

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 6

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO TAXATION: SCORC→~~AMENDING PERSONAL INCOME TAX~~
~~BRACKETS; LIMITING THE CAPITAL GAINS DEDUCTION FROM NET INCOME;~~
~~FORGIVING PENALTIES AND INTEREST FOR CERTAIN INCOME TAX~~
~~LIABILITIES;~~←SCORC CC→~~AMENDING PERSONAL INCOME TAX BRACKETS;~~
~~LIMITING THE CAPITAL GAINS DEDUCTION FROM NET INCOME; FORGIVING~~
~~PENALTIES AND INTEREST FOR CERTAIN INCOME TAX LIABILITIES;~~←CC
CREATING SCORC→~~A~~←SCORC SCORC→~~AN INCOME TAX~~←SCORC DEPENDENT
DEDUCTION; INCREASING THE WORKING FAMILIES TAX CREDIT;
REQUIRING COMBINED REPORTING FOR A UNITARY GROUP; CHANGING
REQUIREMENTS FOR CORPORATIONS TO FILE A CONSOLIDATED RETURN;
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AMENDING AND ADDING DEFINITIONS PURSUANT TO THE CORPORATE INCOME AND FRANCHISE TAX ACT; SCORC→CREATING A CORPORATE INCOME TAX DEDUCTION TO OFFSET MATERIAL FINANCIAL EFFECTS OF CHANGES IN DEFERRED TAX AMOUNTS;←SCORC AMENDING THE UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT TO DETERMINE IN-STATE SALES OF INTANGIBLES AND SERVICES BASED ON MARKET SOURCING RATHER THAN COST OF PERFORMANCE; PROVIDING THAT THE COMPENSATING TAX RATE FOR SERVICES EQUAL THE SAME RATE AS FOR PROPERTY; EXPANDING THE IMPOSITION OF THAT TAX; PROVIDING FOR TAXATION OF CERTAIN INTERNET SELLERS PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX ACT; AMENDING SOURCING RULES FROM THE PLACE OF BUSINESS OF THE SELLER TO DESTINATION-BASED SOURCING;

CC→LIMITING AUDITS OF MARKETPLACE PROVIDERS AND MARKETPLACE SELLERS;←CC Hf1→SUBJECTING FOR-PROFIT AND NONPROFIT HOSPITALS TO THE STATE GROSS RECEIPTS TAX; SUBJECTING GOVERNMENT HOSPITALS TO THE GOVERNMENTAL GROSS RECEIPTS TAX←Hf1

Hf1→PROVIDING FOR THE TAXATION OF FOR-PROFIT, NONPROFIT AND GOVERNMENT HOSPITALS PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX ACT; EXEMPTING NONPROFIT HOSPITALS FROM LOCAL OPTION GROSS RECEIPTS TAXES←Hf1; INCREASING THE CIGARETTE TAX; SCORC→INCREASING THE TOBACCO PRODUCTS TAX; IMPOSING THE TAX ON E-CIGARETTES←SCORC

SCORC→IMPOSING THE TOBACCO PRODUCTS TAX ON LITTLE CIGARS AND E-LIQUID USED IN E-CIGARETTES; REDUCING THE RATE OF TOBACCO PRODUCTS TAX ON CIGARS; PROVIDING A DISCOUNT IN TAX FOR CERTAIN

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CIGARETTES AND TOBACCO PRODUCTS←SCORC; SFC→INCREASING THE RATE OF THE MOTOR VEHICLE EXCISE TAX; TEMPORARILY DISTRIBUTING A PORTION OF THE REVENUE TO THE DEPARTMENT OF TRANSPORTATION TO MITIGATE THE EMERGENCY ROAD CONDITIONS RELATED TO ACTIVITY IN THE OIL FIELD IN STATE TRANSPORTATION COMMISSION DISTRICT 2 AND THEN DISTRIBUTING A PORTION OF THE REVENUE TO THE LOCAL GOVERNMENTS ROAD FUND;←SFC CC→AMENDING THE DISTRIBUTION OF THE REVENUE OF THE MOTOR VEHICLE EXCISE TAX;←CC SCORC→INCREASING CERTAIN MOTOR VEHICLE REGISTRATION FEES;←SCORC IMPOSING A MUNICIPAL COMPENSATING TAX AND A COUNTY COMPENSATING TAX; LIMITING THE HOLD HARMLESS DISTRIBUTIONS FOR CERTAIN LOCAL GOVERNMENTS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

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

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

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

- (1) Income Tax Act;
- (2) Withholding Tax Act;
- (3) [~~Venture Capital Investment~~] Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act;
- (4) Gross Receipts and Compensating Tax Act, Interstate Telecommunications Gross Receipts Tax Act and [~~any~~

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~~state gross receipts tax~~] Leased Vehicle Gross Receipts Tax Act;

- (5) Liquor Excise Tax Act;
- (6) Local Liquor Excise Tax Act;
- (7) any municipal local option gross receipts tax or municipal compensating tax;
- (8) any county local option gross receipts tax or county compensating tax;
- (9) Special Fuels Supplier Tax Act;
- (10) Gasoline Tax Act;
- (11) petroleum products loading fee, which fee shall be considered a tax for the purpose of the Tax Administration Act;
- (12) Alternative Fuel Tax Act;
- (13) Cigarette Tax Act;
- (14) Estate Tax Act;
- (15) Railroad Car Company Tax Act;
- (16) Investment Credit Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax Credit Act and high-wage jobs tax credit;
- (17) Corporate Income and Franchise Tax Act;
- (18) Uniform Division of Income for Tax Purposes Act;

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- (19) Multistate Tax Compact;
- (20) Tobacco Products Tax Act; and
- (21) the telecommunications relay service

surcharge imposed by Section 63-9F-11 NMSA 1978, which surcharge shall be considered a tax for the purposes of the Tax Administration Act;

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

- (1) Resources Excise Tax Act;
- (2) Severance Tax Act;
- (3) any severance surtax;
- (4) Oil and Gas Severance Tax Act;
- (5) Oil and Gas Conservation Tax Act;
- (6) Oil and Gas Emergency School Tax Act;
- (7) Oil and Gas Ad Valorem Production Tax Act;
- (8) Natural Gas Processors Tax Act;
- (9) Oil and Gas Production Equipment Ad

Valorem Tax Act;

- (10) Copper Production Ad Valorem Tax Act;

(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

- (12) Enhanced Oil Recovery Act;

(13) Natural Gas and Crude Oil Production Incentive Act; and

- (14) intergovernmental production tax credit

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and intergovernmental production equipment tax credit;

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

- (1) Weight Distance Tax Act;
- (2) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;
- (3) Uniform Unclaimed Property Act (1995);
- (4) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;
- (5) the solid waste assessment fee authorized by the Solid Waste Act, which fee shall be considered a tax for purposes of the Tax Administration Act;
- (6) the water conservation fee imposed by Section 74-1-13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax Administration Act; and
- (7) the gaming tax imposed pursuant to the Gaming Control Act; and

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

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

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

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

B. "business location" means the location where a taxpayer's gross receipts and deductions are required to be reported pursuant to Section 7-1-14 NMSA 1978;

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

~~[C.]~~ D. "electronic payment" means a payment made by automated clearinghouse deposit, any funds wire transfer system or a credit card, debit card or electronic cash transaction through the internet;

~~[D.]~~ E. "employee of the department" means any employee of the department, including the secretary, or any person acting as agent or authorized to represent or perform services for the department in any capacity with respect to any law made subject to administration and enforcement under the

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provisions of the Tax Administration Act;

~~[E.]~~ F. "financial institution" means any state or federally chartered, federally insured depository institution;

~~[F.]~~ G. "hearing officer" means a person who has been designated by the chief hearing officer to serve as a hearing officer and who is:

- (1) the chief hearing officer;
- (2) an employee of the administrative hearings office; or
- (3) a contractor of the administrative hearings office;

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

~~[H.]~~ I. "levy" means the lawful power, hereby invested in the secretary, to take into possession or to require the present or future surrender to the secretary or the secretary's delegate of any property or rights to property belonging to a delinquent taxpayer;

~~[I.]~~ J. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon ~~[the]~~ a taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax; ~~["local option gross receipts~~

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~~tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act and County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department in the same time and in the same manner as it collects the gross receipts tax;~~

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

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

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

[M.] N. "paid" includes the term "paid over";

[N.] O. "pay" includes the term "pay over";

[O.] P. "payment" includes the term "payment over";

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

[Q-] R. "property" means property or rights to property;

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

[S-] T. "return" means any tax or information return, application or form, declaration of estimated tax or claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the secretary or the secretary's delegate by or on behalf of any person;

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[F.] U. "return information" means a taxpayer's name, address, government-issued identification number and other identifying information; any information contained in or derived from a taxpayer's return; any information with respect to any actual or possible administrative or legal action by an employee of the department concerning a taxpayer's return, such as audits, managed audits, denial of credits or refunds, assessments of tax, penalty or interest, protests of assessments or denial of refunds or credits, levies or liens; or any other information with respect to a taxpayer's return or tax liability that was not obtained from public sources or that was created by an employee of the department; but "return information" does not include statistical data or other information that cannot be associated with or directly or indirectly identify a particular taxpayer;

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

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

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

[X.] Y. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto

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Rico and any territory or possession of the United States;

~~[Y-]~~ Z. "tax" means the total amount of each tax imposed and required to be paid, withheld and paid or collected and paid under provision of any law made subject to administration and enforcement according to the provisions of the Tax Administration Act, including the amount of any interest or civil penalty relating thereto; "tax" also means any amount of any abatement of tax made or any credit, rebate or refund paid or credited by the department under any law subject to administration and enforcement under the provisions of the Tax Administration Act to any person contrary to law, including the amount of any interest or civil penalty relating thereto;

~~[Z-]~~ AA. "tax return preparer" means a person who prepares for others for compensation or who employs one or more persons to prepare for others for compensation any return of income tax, a substantial portion of any return of income tax, any claim for refund with respect to income tax or a substantial portion of any claim for refund with respect to income tax; provided that a person shall not be a "tax return preparer" merely because such person:

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

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

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

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

[AA-] BB. "taxpayer" means a person liable for payment of any tax; a person responsible for withholding and payment or for collection and payment of any tax; a person to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid; or a person who entered into a special agreement pursuant to Section 7-1-21.1 NMSA 1978 to assume the liability of gross receipts tax or governmental gross receipts tax of another person and the special agreement was approved by the secretary pursuant to the Tax Administration Act."

SECTION 3. Section 7-1-6.4 NMSA 1978 (being Laws 1983, Chapter 211, Section 9, as amended) is amended to read:

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

A. Except as provided in Subsection B of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the product of the quotient of one and two hundred twenty-five thousandths percent divided by the tax rate imposed by Section 7-9-4 NMSA 1978 multiplied by the net receipts, except net receipts attributable to a Hfl→nonprofit←Hfl hospital licensed by the department of

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health, for the month attributable to the gross receipts tax from business locations:

- (1) within that municipality;
- (2) on land owned by the state, commonly known as the "state fairgrounds", within the exterior boundaries of that municipality;
- (3) outside the boundaries of any municipality on land owned by that municipality; and
- (4) on an Indian reservation or pueblo grant in an area that is contiguous to that municipality and in which the municipality performs services pursuant to a contract between the municipality and the Indian tribe or Indian pueblo if:

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

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

B. If the reduction made by Laws 1991, Chapter 9, Section 9 to the distribution under this section impairs the ability of a municipality to meet its principal or interest payment obligations for revenue bonds outstanding prior to July

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1, 1991 that are secured by the pledge of all or part of the municipality's revenue from the distribution made under this section, then the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet any required payment, provided that the distribution amount does not exceed the amount that would have been due that municipality under this section as it was in effect on June 30, 1992.

C. A distribution pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a municipality pursuant to the Tax Increment for Development Act. Hf1→"←Hf1

Hf1→D. As used in this section, "nonprofit hospital" means a hospital that has been granted exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code."←Hf1

SECTION 4. Section 7-1-6.11 NMSA 1978 (being Laws 1983, Chapter 211, Section 16, as amended by Laws 2017, Chapter 34, Section 2 and by Laws 2017, Chapter 63, Section 9) is amended to read:

"7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the comprehensive cancer center at the university of New Mexico health sciences center in an amount equal to [~~eighty-three~~] seventy-one hundredths percent of the net receipts, exclusive of penalties and interest, attributable .213724.9

to the cigarette tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to [~~eight and eighty-nine~~] seven and fifty-two hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax, shall be made, on behalf of and for the benefit of the university of New Mexico health sciences center, to the New Mexico finance authority.

C. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to three and [~~seventy-four~~] seventeen hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made to the New Mexico finance authority for land acquisition and the planning, designing, construction and equipping of department of health facilities or improvements to such facilities.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to [~~nine and seventy-seven~~] eight and twenty-six hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made to the New Mexico finance authority for deposit in the credit enhancement account created in the authority.

E. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to [~~sixty-two~~] fifty-three hundredths percent of the net receipts, exclusive of penalties and

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interest, attributable to the cigarette tax shall be made, on behalf of and for the benefit of the rural county cancer treatment fund, to the New Mexico finance authority."

SECTION 5. Section 7-1-6.12 NMSA 1978 (being Laws 1983, Chapter 211, Section 17, as amended) is amended to read:

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

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

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

SECTION 6. Section 7-1-6.13 NMSA 1978 (being Laws 1983, Chapter 211, Section 18, as amended) is amended to read:

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

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

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

SECTION 7. Section 7-1-6.15 NMSA 1978 (being Laws 1983, Chapter 211, Section 20, as amended by Laws 2015, Chapter 89, Section 1 and by Laws 2015, Chapter 100, Section 1) is amended to read:

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

A. The provisions of this section apply to:

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

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

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

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

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

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

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

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

(9) any distribution to a municipality of compensating taxes pursuant to Section 7-1-6.55 NMSA 1978.

B. Before making a distribution or transfer specified in Subsection A of this section to a municipality or county for the month, amounts comprising the net receipts shall

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be segregated into two mutually exclusive categories. One category shall be for amounts relating to the current month, and the other category shall be for amounts relating to prior periods. The total of each category for a municipality or county shall be reported each month to that municipality or county. If the total of the amounts relating to prior periods is less than zero and its absolute value exceeds the greater of one hundred dollars (\$100) or an amount equal to twenty percent of the average distribution or transfer amount for that municipality or county, then the following procedures shall be carried out:

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

(2) if the revised total for prior periods determined pursuant to Paragraph (1) of this subsection is negative and its absolute value exceeds the greater of one hundred dollars (\$100) or an amount equal to twenty percent of

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the average distribution or transfer amount for that municipality or county, the revised total for prior periods shall be excluded from the distribution or transfers and the net receipts to be distributed or transferred to the municipality or county shall be equal to the amount for the current month.

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

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

(1) that the department has made such an adjustment, that the department has determined that a specified amount is recoverable from the municipality or county and that the department intends to recover that amount from future distributions or transfers to the municipality or county;

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

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

(4) that the municipality or county may

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inspect, pursuant to Section 7-1-8.9 NMSA 1978, an application for a claim for refund that gave rise to the recoverable amount, exclusive of any amended returns that may be attached to the application.

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

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

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

(b) except as provided in Paragraphs (2) and (3) of this subsection, if the municipality or county fails to act within the ninety days, decreasing the amount of the next six distributions or transfers to the municipality or county following expiration of the ninety-day period in increments as nearly equal as practicable and sufficient to recover the amount;

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

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secretary:

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

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

(3) if, after application of a refund claim, audit adjustment, correction of a mistake by the department or other adjustment of a prior period, but prior to any recovery of the department pursuant to this section, the total net receipts of a municipality or county for the twelve-month period beginning with the current month are reduced or are projected to be reduced to less than fifty percent of the average distribution or transfer of net receipts, the secretary may waive recovery of any portion of the recoverable amount, subject to approval by the state board of finance.

