when the movement consists of ~~[any]~~ a load of a width
2 of twenty feet or greater for a distance of five miles or more,
3 the sum of three hundred dollars (\$300) a day or fraction
4 thereof to defray the cost of state or local police escort.
5 The permit issued and the fee charged shall be based upon the
6 entire movement at one time requiring police escort and not
7 upon the number of vehicles involved.

8 C. The department of public safety shall promulgate
9 ~~[regulations]~~ rules in accordance with the State Rules Act
10 pertaining to safety practices, liability insurance and
11 equipment for escort vehicles provided by the motor carrier
12 himself and for escort vehicles provided by a private business
13 in this state.

14 (1) ~~[If a motor carrier provides his own escort~~
15 ~~vehicles and personnel]~~ The department ~~[shall not charge an~~
16 ~~escort fee but]~~ of public safety shall provide the ~~[motor~~
17 ~~carrier]~~ escort personnel with a copy of applicable
18 ~~[regulations]~~ rules and shall inspect the escort vehicles for
19 the safety equipment required by the ~~[regulations]~~ rules. If
20 the escort vehicles and personnel meet the requirements set
21 forth in the ~~[regulations and if the motor carrier holds a~~
22 ~~valid certificate of public convenience and necessity or~~
23 ~~permit, as applicable, issued pursuant to Chapter 65, Article 2~~
24 ~~NMSA 1978]~~ rules, the department of public safety shall issue
25 the special permit, but shall not charge an escort fee. If the

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1 motor carrier provides its own escort vehicles and personnel,
2 the department of public safety shall require that the motor
3 carrier have a warrant issued by the public regulation
4 commission.

5 [~~(2)~~] ~~If the escort service is a private~~
6 ~~business, the business shall have applied to the public~~
7 ~~regulation commission for and been issued a permit or~~
8 ~~certificate to operate as a contract or common motor carrier~~
9 ~~pursuant to Chapter 65, Article 2 NMSA 1978. The public~~
10 ~~regulation commission shall supply copies of applicable~~
11 ~~regulations to the business by mail and shall supply additional~~
12 ~~copies upon request. If the escort vehicles and personnel meet~~
13 ~~the requirements set forth in the regulations and if the escort~~
14 ~~service holds a certificate, the special permit shall be issued~~
15 ~~and the department shall not charge an escort fee.~~

16 ~~(3)]~~ (2) The movement of vehicles upon the
17 highways of this state requiring a special permit and required
18 to use an escort of the type noted in [~~Paragraphs (1) and (2)~~]
19 Paragraph (1) of this subsection is subject to department of
20 public safety authority and inspection at all times.

21 [~~(4)~~] (3) The [~~state highway and~~] department of
22 transportation [~~department~~] shall conduct engineering
23 investigations and engineering inspections to determine which
24 four-lane highways are safe for the operation or movement of
25 manufactured homes without an escort. After making that

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1 determination, the [~~state highway and~~] department of
2 transportation [~~department~~] shall hold public hearings in the
3 area of the state affected by the determination, after which it
4 may adopt [~~regulations~~] rules designating those four-lane
5 highways as being safe for the operation or movement of
6 manufactured homes without an escort. If [~~any~~] a portion of
7 such a four-lane highway lies within the boundaries of a
8 municipality, the [~~state highway and~~] department of
9 transportation [~~department~~], after obtaining the approval of
10 the municipal governing body, shall include such portions in
11 its [~~regulations~~] rules.

12 D. Except for the movement of manufactured homes,
13 special permits may be issued for a single vehicle or
14 combination of vehicles by the department of public safety for
15 a period not to exceed one year for a fee of [~~sixty dollars~~
16 ~~(\$60.00)~~] three hundred dollars (\$300). The permits may allow
17 excessive height, length and width for a vehicle or combination
18 of vehicles or load thereon and may include a provision for
19 excessive weight if [~~the operation is to be within the vicinity~~
20 ~~of a municipality~~] the distance between the origin and the
21 destination of each single trip is thirty miles or less.