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

G. On or before September 1 of each year beginning in 2016, the secretary shall report to the state board of finance and the legislative finance committee the total recoverable amount waived pursuant to Subparagraph (b) of

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Paragraph (2) and Paragraph (3) of Subsection E of this section for each municipality and county in the prior fiscal year.

H. The secretary is authorized to decrease a distribution or transfer to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution or transfer to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or transfer or notice to redirect a distribution or transfer to a municipality or county, the secretary shall decrease or redirect the next designated distribution or transfer, and succeeding distributions or transfers as necessary, by the amount of the state distributions intercept authorized by the secretary of finance and administration pursuant to the State Aid Intercept Act or by the amount of the state distribution intercept authorized pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement with the New Mexico finance authority. The secretary shall transfer the state distributions intercept amount to the municipal or county treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service

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to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority. A decrease to or redirection of a distribution or transfer pursuant to this subsection that arose:

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

(2) after an adjustment of a distribution or transfer of net receipts creating a recoverable amount owed to the department shall be subordinate to any collection of any recoverable amount pursuant to Paragraph (2) of Subsection B of this section.

I. Upon the direction of the secretary of finance and administration pursuant to Section 9-6-5.2 NMSA 1978, the secretary shall temporarily withhold the balance of a distribution to a municipality or county, net of any decrease or redirected amount pursuant to Subsection H of this section and any recoverable amount pursuant to Paragraph (2) of Subsection B of this section, that has failed to submit an audit report required by the Audit Act or a financial report required by Subsection F of Section 6-6-2 NMSA 1978. The amount to be withheld, the source of the withheld distribution and the number of months that the distribution is to be

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withheld shall be as directed by the secretary of finance and administration. A distribution withheld pursuant to this subsection shall remain in the tax administration suspense fund until distributed to the municipality or county and shall not be distributed to the general fund. An amount withheld pursuant to this subsection shall be distributed to the municipality or county upon direction of the secretary of finance and administration.

J. As used in this section:

(1) "amounts relating to the current month" means any amounts included in the net receipts of the current month that represent payment of tax due for the current month, correction of amounts processed in the current month that relate to the current month or that otherwise relate to obligations due for the current month;

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

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

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amounts:

(a) the [~~annual~~] average [~~of the total~~] monthly amount distributed or transferred to a municipality or county in [~~each of the three twelve-month periods~~] the thirty-six-month period preceding the current month;

(b) if a distribution or transfer to a municipality or county has been made for less than three years, the [~~total~~] average monthly amount distributed or transferred in the [~~year~~] twelve-month period preceding the current month;
or

(c) if distribution or transfer to a municipality or county has [~~not received distributions or transfers of net receipts for twelve or more~~] been made for less than twelve months, the average monthly [~~average of net receipts~~] amount distributed or transferred to the municipality or county in the months preceding the current month [~~multiplied by twelve~~];

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

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

SECTION 8. Section 7-1-6.38 NMSA 1978 (being Laws 1994,

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Chapter 145, Section 1, as amended) is amended to read:

"7-1-6.38. DISTRIBUTION--GOVERNMENTAL GROSS RECEIPTS TAX.--

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

(1) seventy-five percent to the public project revolving fund administered by the New Mexico finance authority; [~~in an amount equal to seventy-five percent of the net receipts attributable to the governmental gross receipts tax.~~

~~B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made]~~

(2) twenty-four percent to the energy, minerals and natural resources department [~~in an amount equal to twenty-four percent of the net receipts attributable to the governmental gross receipts tax]; provided that forty-one and two-thirds percent of the distribution is appropriated to the energy, minerals and natural resources department to implement the provisions of the New Mexico Youth Conservation Corps Act and fifty-eight and one-third percent of the distribution is appropriated to the energy, minerals and natural resources~~

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department for state park and recreation area capital improvements, including the costs of planning, engineering, design, construction, renovation, repair, equipment and furnishings;

~~[C. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made]~~ and

(3) one percent to the ~~[office of]~~ cultural affairs ~~[in an amount equal to one percent of the net receipts attributable to the governmental gross receipts tax]~~ department for capital improvements at state museums and monuments administered by the ~~[office of]~~ cultural affairs department.

~~[D.]~~ B. The state pledges to and agrees with the holders of any bonds or notes issued by the New Mexico finance authority or by the energy, minerals and natural resources department and payable from the net receipts attributable to the governmental gross receipts tax distributed to the New Mexico finance authority or the energy, minerals and natural resources department pursuant to this section that the state will not limit, reduce or alter the distribution of the net receipts attributable to the governmental gross receipts tax to the New Mexico finance authority or the energy, minerals and natural resources department or limit, reduce or alter the rate of imposition of the governmental gross receipts tax until the bonds or notes together with the interest thereon are fully met and discharged. The New Mexico finance authority and the energy, minerals and natural resources department are authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds or notes."

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SCORC → ~~SECTION 9. Section 7-1-6.46 NMSA 1978 (being Laws 2004, Chapter 116, Section 1, as amended) is amended to read:~~

~~"7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--~~

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

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

~~(2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the~~

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~~month plus one and two hundred twenty-five thousandths percent]~~
~~applicable maximum distribution for the municipality.~~

~~B. For a municipality that does not have in effect a municipal hold harmless gross receipts tax through an ordinance and that has a population of at least ten thousand but less than twenty-five thousand according to the most recent federal decennial census, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to eighty-two percent of the applicable maximum distribution for the municipality.~~

~~[B.] C. For a municipality not described in Subsection A or B of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the [sum of:~~

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

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

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

~~(c) on or after July 1, 2016 and prior~~

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~~to July 1, 2017, eighty-eight percent;~~

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

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

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

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

~~(f) on or after July 1, 2019 and prior~~

~~to July 1, 2020, seventy percent;~~

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

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

~~(h) on or after July 1, 2021 and prior~~

~~to July 1, 2022, fifty-six percent;~~

~~(i) on or after July 1, 2022 and prior~~

~~to July 1, 2023, forty-nine percent;~~

~~(j) on or after July 1, 2023 and prior~~

~~to July 1, 2024, forty-two percent;~~

~~(k) on or after July 1, 2024 and prior~~

~~to July 1, 2025, thirty-five percent;~~

~~(l) on or after July 1, 2025 and prior~~

~~to July 1, 2026, twenty-eight percent;~~

~~(m) on or after July 1, 2026 and prior~~

~~to July 1, 2027, twenty-one percent;~~

~~(n) on or after July 1, 2027 and prior~~

~~to July 1, 2028, fourteen percent; and~~

~~(o) on or after July 1, 2028 and prior~~

~~to July 1, 2029, seven percent; and~~

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

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

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

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

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

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

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

~~(g) (2) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

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

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

~~(j) (5) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;~~

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~~[(k)] (6) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;~~

~~[(l)] (7) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;~~

~~[(m)] (8) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;~~

~~[(n)] (9) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; [and~~

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

~~[(11) on or after July 1, 2029, zero percent.~~

~~[C. The] D. A distribution pursuant to~~

~~[Subsections A and B of] this section is in lieu of revenue that would have been received by the municipality but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978.~~

~~The distribution shall be considered gross receipts tax revenue and shall be used by the municipality in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds. [A distribution pursuant to this section to a municipality not described in Subsection A of this section or to a municipality that has imposed a gross receipts tax through an ordinance that does not provide a deduction contained in the Gross Receipts and Compensating Tax Act shall not be made on or after July 1, 2029.~~

~~D.] E. If the [reductions] changes made by this~~

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~~{2013} 2019 act to the distributions made pursuant to
{Subsections A and B of} this section impair the ability of a
municipality to meet its principal or interest payment
obligations for revenue bonds that are outstanding prior to
July 1, {2013} 2019 and that are secured by the pledge of all
or part of the municipality's revenue from the distribution
made pursuant to this section, then the amount distributed
pursuant to this section to that municipality shall be
increased by an amount sufficient to meet the required payment;
provided that the total amount distributed to that municipality
pursuant to this section does not exceed the amount that would
have been due that municipality pursuant to this section as it
was in effect on June 30, {2013} 2019.~~

~~{E.} F. For the purposes of this section:~~

~~{1} "business locations attributable to the
municipality" means business locations:~~

~~{(1)} (a) within the municipality;~~

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

~~{(3)} (c) outside the boundaries of the
municipality on land owned by the municipality; and~~

~~{(4)} (d) on an Indian reservation or
pueblo grant in an area that is contiguous to the municipality
and in which the municipality performs services pursuant to a
contract between the municipality and the Indian tribe or
Indian pueblo if: ~~{(a)} 1) the contract describes an area in
which the municipality is required to perform services and~~~~

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~~requires the municipality to perform services that are substantially the same as the services the municipality performs for itself; and [(b)] 2) the governing body of the municipality has submitted a copy of the contract to the secretary; and~~

~~(2) "maximum distribution" means:~~

~~(a) for a municipality that has a population of less than ten thousand according to the most recent federal decennial census, the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality plus one and two hundred twenty-five thousandths percent; and~~

~~(b) for a municipality that has a population of ten thousand or more according to the most recent federal decennial census, the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent.~~

~~[F.] G. A distribution pursuant to this section may~~

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~~be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a municipality pursuant to the Tax Increment for Development Act."~~

~~SECTION 10. Section 7-1-6.47 NMSA 1978 (being Laws 2004, Chapter 116, Section 2, as amended) is amended to read:~~

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

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

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

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

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

~~(4) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality} applicable maximum distribution for the county.~~

~~B. For a county not described in Subsection A of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the [sum of:~~

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

~~(a) prior to July 1, 2015, one hundred~~

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percent;

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(o) on or after July 1, 2028 and prior~~

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~~to July 1, 2029, seven percent;~~

~~(2) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed in the county area not within a municipality in the following percentages:~~

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

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

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

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

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

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

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

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

~~(i) on or after July 1, 2022 and prior~~

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~~to July 1, 2023, forty-nine percent;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(f) on or after July 1, 2019 and prior~~

~~to July 1, 2020, seventy percent;~~

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

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

~~(h) on or after July 1, 2021 and prior~~

~~to July 1, 2022, fifty-six percent;~~

~~(i) on or after July 1, 2022 and prior~~

~~to July 1, 2023, forty-nine percent;~~

~~(j) on or after July 1, 2023 and prior~~

~~to July 1, 2024, forty-two percent;~~

~~(k) on or after July 1, 2024 and prior~~

~~to July 1, 2025, thirty-five percent;~~

~~(l) on or after July 1, 2025 and prior~~

~~to July 1, 2026, twenty-eight percent;~~

~~(m) on or after July 1, 2026 and prior~~

~~to July 1, 2027, twenty-one percent;~~

~~(n) on or after July 1, 2027 and prior~~

~~to July 1, 2028, fourteen percent; and~~

~~(o) on or after July 1, 2028 and prior~~

~~to July 1, 2029, seven percent; and~~

~~(4) the total deductions claimed pursuant to~~

~~Section 7-9-93 NMSA 1978 for the month by taxpayers from~~

~~business locations in the county but not within a municipality~~

~~multiplied by the combined rate of all county local option~~

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~~gross receipts taxes in effect on January 1, 2007 that are imposed in the county area not within a municipality in applicable maximum distribution multiplied by the following percentages:~~

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

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

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

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

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

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

~~{(g)} (2) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

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

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

~~{(j)} (5) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;~~

~~{(k)} (6) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;~~

~~{(l)} (7) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;~~

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~~[(m)] (8) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;~~

~~[(n)] (9) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; [and~~

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

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

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

~~D. If the [reductions] changes made by this [2013] 2019 act to the distributions made pursuant to [Subsections A and B of] this section impair the ability of a county to meet its principal or interest payment obligations for revenue bonds that are outstanding prior to July 1, [2013] 2019 and that are secured by the pledge of all or part of the county's revenue~~

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~~from the distribution made pursuant to this section, then the amount distributed pursuant to this section to that county shall be increased by an amount sufficient to meet the required payment; provided that the total amount distributed to that county pursuant to this section does not exceed the amount that would have been due that county pursuant to this section as it was in effect on June 30, [2013] 2019.~~

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

~~F. For purposes of this section, "maximum distribution" means:~~

~~(1) for counties that have a population of less than forty-eight thousand according to the most recent federal decennial census, the sum of:~~

~~(a) the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county; and~~

~~(b) the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the~~

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~~month that are imposed in the county area not within a municipality; and~~

~~(2) for counties that have a population of forty-eight thousand or more according to the most recent federal decennial census, the sum of:~~

~~(a) the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county; and~~

~~(b) the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed in the county area not within a municipality."~~←SCORC

SECTION ~~11~~ 9. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION--MUNICIPALITIES AND COUNTIES.--

A. Prior to July 1, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to municipalities from the net receipts attributable to the gross receipts tax in .213724.9

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an amount equal to one million two hundred fifty thousand dollars (\$1,250,000). The amount to be distributed to each municipality shall be in proportion to the population of each municipality in SCORC→~~proportion to the total population of all municipalities~~←SCORC SCORC→the proportion that the population of each municipality is to the total population of all municipalities←SCORC, according to the most recent federal decennial census.

B. Prior to July 1, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to counties from the net receipts attributable to the gross receipts tax in an amount equal to seven hundred fifty thousand dollars (\$750,000). The amount to be distributed to each county shall be in SCORC→~~proportion to the population of each county in proportion to the total population of all counties~~←SCORC SCORC→the proportion that the population of each county is to the total population of all counties←SCORC, according to the most recent federal decennial census."

CC→SECTION 10. Section 7-1-11 NMSA 1978 (being Laws 1965, Chapter 248, Section 16, as amended) is amended to read:

"7-1-11. INSPECTION OF BOOKS OF TAXPAYERS--EXCEPTION FOR MARKETPLACE PROVIDERS AND MARKETPLACE SELLERS--CREDENTIALS.--

A. To determine the correct amount of tax due, the department shall cause the records and books of account of taxpayers to be inspected or audited at such times as the department deems necessary for the effective execution of the department's responsibilities.

B. The department shall audit a marketplace

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provider, but not a marketplace seller, with respect to gross receipts from transactions facilitated by a marketplace provider and for which the marketplace seller may claim a deduction pursuant to Section 36 of this 2019 act, unless an audit of the marketplace seller is necessary to determine the correct amount of tax due, including examining the marketplace seller:

(1) to determine compliance with Section 36 of this 2019 act;

(2) to determine if the marketplace provider should be relieved of liability pursuant to Subsection C of Section 7-9-5 NMSA 1978; or

(3) to enforce any other provision of the Tax Administration Act.

~~[B.]~~ C. Auditors and other officials of the department designated by the secretary are authorized to request and require the production for examination of the records and books of account of a taxpayer. Auditors and officials of the department designated by the secretary shall be furnished with credentials identifying them as such, which they shall display to any taxpayer whose books are sought to be examined.

~~[G.]~~ D. Taxpayers shall upon request make their records and books of account available for inspection at reasonable hours to the secretary or the secretary's delegate

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who presents proper identification to the taxpayer.

[D-] E. If the taxpayer's records and books of account do not exist or are insufficient to determine the taxpayer's tax liability, if any, the department may use any reasonable method of estimating the tax liability, including [but not limited to] using information about similar persons, businesses or industries to estimate the taxpayer's liability.

[E-] F. The secretary or the secretary's delegate shall develop and maintain written audit policies and procedures for all audit programs in which the department routinely conducts field audits of taxpayers, including policies and procedures concerning audit notification, scheduling, records that may be examined, analysis that may be done, sampling procedures, gathering information or evidence from third parties, policies concerning the rights of taxpayers under audit and related matters. Department audit policies and procedures shall be made available to a person who requests them, at a reasonable charge to defray the cost of preparing and distributing those policies and procedures.

[F-] G. Nothing in this section shall be construed to require the department to provide the following:

(1) information that is confidential pursuant to Section 7-1-8 NMSA 1978; or

(2) methods, techniques and analysis used to select taxpayers for audit, including the use of:

- (a) data analytics;
- (b) data mining;
- (c) a scoring model;

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(d) internal controls; and

(e) metadata used to detect fraud and noncompliance.

[G.] H. For purposes of this section:

(1) "data analytics" means the science of examining data with the purpose of drawing conclusions about the information;

(2) "data mining" means the process of analyzing data from different perspectives and summarizing it into useful information by collecting data into data sets for the purpose of discovering patterns;

(3) "scoring model" means a predictive model that can predict the chance of occurring of a fact and its occurrence;

(4) "methods, techniques and [methodology] analysis" means a systematic way to accomplish a tactic, qualitative or quantitative component of research and the use of a specific method;

(5) "internal controls" means a process of assuring achievement of an organization's objectives in operational effectiveness and efficiency, reliable financial reporting and compliance with laws, regulations and policies; [and]

(6) "marketplace provider" means a "marketplace provider", as that term is used in the Gross

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Receipts and Compensating Tax Act;

(7) "marketplace seller" means a "marketplace seller", as that term is used in the Gross Receipts and Compensating Tax Act; and

[~~(6)~~] (8) "metadata" means data that provides information about other data."←CC

SECTION ~~12~~ 11. Section 7-1-14 NMSA 1978 (being Laws 1969, Chapter 145, Section 1, as amended) is repealed and a new Section 7-1-14 NMSA 1978 is enacted to read:

"7-1-14. [NEW MATERIAL] LOCATION WHERE CERTAIN GROSS RECEIPTS ARE TO BE REPORTED SCORC→--LOCATION FOR TRANSACTIONS SUBJECT TO THE COMPENSATING TAX←SCORC.--

A. Gross receipts and deductions required to be reported pursuant to the Gross Receipts and Compensating Tax Act or any act that imposes a state or local gross receipts or compensating tax shall be reported as follows:

(1) gross receipts and deductions from the sale or lease of tangible personal property or licenses and from the licensing of tangible personal property shall be reported to the location of delivery of that tangible personal property to the customer; provided that the reporting location for receipts from leasing a vehicle is the location where the customer first makes use of the vehicle;

(2) except as otherwise provided in this section, a seller of services shall report the seller's gross receipts and deductions as follows:

(a) professional services shall be reported to the seller's place of business;

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(b) for a person engaged in the construction business, the location where the construction project is performed is the "place of business", and all gross receipts and deductions from that project are to be reported from that place of business;

(c) for a person engaged in the business of providing services with respect to the selling of real estate, the location of the real property is the "place of business", and all gross receipts and deductions from that sale are to be reported from that place of business; and

(d) services, other than those described in Subparagraphs (a) through (c) of this paragraph, are to be reported at the location where the service is performed;

(3) gross receipts and deductions from the sale, lease or granting of a license to use real property shall be reported to the location of the real property; and

(4) the reporting location for gross receipts and deductions from a customer for services provided by a transportation network company pursuant to the Transportation Network Company Services Act shall be the location where the customer enters the vehicle offered for a prearranged ride.

B. Consistent with this section and with intergovernmental agreements, the secretary may, by rule, provide for the reporting of gross receipts and deductions from transactions not otherwise specified in this section, including

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reporting gross receipts and deductions to locations:

(1) by taxpayers having more than one place of business; and

(2) for reporting tax imposed by taxing jurisdictions at the jurisdiction's location, including:

(a) outside a municipality;

(b) within an Indian reservation or pueblo grant;

(c) within a tax increment development district; and

(d) within any other taxing jurisdiction.

SCORC→C. Values from transactions subject to the compensating tax shall be reported consistent with Subsections A and B of this section unless the taxpayer can demonstrate that the taxable use in New Mexico first occurred after the purchase, lease, license or other transaction giving rise to that value and that the first taxable use occurred in another location within the state.←SCORC

SCORC→E D←SCORC. The secretary shall develop and provide to taxpayers a location-rate database that sets out the tax rates applicable to locations within the state, by address, and sellers who properly rely on this database shall not be liable for any additional tax due to the use of an incorrect rate."

CC→SCORC→SECTION 13. ~~Section 7-2-7 NMSA 1978 (being Laws 2005, Chapter 104, Section 4) is amended to read:~~

~~"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by~~

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~~Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning on or after January 1, [2008] 2019:~~

~~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 4.9% of excess over \$12,000.

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

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

~~C. For single individuals and for estates and trusts:~~

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income

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Over \$5,500 but not over \$11,000	excess over \$5,500
\$93.50 plus 3.2% of	
Over \$11,000 but not over \$16,000	\$269.50 plus 4.7% of
	excess over \$11,000
Over \$16,000	\$504.50 plus 4.9% of
	excess over \$16,000.]
Not over \$5,000	1.7% of taxable income
Over \$5,000 but not over \$7,500	\$85.00 plus 3.2% of
	excess over \$5,000
Over \$7,500 but not over \$17,500	\$165 plus 4.7% of excess
	over \$7,500
Over \$17,500 but not over \$37,500	\$635 plus 5.2% of excess
	over \$17,500
Over \$37,500 but not over \$75,000	\$1,675 plus 5.5% of
	excess over \$37,500
Over \$75,000 but not over \$150,000	\$3,737 plus 5.8% of
	excess over \$75,000
Over \$150,000	\$8,087 plus 6.5% of
	excess over \$150,000.

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

If the taxable income is:	The tax shall be:
Not over \$10,000	1.7% of taxable income
Over \$10,000 but not over \$15,000	\$170 plus 3.2% of
	excess over \$10,000
Over \$15,000 but not over \$35,000	\$330 plus 4.7% of excess
	over \$15,000

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Over \$35,000 but not over \$75,000	\$1,270 plus 5.2% of
	excess over \$35,000
Over \$75,000 but not over \$150,000	\$3,350 plus 5.5% of
	excess over \$75,000
Over \$150,000 but not over \$300,000	\$7,475 plus 5.8% of
	excess over \$150,000
Over \$300,000	\$16,175 plus 6.5% of
	excess over \$300,000.

~~C. For single individuals and for estates and trusts:~~

If the taxable income is:	The tax shall be:
Not over \$6,650	1.7% of taxable income
Over \$6,650 but not over \$10,000	\$113 plus 3.2% of
	excess over \$6,650
Over \$10,000 but not over \$23,500	\$220 plus 4.7% of
	excess over \$10,000
Over \$23,500 but not over \$50,000	\$854 plus 5.2% of
	excess over \$23,500
Over \$50,000 but not over \$100,000	\$2,232 plus 5.5% of
	excess over \$50,000
Over \$100,000 but not over \$200,000	\$4,982 plus 5.8% of
	excess over \$100,000
Over \$200,000	\$10,782 plus 6.5% of
	excess over \$200,000.

~~D. The tax on the sum of any lump-sum amounts~~

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~~included in net income is an amount equal to five multiplied by the difference between:~~

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

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

CC→SECTION 12. Section 7-2-7 NMSA 1978 (being Laws 2005, Chapter 104, Section 4) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning on or after January 1, [2008] 2021:

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 4.9% of excess over \$12,000.

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

If the taxable income is:	The tax shall be:
Not over \$8,000	1.7% of taxable income
Over \$8,000 but not over \$16,000	\$136 plus 3.2% of excess over \$8,000

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Over \$16,000 but not over \$24,000	\$392 plus 4.7% of
	excess over \$16,000
Over \$24,000	\$768 plus 4.9% of
	excess over \$24,000.

~~C. For single individuals and for estates and trusts:~~

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income
Over \$5,500 but not over \$11,000	\$93.50 plus 3.2% of
	excess over \$5,500
Over \$11,000 but not over \$16,000	\$269.50 plus 4.7% of
	excess over \$11,000
Over \$16,000	\$504.50 plus 4.9% of
	excess over \$16,000.]
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 but not over \$157,500	\$384 plus 4.9% of
	excess over \$12,000
Over \$157,500	\$7,513.50 plus 5.9% of
	excess over \$157,500.

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

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<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$8,000</u>	<u>1.7% of taxable income</u>
<u>Over \$8,000 but not over \$16,000</u>	<u>\$136 plus 3.2% of</u> <u>excess over \$8,000</u>
<u>Over \$16,000 but not over \$24,000</u>	<u>\$392 plus 4.7% of</u> <u>excess over \$16,000</u>
<u>Over \$24,000 but not over \$315,000</u>	<u>\$768 plus 4.9% of</u> <u>excess over \$24,000</u>
<u>Over \$315,000</u>	<u>\$15,027 plus 5.9% of</u> <u>excess over \$315,000.</u>

C. For single individuals and for estates and trusts:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$5,500</u>	<u>1.7% of taxable income</u>
<u>Over \$5,500 but not over \$11,000</u>	<u>\$93.50 plus 3.2% of</u> <u>excess over \$5,500</u>
<u>Over \$11,000 but not over \$16,000</u>	<u>\$269.50 plus 4.7% of</u> <u>excess over \$11,000</u>
<u>Over \$16,000 but not over \$210,000</u>	<u>\$504.50 plus 4.9% of</u> <u>excess over \$16,000</u>
<u>Over \$210,000</u>	<u>\$10,010.50 plus 5.9% of</u> <u>excess over \$210,000.</u>

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

- (1) the amount of tax due on the taxpayer's taxable income; and
- (2) the amount of tax that would be due on an

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amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."

SECTION 13. Section 7-2-7 NMSA 1978 (being Laws 2005, Chapter 104, Section 4) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning on or after January 1, [2008] 2019:

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 4.9% of excess over \$12,000.

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

If the taxable income is:	The tax shall be:
Not over \$8,000	1.7% of taxable income
Over \$8,000 but not over \$16,000	\$136 plus 3.2% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$392 plus 4.7% of excess over \$16,000

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~~Over \$24,000~~ ~~\$768 plus 4.9% of~~
~~excess over \$24,000.~~

~~C. For single individuals and for estates and trusts:~~

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

~~Not over \$5,500~~ ~~1.7% of taxable income~~

~~Over \$5,500 but not over \$11,000~~ ~~\$93.50 plus 3.2% of~~
~~excess over \$5,500~~

~~Over \$11,000 but not over \$16,000~~ ~~\$269.50 plus 4.7% of~~
~~excess over \$11,000~~

~~Over \$16,000~~ ~~\$504.50 plus 4.9% of~~
~~excess over \$16,000.]~~

~~Not over \$5,000~~ ~~1.7% of taxable income~~

~~Over \$5,000 but not over \$7,500~~ ~~\$85.00 plus 3.2% of~~
~~excess over \$5,000~~

~~Over \$7,500 but not over \$17,500~~ ~~\$165 plus 4.7% of excess~~
~~over \$7,500~~

~~Over \$17,500 but not over \$37,500~~ ~~\$635 plus 5.2% of excess~~
~~over \$17,500~~

~~Over \$37,500 but not over \$75,000~~ ~~\$1,675 plus 5.5% of~~
~~excess over \$37,500~~

~~Over \$75,000 but not over \$150,000~~ ~~\$3,737 plus 5.8% of~~
~~excess over \$75,000~~

~~Over \$150,000~~ ~~\$8,087 plus 6.5% of~~
~~excess over \$150,000.~~

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

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

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<u>Not over \$10,000</u>	<u>1.7% of taxable income</u>
<u>Over \$10,000 but not over \$15,000</u>	<u>\$170 plus 3.2% of</u> <u>excess over \$10,000</u>
<u>Over \$15,000 but not over \$35,000</u>	<u>\$330 plus 4.7% of excess</u> <u>over \$15,000</u>
<u>Over \$35,000 but not over \$75,000</u>	<u>\$1,270 plus 5.2% of</u> <u>excess over \$35,000</u>
<u>Over \$75,000 but not over \$150,000</u>	<u>\$3,350 plus 5.5% of</u> <u>excess over \$75,000</u>
<u>Over \$150,000 but not over \$300,000</u>	<u>\$7,475 plus 5.8% of</u> <u>excess over \$150,000</u>
<u>Over \$300,000</u>	<u>\$16,175 plus 6.5% of</u> <u>excess over \$300,000.</u>

C. For single individuals and for estates and trusts:

If the taxable income is:

The tax shall be:

<u>Not over \$6,650</u>	<u>1.7% of taxable income</u>
<u>Over \$6,650 but not over \$10,000</u>	<u>\$113 plus 3.2% of</u> <u>excess over \$6,650</u>
<u>Over \$10,000 but not over \$23,500</u>	<u>\$220 plus 4.7% of</u> <u>excess over \$10,000</u>
<u>Over \$23,500 but not over \$50,000</u>	<u>\$854 plus 5.2% of</u> <u>excess over \$23,500</u>
<u>Over \$50,000 but not over \$100,000</u>	<u>\$2,232 plus 5.5% of</u> <u>excess over \$50,000</u>

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<u>Over \$100,000 but not over \$200,000</u>	<u>\$4,982 plus 5.8% of</u> <u>excess over \$100,000</u>
<u>Over \$200,000</u>	<u>\$10,782 plus 6.5% of</u> <u>excess over \$200,000.</u>

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

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

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

SECTION 14. Section 7-2-18.15 NMSA 1978 (being Laws 2007, Chapter 45, Section 9, as amended) is amended to read:

"7-2-18.15. WORKING FAMILIES TAX CREDIT.--

A. A resident who files an individual New Mexico income tax return may claim a credit in an amount equal to

[ten] CC→~~SCORE~~→~~twenty~~←~~SCORE~~ ~~SCORE~~→~~fifteen~~←~~SCORE~~←CC

CC→→~~twenty~~ **seventeen**←CC percent of the federal income tax

credit for which that individual is eligible for the same taxable year pursuant to Section 32 of the Internal Revenue Code. The credit provided in this section may be referred to as the "working families tax credit".

B. The working families tax credit may be deducted from the income tax liability of an individual who claims the credit and qualifies for the credit pursuant to this section. If the credit exceeds the individual's income tax liability for

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the taxable year, the excess shall be refunded to the individual."