22 Utility service vehicles, operating with special permits
23 pursuant to this subsection, shall be exempt from prohibitions
24 or restrictions relating to hours or days of operation or
25 restrictions on movement because of poor weather conditions.

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1 E. Special permits for a single trip for a vehicle or
2 combination of vehicles or load thereon of excessive weight,
3 width, length and height may be issued by the department of
4 public safety for a single vehicle for a fee of [~~fifteen~~
5 ~~dollars (\$15.00)~~] twenty-five dollars (\$25.00) plus the product
6 of four cents (\$.04) for each two thousand pounds in excess of
7 eighty-six thousand four hundred pounds or major fraction
8 thereof multiplied by the number of miles to be traveled by the
9 vehicle or combination of vehicles on the highways of this
10 state.

11 F. If [~~the~~] a vehicle for which a permit is issued
12 [~~under~~] pursuant to this section is a manufactured home, the
13 department of public safety or local highway authority issuing
14 the permit shall furnish the following information to the
15 property tax division of the taxation and revenue department,
16 which shall [~~then~~] forward the information:

17 (1) to the county assessor of [~~any~~] a county
18 from which a manufactured home is being moved, the date the
19 permit was issued, the location being moved from, the location
20 being moved to if within the same county, the name of the owner
21 of the manufactured home and the identification and
22 registration numbers of the manufactured home;

23 (2) to the county assessor of any county in this
24 state to which a manufactured home is being moved, the date the
25 permit was issued, the location being moved from, the location

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1 being moved to, the name of the owner of the manufactured home
2 and the registration and identification numbers of the
3 manufactured home; and

4 (3) to the owner of a manufactured home having a
5 destination in this state, notification that the information
6 required in Paragraphs (1) and (2) of this subsection is being
7 given to the respective county assessors and that manufactured
8 homes are subject to property taxation.

9 G. Except as provided in Subsection H of this
10 section, if the movement of a manufactured home originates in
11 this state, ~~[no]~~ a permit shall not be issued ~~[under]~~ pursuant
12 to Subsection F of this section until the owner of the
13 manufactured home or ~~[his]~~ the authorized agent of the owner
14 obtains and presents to the department of public safety proof
15 that a certificate has been issued by the county assessor or
16 treasurer of the county in which the manufactured home movement
17 originates showing that either:

18 (1) all property taxes due or to become due on
19 the manufactured home for the current tax year or any past tax
20 years have been paid, except for manufactured homes located on
21 an Indian reservation; or

22 (2) ~~[no]~~ liability for property taxes on the
23 manufactured home ~~[exists]~~ does not exist for the current tax
24 year or ~~[any]~~ a past tax ~~[years]~~ year, except for manufactured
25 homes located on an Indian reservation.

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1 H. The movement of a manufactured home from the lot
2 or business location of a manufactured home dealer to its
3 destination designated by an owner-purchaser is not subject to
4 the requirements of Subsection G of this section if the
5 manufactured home movement originates from the lot or business
6 location of the dealer and the manufactured home was part of
7 ~~[his]~~ the dealer's inventory prior to the sale to the owner-
8 purchaser; however, the movement of a manufactured home by a
9 dealer or ~~[his]~~ the dealer's authorized agent as a result of a
10 sale or trade-in from a nondealer-owner is subject to the
11 requirements of Subsection G of this section whether the
12 destination is the business location of a dealer or some other
13 destination.

14 I. ~~[No]~~ A permit shall not be issued ~~[under]~~ pursuant
15 to this section for movement of a manufactured home whose width
16 exceeds eighteen feet with no more than a six-inch roof
17 overhang on the left side or twelve inches on the right side in
18 addition to the eighteen-foot width of the manufactured home.
19 Manufactured homes exceeding the limitations of this section
20 shall only be moved on dollies placed on the front and the rear
21 of the structure.