CC→SCORC→~~SECTION 15. Section 7-2-34 NMSA 1978 (being Laws 1999, Chapter 205, Section 1, as amended) is amended to read:~~

~~"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--~~

~~A. Except as provided in Subsection C of this section, a taxpayer may claim a deduction from net income in an amount equal to [the greater of:~~

~~(1)] the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but not to exceed one thousand dollars (\$1,000) [or~~

~~(2) the following percentage of the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed:~~

~~(a) for a taxable year beginning in 2003, ten percent;~~

~~(b) for a taxable year beginning in 2004, twenty percent;~~

~~(c) for a taxable year beginning in 2005, thirty percent;~~

~~(d) for a taxable year beginning in 2006, forty percent; and~~

~~(e) for taxable years beginning on or after January 1, 2007, fifty percent].~~

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~~B. [A husband and wife] Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the deduction provided by this section that would have been allowed on the joint return.~~

~~C. A taxpayer [may] shall not claim the deduction provided in Subsection A of this section if the taxpayer has claimed the credit provided in Section 7-2D-8.1 NMSA 1978.~~

~~D. As used in this section, "net capital gain" means "net capital gain" as defined in Section 1222 (11) of the Internal Revenue Code."~~ ←SCORC←CC

CC→SECTION 14 15. Section 7-2-34 NMSA 1978 (being Laws 1999, Chapter 205, Section 1, as amended) is amended to read:

"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

A. Except as provided in Subsection C of this section, a taxpayer may claim a deduction from net income in an amount equal to the greater of:

(1) the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but not to exceed one thousand dollars (\$1,000); or

(2) ~~[the following percentage]~~ forty percent of the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed

~~[(a) for a taxable year beginning in 2003, ten percent;~~

~~(b) for a taxable year beginning in 2004, twenty percent;~~

~~(c) for a taxable year beginning in~~

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~~2005, thirty percent;~~

~~(d) for a taxable year beginning in~~

~~2006, forty percent; and~~

~~(e) for taxable years beginning on or after January 1, 2007, fifty percent].~~

B. ~~[A husband and wife]~~ Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the deduction provided by this section that would have been allowed on the joint return.

C. A taxpayer may not claim the deduction provided in Subsection A of this section if the taxpayer has claimed the credit provided in Section 7-2D-8.1 NMSA 1978.

D. As used in this section, "net capital gain" means "net capital gain" as defined in Section 1222 (11) of the Internal Revenue Code." ←CC

SECTION 16. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION FROM NET INCOME FOR CERTAIN DEPENDENTS.--

A. As long as the exemption amount pursuant to Section 151 of the Internal Revenue Code means zero, a taxpayer who is not a dependent of another individual and files a return as a head of household or married filing jointly may claim a deduction from net income in an amount equal to the product of .213724.9

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four thousand dollars (\$4,000) multiplied by the difference between the number of dependents claimed on the taxpayer's return and one.

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

C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction.

D. As used in this section, "dependent" means "dependent" as defined in Section 152 of the Internal Revenue Code."

SCORC → ~~SECTION 17. Section 7-2A-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 33, as amended) is amended to read:~~
~~"7-2A-2. DEFINITIONS.--For the purpose of the Corporate Income and Franchise Tax Act and unless the context requires otherwise:~~
~~[A. "affiliated group" means that term as it is used in the Internal Revenue Code;~~
~~B.] A. "bank" means any national bank, national banking association, state bank or bank holding company;~~
~~B. "apportioned net income" or "apportioned net~~

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~~loss" means net income allocated and apportioned to New Mexico pursuant to the provisions of the Corporate Income and Franchise Tax Act or the Uniform Division of Income for Tax Purposes Act, but excluding from the sales factor any sales that represent intercompany transactions between members of the filing group;~~

~~C. "base income" means [that part of the taxpayer's income defined as taxable income and upon which the federal income tax is calculated in the Internal Revenue Code for income tax purposes plus:~~

~~(1) for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and claimed by the taxpayer for that year;~~

~~(2) interest received on a state or local bond; and~~

~~(3) the amount of any deduction claimed in calculating taxable income for all expenses and costs directly or indirectly paid, accrued or incurred to a captive real estate investment trust] the federal taxable income or the federal net operating loss of a corporation for the taxable year calculated pursuant to the Internal Revenue Code, after special deductions provided in Sections 241 through 249 of the Internal Revenue Code but without any deduction for net~~

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~~operating losses, as if the corporation filed a federal tax return as a separate domestic entity, modified as follows:~~

~~(1) adding to that income:~~

~~(a) interest received on a state or local bond exempt under the Internal Revenue Code;~~

~~(b) the amount of any deduction claimed in calculating taxable income for all expenses and costs directly or indirectly paid, accrued or incurred to a captive real estate investment trust; and~~

~~(c) the amount of any deduction, other than for premiums, for amounts paid directly or indirectly to a commonly controlled entity that is exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978;~~

~~(2) subtracting from that income:~~

~~(a) income from obligations of the United States net of expenses incurred to earn that income;~~

~~(b) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States net of any related expenses;~~

~~(c) an amount equal to one hundred percent of the subpart F income, as that term is defined in Section 952 of the Internal Revenue Code, as that section may be amended or renumbered, included in the income of the corporation; and~~

~~(d) an amount equal to one hundred percent of the income of the corporation under Section 951A of the Internal Revenue Code, after allowing the deduction provided in Section 250 of the Internal Revenue Code; and~~

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~~(3) making other adjustments deemed necessary to properly reflect income of the unitary business, including attribution of income or expense related to unitary assets held by related corporations that are not part of the filing group;~~

~~D. "captive real estate investment trust" means a corporation, trust or association taxed as a real estate investment trust pursuant to Section 857 of the Internal Revenue Code, the shares or beneficial interests of which are not regularly traded on an established securities market; provided that more than fifty percent of any class of beneficial interests or shares of the real estate investment trust are owned directly, indirectly or constructively by the taxpayer during all or a part of the taxpayer's taxable year;~~

~~E. "common ownership" means the direct or indirect control or ownership of more than fifty percent of the outstanding voting stock, ownership of which shall be determined pursuant to Section 1563 of the Internal Revenue Code, as that section may be amended or renumbered, of:~~

~~(1) a parent-subsidiary controlled group as defined in Section 1563 of the Internal Revenue Code, except that fifty percent shall be substituted for eighty percent;~~

~~(2) a brother-sister controlled group as defined in Section 1563 of the Internal Revenue Code; or~~

~~(3) three or more corporations each of which is a member of a group of corporations described in Paragraph~~

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~~(1) or (2) of this subsection, and one of which is:~~

~~(a) a common parent corporation included in a group of corporations described in Paragraph (1) of this subsection; and~~

~~(b) included in a group of corporations described in Paragraph (2) of this subsection;~~

~~F. "consolidated group" means the group of entities properly filing a federal consolidated return under the Internal Revenue Code for the taxable year;~~

~~{E.} G. "corporation" means corporations, joint stock companies, real estate trusts organized and operated under the Real Estate Trust Act, financial corporations and banks, other business associations and, for corporate income tax purposes, partnerships and limited liability companies taxed as corporations under the Internal Revenue Code;~~

~~{F.} H. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;~~

~~I. "filing group" means the group of corporations properly included in the return for a taxpayer for a particular taxable year;~~

~~{G.} J. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;~~

~~K. "grandfathered net operating loss carryover" means:~~

~~(1) the amount of net loss properly reported~~

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~~to New Mexico in taxable years beginning January 1, 2013 and prior to January 1, 2020 as part of a timely filed original return, or an amended return filed prior to March 15, 2019, to the extent such loss can be attributed to one or more corporations that are properly included in the taxpayer's return for the first taxable year beginning on or after January 1, 2020;~~

~~(2) reduced by:~~

~~(a) adding back deductions that were taken by the corporation or corporations for royalties or interest paid to one or more related corporations, but only to the extent that such adjustment would not create a net loss for such related corporations; and~~

~~(b) the amount of net operating loss deductions taken prior to January 1, 2020, that would be charged against those losses consistent with the Internal Revenue Code and provisions of the Corporate Income and Franchise Tax Act applicable to the year of the deduction; and~~

~~(3) apportioned to New Mexico using the apportionment factors that can properly be attributed to the corporation or corporations for the year of the net loss;~~

~~{H.} L. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;~~

~~{I.} M. "net income" means: {base income adjusted to exclude:~~

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- ~~(1) income from obligations of the United States less expenses incurred to earn that income;~~
- ~~(2) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States;~~
- ~~(3) for taxable years that began prior to January 1, 1991, an amount equal to the sum of:~~
- ~~(a) net operating loss carryback deductions to that year from taxable years beginning prior to January 1, 1991 claimed and allowed, as provided by the Internal Revenue Code; and~~
 - ~~(b) net operating loss carryover deductions to that year claimed and allowed;~~
- ~~(4) for taxable years beginning on or after January 1, 1991 and prior to January 1, 2013, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed; provided that the amount of any net operating loss carryover from a taxable year beginning on or after January 1, 1991 and prior to January 1, 2013 may be excluded only as follows:~~
- ~~(a) in the case of a timely filed return, in the taxable year immediately following the taxable year for which the return is filed; or~~
 - ~~(b) in the case of amended returns or original returns not timely filed, in the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed; and~~
 - ~~(c) in either case, if the net operating~~

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~~loss carryover exceeds the amount of net income exclusive of the net operating loss carryover for the taxable year to which the exclusion first applies, in the next four succeeding taxable years in turn until the net operating loss carryover is exhausted for any net operating loss carryover from a taxable year prior to January 1, 2013; in no event may a net operating loss carryover from a taxable year beginning prior to January 1, 2013 be excluded in any taxable year after the fourth taxable year beginning after the taxable year to which the exclusion first applies; and~~

~~(5) for taxable years beginning on or after January 1, 2013, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed; provided that the amount of any net operating loss carryover may be excluded only as follows:~~

~~(a) in the case of a timely filed return, in the taxable year immediately following the taxable year for which the return is filed; or~~

~~(b) in the case of amended returns or original returns not timely filed, in the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed; and~~

~~(c) in either case, if the net operating loss carryover exceeds the amount of net income exclusive of the net operating loss carryover for the taxable year to which~~

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~~the exclusion first applies, in the next nineteen succeeding taxable years in turn until the net operating loss carryover is exhausted for any net operating loss carryover from a taxable year beginning on or after January 1, 2013; in no event shall a net operating loss carryover from a taxable year beginning prior to January 1, 2013 be excluded in any taxable year after the fourth taxable year beginning after the taxable year to which the exclusion first applies; and 2) on or after January 1, 2013 be excluded in any taxable year after the nineteenth taxable year beginning after the taxable year to which the exclusion first applies;~~

~~J. "net operating loss" means any net operating loss, as defined by Section 172(c) of the Internal Revenue Code, as that section may be amended or renumbered, for a taxable year as further increased by the income, if any, from obligations of the United States for that year less related expenses;]~~

~~(1) the base income of a corporation properly filing a tax return as a separate entity; or~~

~~(2) the combined base income and losses of corporations that are part of a filing group that is computed after eliminating intercompany income and expense in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and the Corporate Income and Franchise Tax Act;~~

~~[K.] N. "net operating loss carryover" means [the amount, or any portion of the amount, of a net operating loss for any taxable year that, pursuant to Paragraph (3), (4) or~~

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~~(5) of Subsection I of this section, may be excluded from base income} the apportioned net loss properly reported on an original or amended tax return for taxable years beginning on or after January 1, 2020 by the taxpayer:~~

~~(1) plus:~~

~~(a) the portion of an apportioned net loss properly reported to New Mexico for a taxable year beginning on or after January 1, 2020, on a separate year return, to the extent the taxpayer would have been entitled to include the portion of such apportioned net loss in the taxpayer's consolidated net operating loss carryforward under the Internal Revenue Code if the taxpayer filed a consolidated federal return; and~~

~~(b) the taxpayer's grandfathered net operating loss carryover; and~~

~~(2) minus:~~

~~(a) the amount of the net operating loss carryover attributed to an entity that has left the filing group, computed in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and applicable regulations, as if the taxpayer were filing a consolidated return; and~~

~~(b) the amount of net operating loss deductions properly taken by the taxpayer;~~

~~0. "net operating loss deduction" means the portion~~

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~~of the net operating loss carryover that may be deducted from the taxpayer's apportioned net income under the Internal Revenue Code for the taxable year in which the deduction is taken, including the eighty percent limitation of Section 172(a) of the Internal Revenue Code calculated on the basis of the taxpayer's apportioned net income;~~

~~[L.] P. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;~~

~~[M.] Q. "real estate investment trust" has the meaning ascribed to the term in Section 856 of the Internal Revenue Code, as that section may be amended or renumbered;~~

~~R. "related corporation" means a corporation that is under common ownership with one or more corporations but that is not included in the same tax return;~~

~~S. "return" means any tax or information return, including a water's-edge or worldwide combined return, a consolidated return, a declaration of estimated tax or a claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the department by or on behalf of any person;~~

~~[N.] T. "secretary" means the secretary of taxation~~

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~~and revenue or the secretary's delegate;~~

~~U. "separate year return" means a properly filed original or amended return for a taxable year beginning on or after January 1, 2020 by a taxpayer reporting a loss, a portion of which is claimed as part of the net operating loss carryover by another taxpayer in a subsequent return period;~~

~~{0.} V. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or political subdivision thereof or any political subdivision of a foreign country;~~

~~{P.} W. "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;~~

~~X. "taxable income" means a taxpayer's apportioned net income minus the net operating loss deduction for the taxable year;~~

~~{Q.} Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Corporate Income and Franchise Tax Act and includes, in the case of the return made for a fractional part of a year under the provisions of that act, the period for which the~~

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~~return is made;~~

~~[R.] Z. "taxpayer" means any corporation subject to the taxes imposed by the Corporate Income and Franchise Tax Act; [and~~

~~S.] AA. "unitary [corporations] group" means [two or more integrated corporations, other than any foreign corporation incorporated in a foreign country and not engaged in trade or business in the United States during the taxable year, that are owned in the amount of more than fifty percent and controlled by the same person and for which at least one of the following conditions exists:~~

~~(1) there is a unity of operations evidenced by central purchasing, advertising, accounting or other centralized services;~~

~~(2) there is a centralized management or executive force and centralized system of operation; or~~

~~(3) the operations of the corporations are dependent upon or contribute property or services to one another individually or as a group] a group of two or more corporations, including a captive real estate investment trust, but not including an S corporation, an insurance company subject to the provisions of the New Mexico Insurance Code, an insurance company that would be subject to the New Mexico Insurance Code if the insurance company engaged in business in this state or a real estate investment trust that is not a captive real estate investment trust, that are:~~

~~(1) related through common ownership; and~~

~~(2) economically interdependent with one~~

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~~another as demonstrated by the following factors:~~

~~(a) centralized management;~~

~~(b) functional integration; and~~

~~(c) economies of scale;~~

~~BB. "water's-edge group" means all corporations that are part of a unitary group, except:~~

~~(1) corporations that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and~~

~~(2) corporations wherever organized or incorporated that have less than twenty percent of their property, payroll and sales sourced to locations within the United States, following the sourcing rules of the Uniform Division of Income for Tax Purposes Act; and~~

~~CC. "worldwide combined group" means all members of a unitary group, except members that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978, irrespective of the country in which the corporations are incorporated or conduct business activity."~~

~~SECTION 18. Section 7-2A-3 NMSA 1978 (being Laws 1981, Chapter 37, Section 36, as amended) is amended to read:~~

~~"7-2A-3. IMPOSITION AND LEVY OF TAXES.--~~

~~A. A tax to be known as the "corporate income tax" is imposed at the rate specified in the Corporate Income and Franchise Tax Act upon the [net] taxable income of [every domestic corporation and upon the net income of every foreign~~

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~~corporation employed or} a corporation or group of corporations, in whatever jurisdiction organized or incorporated, that is engaged in the transaction of business in, into or from this state or deriving any income from any property or employment within this state.~~

~~B. A tax to be known as the "corporate franchise tax" is imposed in the amount specified in the Corporate Income and Franchise Tax Act upon every domestic corporation and upon every foreign corporation employed or engaged in the transaction of business in, into or from this state or deriving any income from any property or employment within this state and upon every domestic or foreign corporation, whether engaged in active business or not, but having or exercising its corporate franchise in this state."~~

~~SECTION 19. Section 7-2A-8.3 NMSA 1978 (being Laws 1983, Chapter 213, Section 12, as amended) is amended to read:~~

~~"7-2A-8.3. COMBINED AND CONSOLIDATED RETURNS.---~~

~~{A. A unitary corporation that is subject to taxation under the Corporate Income and Franchise Tax Act and that has not previously filed a combined return pursuant to this section or a consolidated return pursuant to Section 7-2A-8.4 NMSA 1978 may elect to file a combined return with other unitary corporations as though the entire combined net income were that of one corporation; provided, however, that for taxable years beginning on or after January 1, 2014, a unitary corporation that provides retail sales of goods in a facility of more than thirty thousand square feet under one roof in New Mexico shall file a combined return with other~~

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~~unitary corporations as though the entire combined net income were that of one corporation. The return filed under this method of reporting shall include the net income of all the unitary corporations. Transactions among the unitary corporations may be eliminated by applying the appropriate rules for reporting income for a consolidated federal income tax return. Any corporation that has filed an income tax return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978 shall not file pursuant to this section unless the secretary gives prior permission to file on a combined return basis.~~

~~B. Once corporations have reported net income through a combined return for any taxable year, they shall file combined returns for subsequent taxable years, so long as they remain unitary corporations, unless the corporations elect to file pursuant to Section 7-2A-8.4 NMSA 1978 or unless the secretary grants prior permission for one or more of the corporations to file individually.~~

~~C. For taxable years beginning on or after January 1, 1993, no unitary corporation once included in a combined return may elect, or be granted permission by the secretary, for any subsequent taxable year to separately account pursuant to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.~~

~~D. Notwithstanding Subsection A of this section, a unitary corporation shall not be required to file a combined return pursuant to this section if that unitary corporation:~~

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~~(1) has operations in New Mexico at facilities that do not provide retail sales of goods; and~~

~~(2) employs at least seven hundred fifty employees in New Mexico at such facilities.]~~

~~A. Corporations that are part of a unitary group shall file a return properly reporting and paying tax on taxable income as a worldwide combined group unless they properly elect to report and pay tax on taxable income as a water's-edge or consolidated group, pursuant to department rules and instructions, on the first original return required to be filed for taxable years beginning on or after January 1, 2020. Corporations electing to file a consolidated return must file on that same basis for federal income tax purposes. Once a unitary or consolidated group has properly made an election to file as a water's-edge or consolidated group, neither the group nor any of the group's members may file a return on any other basis without permission of the secretary. Corporations that are part of a unitary group filing a return are jointly and severally liable for the tax imposed pursuant to the Corporate Income and Franchise Tax Act on taxable income.~~

~~B. Corporations required to file a return as part of a filing group pursuant to this section may designate a member of the group to act as the principal corporation to file the return, make any elections, claim tax credits or refunds or perform any other act on behalf of the group with respect to the corporate income tax; provided that the members of the group remain jointly and severally liable for the taxes due pursuant to Subsection A of this section."~~

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~~SECTION 20. Section 7-4-10 NMSA 1978 (being Laws 1993, Chapter 153, Section 1, as amended) is amended to read:~~

~~"7-4-10. APPORTIONMENT OF BUSINESS INCOME.--~~

~~A. Except as provided in Subsections B and C of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.~~

~~B. A taxpayer whose principal business activity in New Mexico is manufacturing may elect to have business income apportioned to this state~~

~~{(1) in the taxable year beginning on or after January 1, 2014 and prior to January 1, 2015, by multiplying the income by a fraction, the numerator of which is twice the sales factor plus the property factor plus the payroll factor and the denominator of which is four;~~

~~(2) in the taxable year beginning on or after January 1, 2015 and prior to January 1, 2016, by multiplying the income by a fraction, the numerator of which is three multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is five;~~

~~(3) in the taxable year beginning on or after January 1, 2016 and prior to January 1, 2017, by multiplying the income by a fraction, the numerator of which is seven multiplied by the sales factor plus one and one-half multiplied~~

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~~by the property factor plus one and one-half multiplied by the payroll factor and the denominator of which is ten;~~

~~(4) in the taxable year beginning on or after January 1, 2017 and prior to January 1, 2018, by multiplying the income by a fraction, the numerator of which is eight multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is ten; and~~

~~(5) in taxable years beginning on or after January 1, 2018, by multiplying the income by a fraction, the numerator of which is the total sales of the taxpayer in New Mexico during the taxable year and the denominator of which is the total sales of the taxpayer from any location within or outside of the state during] by multiplying the income by the sales factor for the taxable year.~~

~~C. A taxpayer whose principal business activity in New Mexico is a headquarters operation may elect to have business income apportioned to this state by multiplying the income by [a fraction, the numerator of which is the total sales of the taxpayer in New Mexico during the taxable year and the denominator of which is the total sales of the taxpayer from any location within or outside of the state during] the sales factor for the taxable year.~~

~~D. To elect the method of apportionment provided by Subsection B or C of this section, the taxpayer shall notify the department of the election, in writing, no later than the date on which the taxpayer files the return for the first taxable year to which the election will apply. The election will apply to that taxable year and to each taxable year~~

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~~thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B or C of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months. The election [will] shall apply to [the separately filed return of the taxpayer or the] a taxpayer's properly filed separate return or a combined or consolidated return [the taxpayer has elected to be included] properly filed pursuant to Section 7-2A-8.3 [or 7-2A-8.4] NMSA 1978.~~

~~E. For purposes of this section:~~

~~(1) "headquarters operation" means:~~

~~(a) the center of operations of a business: 1) where corporate staff employees are physically employed; 2) where centralized functions are performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including operating a call center; 3) the function and purpose of which is to manage and direct most aspects and functions of the business operations within a subdivided area of the United States; 4) from which final authority over regional or subregional offices, operating facilities and any other offices of the business are issued; and 5) including~~

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~~national and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters; or~~

~~(b) the center of operations of a business: 1) the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and 2) from which final authority over one or more centralized functions is issued; and~~

~~(2) "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:~~

~~(a) construction;~~

~~(b) farming;~~

~~(c) power generation, except for electricity generation at a facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; or~~

~~(d) processing natural resources, including hydrocarbons."~~ ←SCORC

SCORC → SECTION 17 Section 7-2A-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 33, as amended) is amended to read:

7-2A-2. DEFINITIONS.--For the purpose of the Corporate Income and Franchise Tax Act and unless the context requires otherwise:

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~~[A. "affiliated group" means that term as it is used in the Internal Revenue Code;~~

~~B.] A. "bank" means any national bank, national banking association, state bank or bank holding company;~~

~~B. "apportioned net income" or "apportioned net loss" means net income allocated and apportioned to New Mexico pursuant to the provisions of the Corporate Income and Franchise Tax Act or the Uniform Division of Income for Tax Purposes Act, but excluding from the sales factor any sales that represent intercompany transactions between members of the filing group;~~

~~C. "base income" means [that part of the taxpayer's income defined as taxable income and upon which the federal income tax is calculated in the Internal Revenue Code for income tax purposes plus:~~

~~(1) for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and claimed by the taxpayer for that year;~~

~~(2) interest received on a state or local bond; and~~

~~(3) the amount of any deduction claimed in calculating taxable income for all expenses and costs directly or indirectly paid, accrued or incurred to a captive real~~

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estate investment trust] the federal taxable income or the federal net operating loss of a corporation for the taxable year calculated pursuant to the Internal Revenue Code, after special deductions provided in Sections 241 through 249 of the Internal Revenue Code but without any deduction for net operating losses, as if the corporation filed a federal tax return as a separate domestic entity, modified as follows:

(1) adding to that income:

(a) interest received on a state or local bond exempt under the Internal Revenue Code;

(b) the amount of any deduction claimed in calculating taxable income for all expenses and costs directly or indirectly paid, accrued or incurred to a captive real estate investment trust; and

(c) the amount of any deduction, other than for premiums, for amounts paid directly or indirectly to a commonly controlled entity that is exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978;

(2) subtracting from that income:

(a) income from obligations of the United States net of expenses incurred to earn that income;

(b) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States net of any related expenses;

(c) an amount equal to one hundred percent of the subpart F income, as that term is defined in Section 952 of the Internal Revenue Code, as that section may

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be amended or renumbered, included in the income of the corporation; and

(d) an amount equal to one hundred percent of the income of the corporation under Section 951A of the Internal Revenue Code, after allowing the deduction provided in Section 250 of the Internal Revenue Code; and

(3) making other adjustments deemed necessary to properly reflect income of the unitary group, including attribution of income or expense related to unitary assets held by related corporations that are not part of the filing group;

D. "captive real estate investment trust" means a corporation, trust or association taxed as a real estate investment trust pursuant to Section 857 of the Internal Revenue Code, the shares or beneficial interests of which are not regularly traded on an established securities market; provided that more than fifty percent of any class of beneficial interests or shares of the real estate investment trust are owned directly, indirectly or constructively by the taxpayer during all or a part of the taxpayer's taxable year;

E. "common ownership" means the direct or indirect control or ownership of more than fifty percent of the outstanding voting stock, ownership of which is determined pursuant to Section 1563 of the Internal Revenue Code, as that section may be amended or renumbered, of:

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(1) a parent-subsidiary controlled group as defined in Section 1563 of the Internal Revenue Code, except that fifty percent shall be substituted for eighty percent;

(2) a brother-sister controlled group as defined in Section 1563 of the Internal Revenue Code; or

(3) three or more corporations each of which is a member of a group of corporations described in Paragraph (1) or (2) of this subsection, and one of which is:

(a) a common parent corporation included in a group of corporations described in Paragraph (1) of this subsection; and

(b) included in a group of corporations described in Paragraph (2) of this subsection;

F. "consolidated group" means the group of entities properly filing a federal consolidated return under the Internal Revenue Code for the taxable year;

~~[E.]~~ G. "corporation" means corporations, joint stock companies, real estate trusts organized and operated under the Real Estate Trust Act, financial corporations and banks, other business associations and, for corporate income tax purposes, partnerships and limited liability companies taxed as corporations under the Internal Revenue Code;

~~[F.]~~ H. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

I. "filing group" means a group of corporations properly included in a return pursuant to Section 7-2A-8.3 NMSA

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1978 for a particular taxable year;

[G.] J. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;

K. "grandfathered net operating loss carryover" means:

(1) the amount of net loss properly reported to New Mexico for taxable years beginning January 1, 2013 and prior to January 1, 2020 as part of a timely filed original return, or an amended return for those taxable years filed prior to January 1, 2020, to the extent such loss can be attributed to one or more corporations that are properly included in the taxpayer's return for the first taxable year beginning on or after January 1, 2020;

(2) reduced by:

(a) adding back deductions that were taken by the corporation or corporations for royalties or interest paid to one or more related corporations, but only to the extent that such adjustment would not create a net loss for such related corporations; and

(b) the amount of net operating loss deductions taken prior to January 1, 2020 that would be charged against those losses consistent with the Internal Revenue Code and provisions of the Corporate Income and Franchise Tax Act applicable to the year of the deduction; and

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(3) apportioned to New Mexico using the apportionment factors that can properly be attributed to the corporation or corporations for the year of the net loss;

[H-] L. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

[I-] M. "net income" means: [base income adjusted to exclude:

(1) income from obligations of the United States less expenses incurred to earn that income;

(2) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States;

(3) for taxable years that began prior to January 1, 1991, an amount equal to the sum of:

(a) net operating loss carryback deductions to that year from taxable years beginning prior to January 1, 1991 claimed and allowed, as provided by the Internal Revenue Code; and

(b) net operating loss carryover deductions to that year claimed and allowed;

(4) for taxable years beginning on or after January 1, 1991 and prior to January 1, 2013, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed; provided that the amount of any net operating loss carryover from a taxable year beginning on or after January 1, 1991 and prior to January 1, 2013 may be excluded only as follows:

(a) in the case of a timely filed

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~~return, in the taxable year immediately following the taxable year for which the return is filed; or~~

~~(b) in the case of amended returns or original returns not timely filed, in the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed; and~~

~~(c) in either case, if the net operating loss carryover exceeds the amount of net income exclusive of the net operating loss carryover for the taxable year to which the exclusion first applies, in the next four succeeding taxable years in turn until the net operating loss carryover is exhausted for any net operating loss carryover from a taxable year prior to January 1, 2013; in no event may a net operating loss carryover from a taxable year beginning prior to January 1, 2013 be excluded in any taxable year after the fourth taxable year beginning after the taxable year to which the exclusion first applies; and~~

~~(5) for taxable years beginning on or after January 1, 2013, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed; provided that the amount of any net operating loss carryover may be excluded only as follows:~~

~~(a) in the case of a timely filed return, in the taxable year immediately following the taxable year for which the return is filed; or~~

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~~(b) in the case of amended returns or original returns not timely filed, in the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed; and~~

~~(c) in either case, if the net operating loss carryover exceeds the amount of net income exclusive of the net operating loss carryover for the taxable year to which the exclusion first applies, in the next nineteen succeeding taxable years in turn until the net operating loss carryover is exhausted for any net operating loss carryover from a taxable year beginning on or after January 1, 2013; in no event shall a net operating loss carryover from a taxable year beginning: 1) prior to January 1, 2013 be excluded in any taxable year after the fourth taxable year beginning after the taxable year to which the exclusion first applies; and 2) on or after January 1, 2013 be excluded in any taxable year after the nineteenth taxable year beginning after the taxable year to which the exclusion first applies;~~

~~J. "net operating loss" means any net operating loss, as defined by Section 172(c) of the Internal Revenue Code, as that section may be amended or renumbered, for a taxable year as further increased by the income, if any, from obligations of the United States for that year less related expenses;]~~

~~(1) the base income of a corporation properly filing a tax return as a separate entity; or~~

~~(2) the combined base income and losses of corporations that are part of a filing group that is computed~~

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after eliminating intercompany income and expense in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and the Corporate Income and Franchise Tax Act;

[K-] N. "net operating loss carryover" means [the amount, or any portion of the amount, of a net operating loss for any taxable year that, pursuant to Paragraph (3), (4) or (5) of Subsection I of this section, may be excluded from base income] the apportioned net loss properly reported on an original or amended tax return for taxable years beginning on or after January 1, 2020 by the taxpayer:

(1) plus:

(a) the portion of an apportioned net loss properly reported to New Mexico for a taxable year beginning on or after January 1, 2020, on a separate year return, to the extent the taxpayer would have been entitled to include the portion of such apportioned net loss in the taxpayer's consolidated net operating loss carryforward under the Internal Revenue Code if the taxpayer filed a consolidated federal return; and

(b) the taxpayer's grandfathered net operating loss carryover; and

(2) minus:

(a) the amount of the net operating loss carryover attributed to an entity that has left the filing

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group, computed in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and applicable regulations, as if the taxpayer were filing a consolidated return; and

(b) the amount of net operating loss deductions properly taken by the taxpayer;

O. "net operating loss deduction" means the portion of the net operating loss carryover that may be deducted from the taxpayer's apportioned net income under the Internal Revenue Code for the taxable year in which the deduction is taken, including the eighty percent limitation of Section 172(a) of the Internal Revenue Code calculated on the basis of the taxpayer's apportioned net income;

[L-] P. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

[M-] Q. "real estate investment trust" has the meaning ascribed to the term in Section 856 of the Internal Revenue Code, as that section may be amended or renumbered;

R. "related corporation" means a corporation that is under common ownership with one or more corporations but that is not included in the same tax return;

S. "return" means any tax or information return, including a water's-edge or worldwide combined return, a

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consolidated return, a declaration of estimated tax or a claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the department by or on behalf of any person;

[N.] T. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

U. "separate year return" means a properly filed original or amended return for a taxable year beginning on or after January 1, 2020 by a taxpayer reporting a loss, a portion of which is claimed as part of the net operating loss carryover by another taxpayer in a subsequent return period;

[O.] V. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or political subdivision thereof or any political subdivision of a foreign country;

[P.] W. "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;

X. "taxable income" means a taxpayer's apportioned

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net income minus the net operating loss deduction for the taxable year;

[Q-] Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Corporate Income and Franchise Tax Act and includes, in the case of the return made for a fractional part of a year under the provisions of that act, the period for which the return is made;

[R-] Z. "taxpayer" means any corporation or group of corporations filing a return pursuant to Section 7-2A-8.3 NMSA 1978 subject to the taxes imposed by the Corporate Income and Franchise Tax Act; [and

S-] AA. "unitary [~~corporations~~] group" means [~~two or more integrated corporations, other than any foreign corporation incorporated in a foreign country and not engaged in trade or business in the United States during the taxable year, that are owned in the amount of more than fifty percent and controlled by the same person and for which at least one of the following conditions exists:~~

~~(1) there is a unity of operations evidenced by central purchasing, advertising, accounting or other centralized services;~~

~~(2) there is a centralized management or executive force and centralized system of operation; or~~

~~(3) the operations of the corporations are dependent upon or contribute property or services to one another individually or as a group] a group of two or more corporations, including a captive real estate investment trust,~~

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but not including an S corporation, an insurance company subject to the provisions of the New Mexico Insurance Code, an insurance company that would be subject to the New Mexico Insurance Code if the insurance company engaged in business in this state or a real estate investment trust that is not a captive real estate investment trust, that are:

(1) related through common ownership; and

(2) economically interdependent with one another as demonstrated by the following factors:

(a) centralized management;

(b) functional integration; and

(c) economies of scale;

BB. "water's-edge group" means all corporations that are part of a unitary group, except:

(1) corporations that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and

(2) corporations wherever organized or incorporated that have less than twenty percent of their property, payroll and sales sourced to locations within the United States, following the sourcing rules of the Uniform Division of Income for Tax Purposes Act; and

CC. "worldwide combined group" means all members of a unitary group, except members that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978, irrespective of the country in which the corporations are incorporated or

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conduct business activity."