22 J. The secretary of public safety may by ~~[regulation]~~
23 rule provide for movers of manufactured homes to self-issue
24 permits for certain sizes of manufactured homes over specific
25 routes ~~[however, in no case may]~~. The cost of ~~[each]~~ a permit

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1 shall not be less than [~~fifteen dollars (\$15.00)~~] twenty-five
2 dollars (\$25.00).

3 K. The secretary of public safety may provide by
4 [~~regulation~~] rule for dealers of implements of husbandry to
5 self-issue permits for the movement of certain sizes of
6 implements of husbandry from the lot or business location of
7 the dealer over specific routes with specific escort
8 requirements, if necessary, to a destination designated by an
9 owner-purchaser or for purposes of a working demonstration on
10 the property of a proposed owner-purchaser. The department of public safety shall charge a fee for each self-issued permit
11 not to exceed fifteen dollars (\$15.00).
12

13 L. [~~Any~~] A private motor carrier requesting an
14 oversize or overweight permit shall provide proof of insurance
15 in at least the following amounts:

- 16 (1) bodily injury liability, providing:
17 (a) fifty thousand dollars (\$50,000) for
18 each person; and
19 (b) one hundred thousand dollars (\$100,000)
20 for each accident; and
21 (2) property damage liability, providing twenty-
22 five thousand dollars (\$25,000) for each accident.

23 M. [~~Any common~~] A motor carrier requesting an
24 oversize permit shall produce a copy of a [~~form "e" or other~~
25 ~~acceptable~~] warrant or single state registration receipts as

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1 evidence that the [~~common~~] motor carrier maintains the
2 insurance minimums prescribed by the public regulation
3 commission.

4 N. The department of public safety may provide by
5 rule the time periods during which a vehicle or load of a size
6 or weight exceeding the maximum specified in Sections 66-7-401
7 through 66-7-416 NMSA 1978 may be operated or moved by a motor
8 carrier on a highway under the jurisdiction of the state
9 transportation commission or local authorities.

10 O. Revenue from fees for special permits authorizing
11 vehicles and loads of excessive size or weight to operate or
12 move upon a highway under the jurisdiction of the state
13 transportation commission or local authorities shall be
14 collected for the department of transportation and transferred
15 to the state road fund."

16 Section 93. Section 66-7-413.4 NMSA 1978 (being Laws
17 2001, Chapter 20, Section 2) is amended to read:

18 "66-7-413.4. PERMITS FOR EXCESSIVE WEIGHT. --

19 A. In addition to the authority granted in Section
20 66-7-413 NMSA 1978, the motor transportation division of the
21 department of public safety may issue special permits
22 authorizing an increase of up to twenty-five percent in axle
23 weight for liquid hauling tank vehicles whenever the liquid
24 hauling tank vehicles would have to haul less than a full tank
25 under the maximum weights authorized in Section 66-7-409 and

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1 66-7-410 NMSA 1978. A special permit under this section may be
2 issued for a single trip or for a year. The fee for the
3 permits shall be thirty-five dollars (\$35.00) for a single-trip
4 permit and one hundred twenty dollars (\$120) for an annual
5 permit. Revenue from the permit fee shall be used to build,
6 maintain, repair or reconstruct the highways and bridges of
7 this state. Revenue from the permit shall be collected for the
8 department of transportation and transferred to the state road
9 fund.

10 B. The special permits authorized by this section
11 shall not be valid for transportation of excessive weights on
12 the interstate system as currently defined in federal law or as
13 that system may be defined in the future. [No] A special
14 permit issued pursuant to this section shall not be valid for
15 gross vehicle weights in excess of eighty-six thousand four
16 hundred pounds or for [~~any~~] a combination vehicle.