SECTION ~~14~~ 18. Section 7-2A-3 NMSA 1978 (being Laws 1981, Chapter 37, Section 36, as amended) is amended to read:

"7-2A-3. IMPOSITION AND LEVY OF TAXES.--

A. A tax to be known as the "corporate income tax" is imposed at the rate specified in the Corporate Income and Franchise Tax Act upon the [net] taxable income of [every domestic corporation and upon the net income of every foreign corporation employed or] a corporation or group of corporations, in whatever jurisdiction organized or incorporated, that is engaged in the transaction of business in, into or from this state or deriving any income from any property or employment within this state.

B. A tax to be known as the "corporate franchise tax" is imposed in the amount specified in the Corporate Income and Franchise Tax Act upon every domestic corporation and upon every foreign corporation employed or engaged in the transaction of business in, into or from this state or deriving any income from any property or employment within this state and upon every domestic or foreign corporation, whether engaged in active business or not, but having or exercising its corporate franchise in this state."

SECTION ~~15~~ 19. Section 7-2A-5 NMSA 1978 (being Laws 1981, Chapter 37, Section 38, as amended) is amended to read:

"7-2A-5. CORPORATE INCOME TAX RATES.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978 shall be: ~~[at the rates specified in the following tables:~~

~~A. For taxable years beginning prior to January 1,~~

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~~2014:~~

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000 but not	
over \$1,000,000	\$24,000 plus
	6.4% of excess
	over \$500,000
Over \$1,000,000	\$56,000
	plus 7.6% of excess
	over \$1,000,000.

~~B. For taxable years beginning on or after January 1, 2014 and prior to January 1, 2015:~~

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000 but not	
over \$1,000,000	\$24,000 plus
	6.4% of excess
	over \$500,000
Over \$1,000,000	\$56,000
	plus 7.3% of excess
	over \$1,000,000.

~~C. For taxable years beginning on or after January 1, 2015 and prior to January 1, 2016:~~

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income

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~~Over \$500,000 but not~~

~~over \$1,000,000~~

~~\$24,000 plus~~

~~6.4% of excess~~

~~over \$500,000~~

~~Over \$1,000,000~~

~~\$56,000~~

~~plus 6.9% of excess~~

~~over \$1,000,000.~~

~~D. For taxable years beginning on or after January~~

~~1, 2016 and prior to January 1, 2017:~~

~~If the net income is:~~

~~The tax shall be:~~

~~Not over \$500,000~~

~~4.8% of net income~~

~~Over \$500,000 but not~~

~~over \$1,000,000~~

~~\$24,000 plus~~

~~6.4% of excess~~

~~over \$500,000~~

~~Over \$1,000,000~~

~~\$56,000~~

~~plus 6.6% of excess~~

~~over \$1,000,000.~~

~~E. For taxable years beginning on or after January~~

~~1, 2017 and prior to January 1, 2018:~~

~~If the net income is:~~

~~The tax shall be:~~

~~Not over \$500,000~~

~~4.8% of net income~~

~~Over \$500,000~~

~~\$24,000 plus~~

~~6.2% of excess~~

~~over \$500,000.~~

~~F. for taxable years beginning on or after January~~

~~1, 2018]~~

~~If the [net] taxable income is:~~

~~The tax shall be:~~

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Not over \$500,000	4.8% of [net] taxable income
Over \$500,000	\$24,000 plus 5.9% of excess over \$500,000."

SECTION ~~16~~ 20. Section 7-2A-8.3 NMSA 1978 (being Laws 1983, Chapter 213, Section 12, as amended) is amended to read:

"7-2A-8.3. COMBINED AND CONSOLIDATED RETURNS.--

~~[A. A unitary corporation that is subject to taxation under the Corporate Income and Franchise Tax Act and that has not previously filed a combined return pursuant to this section or a consolidated return pursuant to Section 7-2A-8.4 NMSA 1978 may elect to file a combined return with other unitary corporations as though the entire combined net income were that of one corporation; provided, however, that for taxable years beginning on or after January 1, 2014, a unitary corporation that provides retail sales of goods in a facility of more than thirty thousand square feet under one roof in New Mexico shall file a combined return with other unitary corporations as though the entire combined net income were that of one corporation. The return filed under this method of reporting shall include the net income of all the unitary corporations. Transactions among the unitary corporations may be eliminated by applying the appropriate rules for reporting income for a consolidated federal income~~

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~~tax return. Any corporation that has filed an income tax return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978 shall not file pursuant to this section unless the secretary gives prior permission to file on a combined return basis.~~

~~B. Once corporations have reported net income through a combined return for any taxable year, they shall file combined returns for subsequent taxable years, so long as they remain unitary corporations, unless the corporations elect to file pursuant to Section 7-2A-8.4 NMSA 1978 or unless the secretary grants prior permission for one or more of the corporations to file individually.~~

~~C. For taxable years beginning on or after January 1, 1993, no unitary corporation once included in a combined return may elect, or be granted permission by the secretary, for any subsequent taxable year to separately account pursuant to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.~~

~~D. Notwithstanding Subsection A of this section, a unitary corporation shall not be required to file a combined return pursuant to this section if that unitary corporation:~~

~~(1) has operations in New Mexico at facilities that do not provide retail sales of goods; and~~

~~(2) employs at least seven hundred fifty employees in New Mexico at such facilities.]~~

A. Corporations that are part of a unitary group shall file a return properly reporting and paying tax on taxable income as a worldwide combined group unless they properly elect to report and pay tax on taxable income as a water's-edge or consolidated group, pursuant to department

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rules and instructions, on the first original return required to be filed for taxable years beginning on or after January 1, 2020. Corporations electing to file a consolidated return must file on that same basis for federal income tax purposes. Once a unitary or consolidated group has properly made an election to file as a water's-edge or consolidated group, the group and any of the group's members shall file a return on that basis for at least seven consecutive years unless the secretary grants permission otherwise. Corporations that are part of a unitary group filing a return are jointly and severally liable for the tax imposed pursuant to the Corporate Income and Franchise Tax Act on taxable income.

B. Corporations required to file a return as part of a filing group pursuant to this section may designate a member of the group to act as the principal corporation to file the return, make any elections, claim tax credits or refunds or perform any other act on behalf of the group with respect to the corporate income tax; provided that the members of the group remain jointly and severally liable for the taxes due pursuant to Subsection A of this section."

SECTION ~~17~~ 21. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION TO OFFSET MATERIAL FINANCIAL EFFECTS OF CHANGES IN DEFERRED TAX AMOUNTS DUE TO CERTAIN CHANGES MADE TO SECTIONS 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 AND

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7-4-18 NMSA 1978.--

A. For each of ten consecutive taxable years beginning on or after January 1, 2026, a filing group subject to the corporate income tax whose members are part of a publicly traded company may claim a deduction, as provided by Subsection B of this section, from taxable income before net operating losses are deducted.

B. The deduction for each taxable year shall not exceed one-tenth of the amount of the aggregate increase in net deferred tax liabilities, the aggregate decrease in net deferred tax assets or an aggregate change from a net deferred tax asset to a net deferred tax liability, as measured under generally accepted accounting principles, that resulted from the changes to Sections 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 and 7-4-18 NMSA 1978 made by this 2019 act; provided that:

(1) the amount of the aggregate change in deferred tax assets and deferred tax liabilities is properly included in the calculation of the deferred tax asset or deferred tax liability reported as part of the consolidated financial statements, as required by the federal Securities Exchange Act of 1934, for the first reporting period affected by the changes to Sections 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 and 7-4-18 NMSA 1978 made by this 2019 act but for the deduction provided by this section; and

(2) if the deduction provided by this section is greater than the taxpayer's net income, any excess amount shall be carried forward and applied as a deduction to the taxpayer's net income in future income years until fully

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utilized.

C. A filing group shall not claim a deduction pursuant to this section unless the filing group files a preliminary notice with the secretary prior to January 1, 2023 and provides necessary information to show the calculation of the deduction expected to be claimed, as the secretary may require."

SECTION 18 22. Section 7-4-10 NMSA 1978 (being Laws 1993, Chapter 153, Section 1, as amended) is amended to read:

"7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

A. Except as provided in Subsections B and C of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

~~B. A taxpayer whose principal business activity in New Mexico is manufacturing may elect to have business income apportioned to this state~~

~~(1) in the taxable year beginning on or after January 1, 2014 and prior to January 1, 2015, by multiplying the income by a fraction, the numerator of which is twice the sales factor plus the property factor plus the payroll factor and the denominator of which is four;~~

~~(2) in the taxable year beginning on or after January 1, 2015 and prior to January 1, 2016, by multiplying~~

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~~the income by a fraction, the numerator of which is three multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is five;~~

~~(3) in the taxable year beginning on or after January 1, 2016 and prior to January 1, 2017, by multiplying the income by a fraction, the numerator of which is seven multiplied by the sales factor plus one and one-half multiplied by the property factor plus one and one-half multiplied by the payroll factor and the denominator of which is ten;~~

~~(4) in the taxable year beginning on or after January 1, 2017 and prior to January 1, 2018, by multiplying the income by a fraction, the numerator of which is eight multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is ten; and~~

~~(5) in taxable years beginning on or after January 1, 2018, by multiplying the income by a fraction, the numerator of which is the total sales of the taxpayer in New Mexico during the taxable year and the denominator of which is the total sales of the taxpayer from any location within or outside of the state during the taxable year.~~

~~G. A taxpayer whose principal business activity in New Mexico is a headquarters operation may elect to have business income apportioned to this state by multiplying the income by a fraction, the numerator of which is the total sales of the taxpayer in New Mexico during the taxable year and the denominator of which is the total sales of the taxpayer from any location within or outside of the state during the taxable year.~~

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~~D. To elect the method of apportionment provided by Subsection B or C of this section, the taxpayer shall notify the department of the election, in writing, no later than the date on which the taxpayer files the return for the first taxable year to which the election will apply. The election will apply to that taxable year and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B or C of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months. The election will apply to the separately filed return of the taxpayer or the combined or consolidated return the taxpayer has elected to be included pursuant to Section 7-2A-8.3 or 7-2A-8.4 NMSA 1978.]~~

B. If eighty percent or more of the New Mexico numerators of the property and payroll factors for a filing group, or for a taxpayer that is not a member of a filing group, are employed in manufacturing, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.

C. If a filing group, or a taxpayer that is not a member of a filing group, has a headquarters operation in New

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Mexico, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.

D. To elect the method of apportionment provided by Subsection B or C of this section, the taxpayer shall notify the department of the election, in writing, no later than the date on which the taxpayer files the return for the first taxable year to which the election will apply. The election shall apply as follows:

(1) if the election is made for taxable years beginning prior to January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier;

(2) if the election is made for a taxable year beginning on or after January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B or C of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months; and

(3) if the election is made by a qualifying filing group, the election shall apply to the members of the filing group properly included pursuant to Section 7-2A-8.3 NMSA 1978.

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E. For purposes of this section:

(1) "filing group" means "filing group" as that term is defined in the Corporate Income and Franchise Tax Act;

~~(1)~~ (2) "headquarters operation" means:

(a) the center of operations of a business: 1) where corporate staff employees are physically employed; 2) where the centralized functions are primarily performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including operating a call center; 3) the function and purpose of which is to manage and direct most aspects and functions of the business operations within a subdivided area of the United States; 4) from which final authority over regional or subregional offices, operating facilities and any other offices of the business are issued; and 5) including national and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters; or

(b) the center of operations of a business: 1) the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and 2) from which final authority over one or more centralized functions is issued; ~~and~~

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~~(2)]~~ (3) "manufacturing" means operating a computer processing facility or combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

(a) construction;

(b) farming;

(c) electric power generation; [except for electricity generation at a facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; or]

(d) processing natural resources, including hydrocarbons; or

(e) processing or preparation of meals for immediate consumption; and

(4) "operating a computer processing facility" means managing the necessary and ancillary activities for the operation of a facility primarily used to process data or information, but does not include managing the operation of facilities that are predominantly used to support sales of tangible property or the provision of banking, financial or professional services." ←SCORC

SECTION ~~21~~ 23. Section 7-4-18 NMSA 1978 (being Laws 1965, Chapter 203, Section 18) is amended to read:

"7-4-18. DETERMINATION OF SALES IN THIS STATE OF SERVICES AND OTHER [~~THAN TANGIBLE PERSONAL~~] PROPERTY FOR INCLUSION IN SALES FACTOR.--

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A. Sales, other than sales [of tangible personal property] described in Section 7-4-17 NMSA 1978, are in this state [if

A. ~~the income-producing activity is performed in this state; or~~

B. ~~the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state based on costs of performance]:~~

(1) in the case of sale, rental, lease or license of real property, if and to the extent the real property is located in this state;

(2) in the case of rental, lease or license of tangible personal property, if and to the extent the tangible personal property is located in this state;

(3) in the case of sale of a service, if and to the extent the service is delivered to a location in this state; and

(4) in the case of sale, rental, lease or license of intangible property, if and to the extent the intangible property is used in this state.

B. If the state or states of assignment under Subsection A of this section cannot be determined, the state or states of assignment shall be reasonably approximated.

C. If the taxpayer is not taxable in a state to

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which a sale is assigned pursuant to Subsection A of this section or if the state of assignment cannot be determined or reasonably approximated pursuant to Subsection B of this section, that sale shall be excluded from the numerator and denominator of the sales factor.