17 C. If the federal highway administration of the
18 United States department of transportation gives official
19 notice that money will be withheld or that this section
20 violates the grandfather provision of 23 USCA 127, the
21 secretary may withdraw all special permits and discontinue
22 issuance of all special permits authorized in this section
23 until such time that final determination is made. If the final
24 determination allows the state to issue the special permits
25 without sanction of funds or weight tables, [~~then~~] the

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1 secretary shall reissue the special permits previously
2 withdrawn and make the special permits available pursuant to
3 this section. "

4 Section 94. Section 67-3-59.2 NMSA 1978 (being Laws 1999
5 (1st S.S.), Chapter 9, Section 3) is amended to read:

6 "67-3-59.2. HIGHWAY INFRASTRUCTURE FUND CREATED--
7 PURPOSE. --

8 A. The "highway infrastructure fund" is created in
9 the state treasury and shall be administered by the department.
10 The fund shall consist of money from various fees and taxes
11 distributed to the fund. Earnings on investment of the fund
12 shall be credited to the fund. Balances in the fund at the end
13 of any fiscal year shall not revert and shall remain in the
14 fund for the purposes authorized in this section.

15 B. Money in the fund shall be used solely for
16 acquisition of rights of way or planning, design, engineering,
17 construction or improvement of state highway projects
18 authorized pursuant to the provisions of Laws 1998, Chapter 84,
19 [~~and~~] Subsections C through H of Section 1 of Chapter 85 of
20 Laws 1998 and Sections 97 and 98 of this 2003 act and is
21 appropriated to the department for expenditure for those
22 purposes.

23 C. The taxes and fees required by law to be
24 distributed to the highway infrastructure fund may be pledged
25 for the payment of state highway bonds issued pursuant to

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1 ~~[Section]~~ Sections 67-3-59.1 and 67-3-59.3 NMSA 1978 for the
2 highway projects authorized in the laws specified in Subsection
3 B of this section. "

4 Section 95. A new section of Chapter 67, Article 3 NMSA
5 1978, Section 67-3-59.3 NMSA 1978, is enacted to read:

6 "67-3-59.3. [NEW MATERIAL] STATE TRANSPORTATION PROJECT
7 BONDS-- ISSUANCE-- LIMITS-- APPROVAL. --

8 A. In order to provide funds to finance state
9 transportation projects, the New Mexico finance authority, when
10 directed by the state transportation commission, is authorized,
11 subject to the limitations of this section, to issue bonds from
12 time to time, payable from:

13 (1) federal funds not otherwise obligated that
14 are paid into the state road fund;

15 (2) proceeds of the collection of additional
16 taxes and fees that are required in this 2003 act to be paid
17 into the state road fund and not otherwise pledged exclusively
18 to the payment of outstanding bonds and debentures; and

19 (3) taxes and fees required by law to be paid
20 into the highway infrastructure fund.

21 B. Upon authorization of state transportation
22 projects and appropriation of net bond proceeds by the
23 legislature, bonds in the total aggregate principal amount of
24 one billion five hundred eighty-five million dollars
25 (\$1,585,000,000) may be issued by the New Mexico finance

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1 authority pursuant to this section for state transportation
2 projects, to be secured by or payable from taxes or fees
3 required by law to be paid into the state road fund, federal
4 funds not otherwise obligated that are paid into the state road
5 fund and taxes or fees required by law to be paid into the
6 highway infrastructure fund.

7 C. The New Mexico finance authority, when directed by
8 the state transportation commission, may issue bonds to refund
9 other bonds issued by or at the direction of the state
10 transportation commission pursuant to this section or Section
11 67-3-59.1 NMSA 1978 by exchange or current or advance
12 refunding.

13 D. In consultation with the state transportation
14 commission, the New Mexico finance authority shall determine
15 all terms, covenants and conditions of the bonds; provided that
16 the project design life of a project meets or exceeds the life
17 of the bond issued for that project, and each series of bonds
18 shall be sold, executed and delivered in accordance with the
19 provisions of the New Mexico Finance Authority Act. The New
20 Mexico finance authority may enter into interest rate exchange
21 agreements, interest rate swap contracts, insurance agreements,
22 remarketing agreements and any other agreements deemed
23 necessary in connection with the issuance of the bonds without
24 obtaining the approval of such agreements by any agency or
25 board of the state, notwithstanding the provisions of any other

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1 law of the state.

2 E. Proceeds of the bonds and amounts on deposit in
3 the state road fund and the highway infrastructure fund may be
4 used to pay expenses incurred in the preparation,
5 administration, issuance and sale of the bonds and, together
6 with the earnings on the proceeds of the bonds, may be used to
7 pay rebate, penalty, interest and other obligations relating to
8 the bonds and the proceeds of the bonds under the Internal
9 Revenue Code of 1986, as amended.

10 F. This section is full authority for the issuance
11 and sale of the bonds, and the bonds shall not be invalid for
12 any irregularity or defect in the proceedings for their
13 issuance and sale and shall be incontestable in the hands of
14 bona fide purchasers or holders of the bond for value.

15 G. The bonds shall be legal investments for a person
16 or board charged with the investment of public funds and may be
17 accepted as security for a deposit of public money and, with
18 the interest thereon, are exempt from taxation by the state and
19 a political subdivision or agency of the state.

20 H. Any law authorizing the imposition or distribution
21 of taxes or fees paid into the state road fund or the highway
22 infrastructure fund or that affects those taxes and fees shall
23 not be amended or repealed or otherwise directly or indirectly
24 modified so as to impair outstanding bonds secured by a pledge
25 of revenues from those taxes and fees paid into the state road

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1 fund or the highway infrastructure fund, unless the bonds have
2 been discharged in full or provisions have been made for a full
3 discharge. In addition, while any bonds issued by the New
4 Mexico finance authority pursuant to the provisions of this
5 section remain outstanding, the powers or duties of the state
6 transportation commission or the authority shall not be
7 diminished or impaired in any manner that will affect adversely
8 the interests and rights of the holder of such bonds.

9 I. In contracting for state transportation projects
10 to be paid in whole or in part with proceeds of bonds
11 authorized by this section, the department shall require that
12 any sand, gravel, caliche or similar material needed for the
13 project shall, if practicable, be mined from state lands. Each
14 contract shall provide that the contractor notify the
15 commissioner of public lands of the need for the material and
16 that, through lease or purchase, the material shall be mined
17 from state lands if:

18 (1) the material needed is available from state
19 lands in the vicinity of the project;

20 (2) the commissioner determines that the lease
21 or purchase is in the best interest of the state land trust
22 beneficiaries; and

23 (3) the cost to the contractor for the material,
24 including the costs of transportation, is competitive with
25 other available material from nonstate lands.

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1 J. Bonds issued pursuant to this section shall be
2 paid solely from federal funds not otherwise obligated and
3 taxes and fees deposited into the state road fund and the
4 highway infrastructure fund and shall not constitute a general
5 obligation of the state.

6 K. For purposes of this section, "state
7 transportation project bonds" includes only those bonds issued
8 pursuant to this section and excludes transportation bonds as
9 defined in Section 67-3-72 NMSA 1978. "

10 Section 96. Section 67-3-65.1 NMSA 1978 (being Laws 1983,
11 Chapter 211, Section 40) is amended to read:

12 "67-3-65.1. STATE ROAD FUND DISTRIBUTION.--The amounts
13 distributed to the state road fund pursuant to [~~Section~~]
14 Sections 7-1-6.10, 66-6-23 and 66-6-23.1 NMSA 1978 shall be
15 used for maintenance, construction and improvement of [~~the~~
16 ~~public highways~~] state transportation projects and to meet
17 federal allotments under the federal-aid road laws, but
18 sufficient money from the state road fund shall be set aside
19 each year by the state treasurer to pay the principal and
20 interest [~~coupons of highway debentures~~] due each year on state
21 transportation revenue bonds issued to anticipate the
22 collection of this revenue [~~as the principal and interest~~
23 ~~coupons mature~~]. "

24 Section 97. [NEW MATERIAL] APPROPRIATION OF BOND
25 PROCEEDS-- AUTHORIZED TRANSPORTATION PROJECTS. --

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1 A. The net proceeds of state transportation project
2 bonds issued by the New Mexico finance authority pursuant to
3 Section 67-3-59.3 NMSA 1978 and Subsection B of this section
4 are appropriated to the department of transportation for the
5 following authorized transportation projects:

6 (1) for the reconstruction of the interchange at
7 the intersection of Coors boulevard and interstate 40 in
8 Albuquerque;

9 (2) for the reconstruction and improvement of
10 interstate 25 to accommodate public transportation elements,
11 including commuter rail from Albuquerque to Santa Fe;

12 (3) for the reconstruction and improvement of
13 United States highway 54 from Tularosa to Santa Rosa;

14 (4) for the reconstruction and improvement of
15 United States highway 64/87 from Raton to Clayton;

16 (5) for the reconstruction and improvement of
17 United States highway 491 from Tohatchi to Shiprock;

18 (6) for the reconstruction and improvement of
19 United States highway 491 from Shiprock to the Colorado state
20 line;

21 (7) for the reconstruction and improvement of
22 United States highway 62/180 from the Texas state line to
23 Carlsbad;

24 (8) for the reconstruction and improvement of
25 various sections of interstate 40 from Newkirk to Tucumcari;

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1 (9) for the reconstruction and improvement of
2 various sections of interstate 40 between Gallup and the
3 Arizona state line;

4 (10) for the reconstruction and improvement of
5 various sections of interstate 40 between Thoreau and Grants;

6 (11) for the reconstruction and improvement of
7 interstate 40 in Albuquerque from Carlisle boulevard to Juan
8 Tabo boulevard;

9 (12) for the reconstruction and improvement of
10 interstate 40 east of Albuquerque from Carnuel to Sedillo;

11 (13) for the reconstruction and improvement of
12 interstate 40 in Albuquerque from Central avenue to Coors
13 boulevard;

14 (14) for the reconstruction and improvement of
15 interstate 40 at various locations from the Pueblo of Laguna to
16 Mesita;

17 (15) for the reconstruction and improvement of
18 interstate 40 from Canoncito to Rio Puerco;

19 (16) for the reconstruction and improvement of
20 interstate 40 in Moriarty from the west interchange to the east
21 interchange;

22 (17) for the reconstruction and improvement of
23 interstate 10 from Lordsburg to the junction of state highway
24 146;

25 (18) for the reconstruction and improvement to

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1 accommodate public transportation elements of interstate 10
2 from the Texas state line to Las Cruces;

3 (19) for the reconstruction and improvement of
4 United States highway 84/285 from Pojoaque to Espanola;

5 (20) for the reconstruction and improvement of
6 state highway 45 in Albuquerque from the junction above
7 interstate 25 north to Central avenue;

8 (21) for the reconstruction and improvement of
9 state highway 128 from state highway 31 to the Texas state
10 line;

11 (22) for the reconstruction and improvement of
12 state highway 11 from Columbus to Deming;

13 (23) for the reconstruction and improvement of
14 United States highway 60 from Abo to Willard;

15 (24) for the reconstruction and improvement of
16 United States highway 56 from Springer east to Abbott;

17 (25) for the reconstruction and improvement of
18 United States highway 380 west of Tatum east to the Texas state
19 line;

20 (26) for the reconstruction and improvement of
21 various sections of United States highway 380 from Capitan to
22 Hondo;

23 (27) for the reconstruction and improvement of
24 various sections of United States highway 64 from the San Juan-
25 Rio Arriba county line to the junction of United States highway

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- 84;
- (28) for the reconstruction and improvement of state highway 8 from Eunice to United States highway 62;
- (29) for the reconstruction and improvement of United States highway 285 from Encino to Clines Corners;
- (30) for the reconstruction and improvement of various sections of United States highway 84 from interstate 25 south to Dilia;
- (31) for the reconstruction and improvement of various sections of state highway 26 between Deming and Hatch;
- (32) for the reconstruction and improvement of state highway 83 from Lovington to the junction of state highway 132;
- (33) for the reconstruction and improvement of state highway 209 from NM 268 to Grady;
- (34) for the reconstruction and improvement of United States highway 84 from Fort Sumner to Santa Rosa;
- (35) for the reconstruction and improvement of various sections of United States highway 62/180 from the Texas state line to the Lea-Eddy county line;
- (36) for the reconstruction and improvement of United States highway 285 from Clines Corners to Lamy;
- (37) for the reconstruction and improvement of United States highway 180 from Deming to Bayard; and
- (38) for improvements to the physical facilities

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1 of the department of transportation.