D. The department may promulgate rules as necessary or appropriate to carry out the purposes of this section."

SECTION ~~22~~ 24. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

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

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

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

C. "digital good" means a digital product delivered electronically, including software, music, photography, video, reading material, an application and a ringtone;

~~[G.]~~ D. "financial corporation" means a savings and loan association or an incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

~~[D.]~~ E. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

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

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

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

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

(5) similar activities;

~~[E.]~~ F. "leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is licensing and is not a lease;

~~[F.]~~ G. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon ~~[the]~~ a taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax; ~~["local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes~~

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~~on gross receipts, which taxes are to be collected by the department;~~

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

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

J. "marketplace provider" means a person who facilitates the sale, lease or license of tangible personal property or services or licenses for use of real property on a marketplace seller's behalf, or on the marketplace provider's own behalf, by:

(1) listing or advertising the sale, lease or license, by any means, whether physical or electronic, including by catalog, internet website or television or radio broadcast; and

(2) either directly or indirectly, through agreements or arrangements with third parties collecting payment from the customer and transmitting that payment to the seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for the marketplace provider's services;

K. "marketplace seller" means a person who sells, leases or licenses tangible personal property or services or

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who licenses the use of real property through a marketplace provider;

[F.] L. "person" means:

(1) an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

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

[J.] M. "property" means:

(1) real property;

(2) tangible personal property, including electricity and manufactured homes;

(3) licenses, [~~other than~~] including licenses of digital goods, but not including the licenses of copyrights, trademarks or patents; and

(4) franchises; [~~Tangible personal property includes electricity and manufactured homes;~~

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

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

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

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

(4) developing new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;

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

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

[L.] O. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

[M.] P. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or

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shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

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

SECTION ~~23~~ 25. Section 7-9-3.2 NMSA 1978 (being Laws 1991, Chapter 8, Section 1, as amended) is amended to read:

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

A. As used in the Gross Receipts and Compensating Tax Act, "governmental gross receipts" means receipts of the state or an agency, institution, instrumentality or political subdivision from:

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

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

(3) refuse collection or refuse disposal or both;

(4) sewage services;

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

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

~~["Governmental gross receipts" includes receipts from]~~

(7) the sale of tangible personal property handled on consignment when sold from facilities open to the general public ~~but~~; and

(8) a hospital licensed by the department of health.

B. "Governmental gross receipts" excludes receipts of the state or an agency, institution, instrumentality or political subdivision from:

(1) cash discounts taken and allowed;

(2) governmental gross receipts tax payable on transactions reportable for the period; and

(3) any type of time-price differential.

~~B.~~ C. As used in this section, "facilities open to the general public" does not include point of sale registers or electronic devices at a bookstore owned or operated by a

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public post-secondary educational institution when the registers or devices are utilized in the sale of textbooks or other materials required for courses at the institution to a student enrolled at the institution who displays a valid student identification card."

SECTION 24 26. Section 7-9-3.3 NMSA 1978 (being Laws 2003, Chapter 272, Section 4) is amended to read:

"7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in the Gross Receipts and Compensating Tax Act, "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit.

~~[except that:~~

~~A.] For a person who lacks physical presence in this state, including a marketplace provider, "engaging in business" [does not include: having a worldwide web site as a third-party content provider on a computer physically located in New Mexico but owned by another nonaffiliated person; and~~

~~B. "engaging in business" does not include using a nonaffiliated third-party call center to accept and process telephone or electronic orders of tangible personal property or licenses primarily from non-New Mexico buyers, which orders are forwarded to a location outside New Mexico for filling, or to provide services primarily to non-New Mexico customers] means having, in the previous calendar year, total taxable gross receipts from sales, leases and licenses of tangible personal~~

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property, sales of licenses and sales of services and licenses for use of real property sourced to this state pursuant to Section 7-1-14 NMSA 1978, of at least one hundred thousand dollars (\$100,000)."

SECTION ~~25~~ 27. Section 7-9-3.5 NMSA 1978 (being Laws 2003, Chapter 272, Section 3, as amended) is amended to read:

"7-9-3.5. DEFINITION--GROSS RECEIPTS.--

A. As used in the Gross Receipts and Compensating Tax Act:

(1) "gross receipts" means the total amount of money or the value of other consideration received from selling property in New Mexico, from leasing or licensing property employed in New Mexico, from granting a right to use a franchise employed in New Mexico, from selling services performed outside New Mexico, the product of which is initially used in New Mexico, or from performing services in New Mexico. In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the reasonable value of the property or service exchanged;

(2) "gross receipts" includes:

(a) any receipts from sales of tangible personal property handled on consignment;

(b) the total commissions or fees derived from the business of buying, selling or promoting the purchase, sale or lease, as an agent or broker on a commission or fee basis, of any property, service, stock, bond or security;

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(c) amounts paid by members of any cooperative association or similar organization for sales or leases of personal property or performance of services by such organization;

(d) amounts received from transmitting messages or conversations by persons providing telephone or telegraph services;

(e) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with the New Mexico florist that are filled and delivered outside New Mexico by an out-of-state florist; ~~and~~

(f) the receipts of a home service provider from providing mobile telecommunications services to customers whose place of primary use is in New Mexico if: 1) the mobile telecommunications services originate and terminate in the same state, regardless of where the services originate, terminate or pass through; and 2) the charges for mobile telecommunications services are billed by or for a customer's home service provider and are deemed provided by the home service provider. For the purposes of this section, "home service provider", "mobile telecommunications services", "customer" and "place of primary use" have the meanings given in the federal Mobile Telecommunications Sourcing Act; and

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(g) receipts collected by a marketplace provider engaging in business in the state from sales, leases and licenses of tangible personal property, sales of licenses and sales of services or licenses for use of real property that are sourced to this state and are facilitated by the marketplace provider on behalf of marketplace sellers, regardless of whether the marketplace sellers are engaging in business in the state; and

(3) "gross receipts" excludes:

(a) cash discounts allowed and taken;

(b) New Mexico gross receipts tax, governmental gross receipts tax and leased vehicle gross receipts tax payable on transactions for the reporting period;

(c) taxes imposed pursuant to the provisions of any local option gross receipts tax that is payable on transactions for the reporting period;

(d) any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo; provided that the tax is approved, if approval is required by federal law or regulation, by the secretary of the interior of the United States; and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions;

(e) any type of time-price differential;

(f) amounts received solely on behalf of another in a disclosed agency capacity; and

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(g) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with an out-of-state florist for filling and delivery in New Mexico by a New Mexico florist.

B. When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers the seller's or lessor's interest in any such contract to a third person, the seller or lessor shall pay the gross receipts tax upon the full sale or leasing contract amount, excluding any type of time-price differential."

SECTION 26. Section 7-9-4.3 NMSA 1978 (being Laws 1991, Chapter 8, Section 2, as amended by Laws 1993, Chapter 332, Section 1 and by Laws 1993, Chapter 352, Section 1) is amended to read:

"7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS "GOVERNMENTAL GROSS RECEIPTS TAX".--For the privilege of engaging in certain activities by governments, there is imposed on every agency, institution, instrumentality or political subdivision of the state, except any school district and [any]

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an entity licensed by the department of health, other than a hospital, that is principally engaged in providing health care services, an excise tax of five percent of governmental gross receipts. The tax imposed by this section shall be referred to as the "governmental gross receipts tax".

SECTION ~~27~~ 29. Section 7-9-5 NMSA 1978 (being Laws 1966, Chapter 47, Section 5, as amended) is amended to read:

"7-9-5. PRESUMPTION OF TAXABILITY.--

A. To prevent evasion of the gross receipts tax and to aid in its administration, it is presumed that all receipts of a person engaging in business are subject to the gross receipts tax. ~~[Any]~~ A person engaged solely in transactions specifically exempt under the provisions of the Gross Receipts and Compensating Tax Act shall not be required to register or file a return under that act.

B. If receipts from nontaxable charges for mobile telecommunications services are aggregated with and not separately stated from taxable charges for mobile telecommunications services, ~~[then]~~ the charges for nontaxable mobile telecommunications services shall be subject to gross receipts tax unless the home service provider can reasonably identify nontaxable charges in its books and records that are kept in the regular course of business. For the purposes of this subsection, "charges for mobile telecommunications services", "home service provider" and "mobile telecommunications services" have the meanings given in the federal Mobile Telecommunications Sourcing Act.

C. A marketplace provider engaging in business in

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this state is not liable for amounts of gross receipts tax collected incorrectly due to the marketplace provider reasonably relying on erroneous information provided by the seller."

SECTION ~~28~~ 30. Section 7-9-6 NMSA 1978 (being Laws 1966, Chapter 47, Section 6, as amended) is amended to read:

"7-9-6. SEPARATELY STATING THE GROSS RECEIPTS TAX.--

A. Taxpayers subject to the Gross Receipts and Compensating Tax Act, when billing a customer, shall separately state the amount of tax associated with the transaction or provide a statement affirmatively indicating that the gross receipts tax is included in the amount billed.

B. When the gross receipts tax is stated separately on the books of the seller or lessor, and if the total amount of tax that is stated separately on transactions reportable within one reporting period is in excess of the amount of gross receipts tax otherwise payable on the transactions on which the tax was stated separately, the excess amount of tax stated on the transactions within that reporting period shall be included in gross receipts."

SECTION ~~29~~ 31. Section 7-9-7 NMSA 1978 (being Laws 1966, Chapter 47, Section 7, as amended) is amended to read:

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

A. For the privilege of using tangible property in

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New Mexico, there is imposed on the person using the property an excise tax equal to five and one-eighth percent of the value of tangible property that was:

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

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

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

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

C. For the privilege of using a license or franchise in New Mexico, there is imposed on the person using the license or franchise an excise tax equal to the rate provided in Subsection A of this section against the value of

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the license or franchise in its use in this state. The department by rule, ruling or instruction shall fairly apportion, where appropriate, the value of a license or franchise to its value in use in New Mexico. For use of a license or franchise to be taxable under this subsection, the value of the license or franchise shall be acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the license or franchise been acquired from a person with nexus with this state.

[~~G.~~] D. For the privilege of using services [~~rendered~~] in New Mexico, there is imposed on the person using [~~such~~] the services an excise tax equal to [~~five percent of~~] the rate provided in Subsection A of this section against the value of the services at the time [~~they were rendered~~] the product of the service was acquired. For use of services to be taxable under this subsection, [~~must~~] the services shall have been [~~rendered as the result of a transaction that was not initially subject to the gross receipts tax but which transaction, because of the buyer's subsequent use of the services, should have been subject to the gross receipts tax]~~ performed by a person outside this state and the product of the service was acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the

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service or product of the service been acquired from a person with nexus with this state.

[D.] E. The tax imposed by this section shall be referred to as the "compensating tax".

SECTION ~~30~~ 32. Section 7-9-7.1 NMSA 1978 (being Laws 1993, Chapter 45, Section 1, as amended) is amended to read:

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

~~A. The department shall take no action to enforce collection of compensating tax due on purchases made by an individual if:~~

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

~~(2) the property is not a manufactured home;~~
and

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

~~B. The prohibition in Subsection A of this section does not prevent the department from enforcing collection of compensating tax on purchases from persons who are not individuals, who are agents for collection pursuant to Section 7-9-10 NMSA 1978 or who use the property in the course of engaging in business in New Mexico or from enforcing collection of compensating tax due on purchase of manufactured homes.] The department shall take no action to enforce collection of gross receipts tax for a tax period prior to July 1, 2019 on persons~~

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engaging in business if that person:

A. lacked physical presence in the state; and

B. did not report taxable gross receipts prior to

July 1, 2019."

SECTION ~~31~~ 33 Section 7-9-13.1 NMSA 1978 (being Laws 1989, Chapter 262, Section 4) is amended to read:

"7-9-13.1. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN SERVICES [~~PERFORMED OUTSIDE THE STATE THE PRODUCT OF WHICH IS INITIALLY USED IN NEW MEXICO--EXCEPTIONS~~].--

A. [~~Except as provided otherwise in Subsection B of this section~~] Exempted from the gross receipts tax are the receipts from selling research and development services performed outside New Mexico the product of which is initially used in New Mexico

[~~B. The exemption provided by this section does not apply to research and development services other than research and development services~~] and that are sold:

(1) [~~sold~~] between affiliated corporations;

(2) [~~sold~~] to the United States by persons,

other than organizations described in Subsection A of Section 7-9-29 NMSA 1978, who are prime contractors operating facilities in New Mexico designated as national laboratories by act of congress; or

(3) [~~sold~~] to persons, other than

organizations described in Subsection A of Section 7-9-29 NMSA

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1978, who are prime contractors operating facilities in New Mexico designated as national laboratories by act of congress.

[G.] B. An "affiliated corporation" means a corporation that directly or indirectly, through one or more intermediaries controls, is controlled by or is under common control with the subject corporation. "Control" means ownership of stock in a corporation [~~which~~] that represents at least eighty percent of the total voting power of that corporation and has a stated or par value equal to at least eighty percent of the total stated or par value of the stock of that corporation."

SECTION ~~32~~ 34. Section 7-9-29 NMSA 1978 (being Laws 1970, Chapter 12, Section 3, as amended) is amended to read:

"7-9-29. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN ORGANIZATIONS.--

A. Exempted from the gross receipts tax are the receipts of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of [~~1954~~] 1986, as that section may be amended or renumbered, except for receipts of a hospital licensed by the department of health.

B. Exempted from the gross receipts tax are the receipts from carrying on chamber of commerce, visitor bureau and convention bureau functions of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States

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commissioner of internal revenue as organizations described in Section 501(c)(6) of the United States Internal Revenue Code of [1954] 1986, as that section may be amended or renumbered.

C. This section does not apply to receipts derived from an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of [1954] 1986, as that section may be amended or renumbered."

~~SCORC → D. The exemptions provided by Subsections A and B of this section shall not apply to an organization that will have more than three hundred million dollars (\$300,000,000) in receipts for the fiscal year in which the exemption is claimed, as reasonably estimated by the organization.~~ ← SCORC

SECTION ~~33~~ 35. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] EXEMPTION--HOSPITALS FROM LOCAL OPTION GROSS RECEIPTS TAXES.--Exempted from any local option gross receipts tax, but not the state gross receipts tax, are receipts of a hospital licensed by the department of health."

SECTION ~~34~~ 36. Section 7-9-73.1 NMSA 1978 (being Laws 1991, Chapter 8, Section 3, as amended) is amended to read:

"7-9-73.1. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS RECEIPTS--HOSPITALS.--[Fifty]

A. Sixty percent of the receipts of hospitals licensed by the department of health may be deducted from gross

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receipts; provided that this deduction may be applied only to the taxable gross receipts remaining after all other appropriate deductions have been taken.

B. Sixty percent of the receipts of a hospital licensed by the department of health may be deducted from governmental gross receipts."

SECTION 35 37. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--MARKETPLACE SELLER.--

A. A marketplace seller may deduct receipts for sales, leases and licenses of tangible personal property, sales of licenses and sales of services or licenses for use of real property that are facilitated by a marketplace provider; provided that the marketplace seller obtains documentation from the marketplace provider indicating that the marketplace provider is registered with the department and has remitted or will remit the taxes due on the gross receipts from those transactions.

B. The deduction provided by this section shall not apply if the marketplace provider is determined not to owe the tax due to the marketplace provider's reliance on information provided by the seller as determined pursuant to Subsection C of Section 7-9-5 NMSA 1978."