2 B. The New Mexico finance authority may issue and
3 sell state transportation project bonds for the state
4 transportation projects authorized in this section when
5 directed by the state transportation commission and when the
6 commission certifies a need for issuance of the bonds for the
7 projects. Within thirty days of commission authorization for a
8 bond sale, the New Mexico finance authority oversight committee
9 and the legislative finance committee shall hold a joint
10 meeting at which the New Mexico finance authority and the
11 department of transportation shall present details of the
12 proposed bond sale to the committees.

13 C. Any unexpended or unencumbered balance after the
14 completion of the projects authorized in this section shall
15 revert to the state road fund.

16 D. For purposes of this section, "construction",
17 "reconstruction", "rehabilitation" and "improvement" include
18 planning, designing, engineering, constructing and acquiring
19 rights of way.

20 Section 98. [NEW MATERIAL] APPROPRIATION OF BOND
21 PROCEEDS-- AUTHORIZED TRANSPORTATION PROJECTS-- MATCHING FUNDS. --

22 A. The net proceeds of state transportation project
23 bonds issued by the New Mexico finance authority pursuant to
24 Section 67-3-59.3 NMSA 1978 and Subsection B of this section
25 are appropriated to the department of transportation for the

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1 following transportation projects subject to the provisions of
2 Subsection B of this section:

3 (1) for the Rio Bravo boulevard extension and
4 interchange construction to access Mesa del Sol in Albuquerque
5 and Bernalillo county; and

6 (2) for the reconstruction of an interchange at
7 interstate 40 and West Central avenue in Albuquerque and
8 Bernalillo county.

9 B. The New Mexico finance authority may issue and
10 sell state transportation project bonds for six million dollars
11 (\$6,000,000) per project for the state transportation projects
12 authorized in this section if:

13 (1) directed by the state transportation
14 commission;

15 (2) the state transportation commission
16 certifies a need for issuance of the bonds for the projects;
17 and

18 (3) prior to issuing bonds, the political
19 subdivision benefiting from the project deposits local matching
20 funds with the state transportation commission for the
21 authorized project in an amount that, when added to the net
22 proceeds of the bonds, would be adequate to complete the
23 project.

24 C. The amount of the local match for projects
25 authorized by this section shall be determined by a sliding

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1 scale based on the political subdivision's financial capacity
2 to pay a portion of the project from local resources pursuant
3 to rules promulgated by the state transportation commission.

4 Section 99. TEMPORARY PROVISION--OUTSTANDING STATE
5 HIGHWAY REVENUE BONDS.--

6 A. Nothing in this act shall be deemed to impair
7 state highway revenue bonds previously issued by the state
8 transportation commission and outstanding on the effective date
9 of this act.

10 B. If required by the terms, covenants and provisions
11 of state highway revenue bonds previously issued by the state
12 transportation commission and outstanding on the effective date
13 of this act, additional bonds issued by the state
14 transportation commission or the New Mexico finance authority
15 when directed by the state transportation commission pursuant
16 to this act shall contain any required terms, covenants and
17 provisions required to avoid impairment of the previously
18 issued bonds.

19 Section 100. REPEAL.--Sections 7-9-13.1 and 7-15A-10 NMSA
20 1978 (being Laws 1989, Chapter 262, Section 4 and Laws 1988,
21 Chapter 24, Section 9, as amended) are repealed.

22 Section 101. APPLICABILITY.--The provisions of Sections
23 24 through 30 of this act apply to taxable years beginning on
24 or after January 1, 2004.

25 Section 102. EFFECTIVE DATE.--