SECTION 36 38. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] AUTHORITY TO ESTABLISH STANDARDS FOR CERTIFIED SERVICE PROVIDERS.--

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A. The secretary is authorized to provide information, upon which taxpayers may rely, as to the taxability of gross receipts from particular transactions, including taxability matrices, and is further authorized to establish standards for the certification of certified service providers that offer software-based systems to enable taxpayers to properly determine the taxability of gross receipts from particular transactions.

B. As used in this section, "certified service provider" means "certified service provider" as defined in the Streamlined Sales and Use Tax Administration Act."

SECTION 37 39. Section 7-9F-3 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to read:

"7-9F-3. DEFINITIONS.--As used in the Technology Jobs and Research and Development Tax Credit Act:

A. "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by or is under common ownership or control with another person through ownership of voting securities or other ownership interests representing a majority of the total voting power of the entity;

B. "annual payroll expense" means the wages paid or payable to employees in the state by the taxpayer in the taxable year for which the taxpayer applies for an additional

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credit pursuant to the Technology Jobs and Research and Development Tax Credit Act;

C. "base payroll expense" means the wages paid or payable by the taxpayer in the taxable year prior to the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act, adjusted for any increase from the preceding taxable year in the consumer price index for the United States for all items as published by the United States department of labor in the taxable year for which the additional credit is claimed. In a taxable year during which a taxpayer has been part of a business merger or acquisition or other change in business organization, the taxpayer's base payroll expense shall include the payroll expense of all entities included in the reorganization for all positions that are included in the business entity resulting from the reorganization;

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "facility" means a factory, mill, plant, refinery, warehouse, dairy, feedlot, building or complex of buildings located within the state, including the land on which it is located and all machinery, equipment and other real and tangible personal property located at or within it and used in connection with its operation;

F. "local option gross receipts tax" means a tax

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authorized to be imposed by a county or municipality upon [the] a taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax; [~~local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department in the same time and in the same manner as it collects the gross receipts tax;~~]

G. "qualified expenditure" means an expenditure or an allocated portion of an expenditure by a taxpayer in connection with qualified research at a qualified facility, including expenditures for depletable land and rent paid or incurred for land, improvements, the allowable amount paid or incurred to operate or maintain a facility, buildings, equipment, computer software, computer software upgrades, consultants and contractors performing work in New Mexico, payroll, technical books and manuals and test materials, but not including any expenditure on property that is owned by a municipality or county in connection with an industrial revenue

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bond project, property for which the taxpayer has received any credit pursuant to the Investment Credit Act, property that was owned by the taxpayer or an affiliate before July 3, 2000 or research and development expenditures reimbursed by a person who is not an affiliate of the taxpayer. If a "qualified expenditure" is an allocation of an expenditure, the cost accounting methodology used for the allocation of the expenditure shall be the same cost accounting methodology used by the taxpayer in its other business activities;

H. "qualified facility" means a facility in New Mexico at which qualified research is conducted other than a facility operated by a taxpayer for the United States or any agency, department or instrumentality thereof;

I. "qualified research" means research:

(1) that is undertaken for the purpose of discovering information:

(a) that is technological in nature; and

(b) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer; and

(2) substantially all of the activities of which constitute elements of a process of experimentation related to a new or improved function, performance, reliability or quality, but not related to style, taste or cosmetic or seasonal design factors;

J. "qualified research and development small business" means a taxpayer that:

(1) employed no more than fifty employees as

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determined by the number of employees for which the taxpayer was liable for unemployment insurance coverage in the taxable year for which an additional credit is claimed;

(2) had total qualified expenditures of no more than five million dollars (\$5,000,000) in the taxable year for which an additional credit is claimed; and

(3) did not have more than fifty percent of its voting securities or other equity interest with the right to designate or elect the board of directors or other governing body of the business owned directly or indirectly by another business;

K. "rural area" means any area of the state other than the state fairgrounds, an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census and any area within three miles of the external boundaries of an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census;

L. "taxpayer" means any of the following persons, other than a federal, state or other governmental unit or subdivision or an agency, department, institution or instrumentality thereof:

- (1) a person liable for payment of any tax;
- (2) a person responsible for withholding and payment or collection and payment of any tax;

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(3) a person to whom an assessment has been made if the assessment remains unabated or the assessed amount has not been paid; or

(4) for purposes of the additional credit against the taxpayer's income tax pursuant to the Technology Jobs and Research and Development Tax Credit Act and to the extent of their respective interest in that entity, the shareholders, members, partners or other owners of:

(a) a small business corporation that has elected to be treated as an S corporation for federal income tax purposes; or

(b) an entity treated as a partnership or disregarded entity for federal income tax purposes; and

M. "wages" means remuneration for services performed by an employee in New Mexico for an employer."

SCORC → SECTION 38. ~~Section 7-12-2 NMSA 1978 (being Laws 1971, Chapter 77, Section 2, as amended) is amended to read:~~

~~7-12-2. DEFINITIONS.--As used in the Cigarette Tax Act:~~

~~A. "cigarette" means:~~

~~(1) any roll of tobacco or any substitute for tobacco wrapped in paper or in any substance not containing tobacco;~~

~~(2) any roll of tobacco that is wrapped in any substance containing tobacco, other than one hundred percent natural leaf tobacco, which, because of its appearance, the type of tobacco used in the filler, its packaging and labeling, or its marketing and advertising, is likely to be offered to, or purchased by, consumers as a cigarette, as described in~~

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~~Paragraph (1) of this subsection;~~

~~(3) bidis and kreteks; or~~

~~(4) any other roll of tobacco that is defined as a "cigarette" in Subsection D of Section 6-4-12 NMSA 1978;~~

~~B. "close of business" means that time when a business ceases to operate for the remainder of the day or 12:00 a.m., if the business is open and conducting business at 12:00 a.m.;~~

~~C. "contraband cigarettes" means cigarette packages with counterfeit stamps, counterfeit cigarettes, cigarettes that have false or fraudulent manufacturing labels, cigarettes not sold in packages of five, ten, twenty or twenty-five, cigarette packages without the tax, tax-credit or tax-exempt stamps required by the Cigarette Tax Act and cigarettes produced by a manufacturer or in a brand family not included in the directory;~~

~~D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee;~~

~~E. "directory" means a listing of tobacco product manufacturers and brand families that is developed, maintained and published by the attorney general under the Tobacco Escrow Fund Act;~~

~~F. "distributor" means a person licensed pursuant~~

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~~to the Cigarette Tax Act to sell or distribute cigarettes in New Mexico. "Distributor" does not include:~~

~~(1) a retailer;~~

~~(2) a cigarette manufacturer, export warehouse proprietor or importer with a valid permit pursuant to 26 U.S.C. 5713, if that person sells cigarettes in New Mexico only to distributors that hold valid licenses under the laws of a state or sells to an export warehouse proprietor or to another manufacturer; or~~

~~(3) a common or contract carrier transporting cigarettes pursuant to a bill of lading or freight bill, or a person who ships cigarettes through the state by a common or contract carrier pursuant to a bill of lading or freight bill;~~

~~G. "license" means a license granted pursuant to the Cigarette Tax Act that authorizes the holder to conduct business as a manufacturer or distributor of cigarettes;~~

~~H. "manufacturer" means a person that manufactures, fabricates, assembles, processes or labels a cigarette or that imports from outside the United States, directly or indirectly, a finished cigarette for sale or distribution in the United States;~~

~~I. "master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998 by the state and leading United States tobacco product manufacturers;~~

~~J. "package" means an individual pack, box or other container; "package" does not include a container that itself contains other containers, such as a carton of cigarettes;~~

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~~K. "qualifying tribal cigarette tax" means an excise, privilege or similar tax at a minimum rate of:~~

~~(1) [three and seventy-five hundredths cents (\$.0375)] five and forty-five hundredths cents (\$.0545) per cigarette if the cigarettes are packaged in lots of twenty or twenty-five;~~

~~(2) [seven and one-half cents (\$.075)] ten and nine-tenths cents (\$.109) per cigarette if the cigarettes are packaged in lots of ten; or~~

~~(3) [fifteen cents (\$.15)] twenty-one and eight-tenths cents (\$.218) per cigarette if the cigarettes are packaged in lots of five;~~

~~L. "retailer" means a person, whether located within or outside of New Mexico, that sells cigarettes at retail to a consumer in New Mexico and the sale is not for resale;~~

~~M. "stamp" means an adhesive label issued and authorized by the department to be affixed to cigarette packages for excise tax purposes and upon which is printed a serial number and the words "State of New Mexico" and "tobacco tax";~~

~~N. "tax stamp" means a stamp that has a specific cigarette tax value pursuant to the Cigarette Tax Act;~~

~~O. "tax-credit stamp" means a stamp that indicates the cigarette package bearing the stamp is to be or has been~~

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~~sold by a retailer located on land of a tribe that has imposed a qualifying tribal cigarette tax;~~

~~P. "tax-exempt stamp" means a stamp that indicates a tax-exempt status pursuant to the Cigarette Tax Act;~~

~~Q. "tribal member" means a person who is recognized by the governing body of an Indian tribe to be an enrolled member of that Indian tribe;~~

~~R. "tribe" means a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico, including:~~

~~(1) a political subdivision, agency or department of a tribe;~~

~~(2) an incorporated or unincorporated enterprise of a tribe, one or more tribes or a political subdivision of a tribe; or~~

~~(3) a corporation considered to be an Indian or a tribe by the federal government or the state; and~~

~~S. "tribe's land" means the reservation, pueblo grant or trust land of a tribe and property held by the United States in trust jointly for the nineteen New Mexico Indian pueblos pursuant to Public Law 95-232."~~

~~SECTION 39. Section 7-12-3 NMSA 1978 (being Laws 1971, Chapter 77, Section 3, as amended) is amended to read:~~

~~"7-12-3. EXCISE TAX ON CIGARETTES--[RATES].--~~

~~A. For the privilege of selling, giving or consuming cigarettes in New Mexico, there is levied an excise tax at [the following rates] a rate of ten cents (\$.10) for each cigarette sold, given or consumed in this state.~~

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~~{(1) eight and three-tenths cents (\$.083) if the cigarettes are packaged in lots of twenty or twenty-five;~~
~~(2) sixteen and six-tenths cents (\$.166) if the cigarettes are packaged in lots of ten; or~~
~~(3) thirty-three and two-tenths cents (\$.332) if the cigarettes are packaged in lots of five.}~~

~~B. The tax imposed by this section shall be referred to as the "cigarette tax".~~ ←SCORC

SECTION 40. Section 7-12-3.1 NMSA 1978 (being Laws 1986, Chapter 13, Section 3, as amended) is amended to read:

"7-12-3.1. CIGARETTE INVENTORY TAX--IMPOSITION OF TAX--DATE PAYMENT OF TAX DUE.--

A. A tax that may be identified as the "cigarette inventory tax" is imposed on a distributor that has in its possession tax-exempt stamps, tax-credit stamps or tax stamps, ~~[whether or]~~ not affixed to packages of cigarettes, at the close of business on the day prior to the date on which an increase in the cigarette tax imposed by Section 7-12-3 NMSA 1978 is effective.

B. The cigarette inventory tax due from the distributor is calculated by multiplying the number of tax stamps not affixed to packages of cigarettes in the distributor's possession by the increase in the excise tax. Tax-exempt stamps and tax-credit stamps are not included in the calculation to determine the amount of cigarette inventory tax

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to be paid by a distributor.

C. The cigarette inventory tax is to be paid to the department on or before the twenty-fifth day of the month following the month in which the increase in the cigarette tax is effective."

SECTION 41. Section 7-12-7 NMSA 1978 (being Laws 1971, Chapter 77, Section 7, as amended) is amended to read:

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

A. Only the department shall sell stamps. Stamps may be sold by the department only to a distributor.

B. Stamps shall display a serial number. Stamps bearing the same serial number shall not be sold to more than one distributor. The department shall keep records of the serial numbers of the stamps provided to each distributor.

C. A stamp shall be affixed to a package of cigarettes in such a manner as to clearly display the serial number at the point of sale.

D. Tax stamps shall be sold at their face value with the following discounts:

(1) [~~fifty-five~~] forty-six hundredths percent less than the face value of the first thirty thousand dollars (\$30,000) of stamps purchased in one calendar month;

(2) [~~forty-four~~] thirty-six hundredths percent less than the face value of the second thirty thousand dollars (\$30,000) of stamps purchased in one calendar month; and

(3) [~~twenty-seven~~] twenty-two hundredths percent less than the face value of stamps purchased in excess of sixty thousand dollars (\$60,000) in one calendar month.

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E. Tax-credit stamps shall be provided only to distributors and shall be provided free of charge; provided that the distributor is in full compliance with the reporting requirements of the Cigarette Tax Act and rules adopted pursuant to that act.

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

G. Payment for tax stamps shall be made on or before the twenty-fifth day of the month following the month in which the sale of stamps by the department is made.

H. Tax-exempt stamps shall be provided only to distributors and shall be free of charge; provided that the distributor is in full compliance with the reporting requirements of the Cigarette Tax Act and rules adopted pursuant to that act."

CC→~~SFC→SGORG→SECTION 42. Section 7-12A-2 NMSA 1978 (being Laws 1986, Chapter 112, Section 3, as amended) is amended to read:~~

~~"7-12A-2. DEFINITIONS.--As used in the Tobacco Products Tax Act:~~

~~A. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;~~

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~~B. "distribute" means to sell or to give;~~

~~C. "e-cigarette":~~

~~(1) means any electronic oral device that can be used to provide a vapor or aerosol of nicotine or any other substance to the person inhaling from the device; and~~

~~(2) includes any such device, or any part thereof, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product name or descriptor;~~

~~{C.} D. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit;~~

~~{D.} E. "first purchaser" means a person engaging in business in New Mexico [who] that manufactures tobacco products or [who] that purchases or receives on consignment tobacco products from any person outside of New Mexico, which tobacco products are to be distributed in New Mexico in the ordinary course of business;~~

~~{E.} F. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, limited liability company, limited liability partnership, other association or gas, water or electric utility owned or operated by a county or municipality or other entity of the state; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department or instrumentality;~~

~~{F.} G. "product value" means the amount paid, net~~

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~~of any discounts taken and allowed, for tobacco products or, in the case of tobacco products received on consignment, the value of the tobacco products received or, in the case of tobacco products manufactured and sold in New Mexico, the proceeds from the sale by the manufacturer of the tobacco products; and~~

~~{G.} H. "tobacco product" means:~~

~~(1) any product, other than cigarettes, made of or derived from [or containing] tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including cigars, chewing tobacco, e-cigarettes, pipe tobacco or snuff; and~~

~~(2) any component, part or accessory used to consume tobacco or nicotine but does not include any product that has been approved by the United States food and drug administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved use."~~

~~SECTION 43. Section 7-12A-3 NMSA 1978 (being Laws 1986, Chapter 112, Section 4, as amended) is amended to read:~~

~~"7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--"~~

~~A. For the privilege of engaging in business to manufacture [or acquisition of], acquire or distribute tobacco products [in New Mexico to be distributed] in the ordinary~~

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~~course of business and for the [consumption of] privilege of consuming tobacco products in New Mexico, there is imposed an excise tax at the rate of [twenty-five] forty-five percent of the product value of the tobacco products.~~

~~B. The tax imposed by Subsection A of this section may be referred to as the "tobacco products tax".~~

~~C. The tobacco products tax shall be paid by the first purchaser on or before the twenty-fifth day of the month following the month in which the taxable event occurs."~~←SCORC←SFC

~~SFC→SGORC→SECTION 39. Section 7-12A-2 NMSA 1978 (being Laws 1986, Chapter 112, Section 3, as amended) is amended to read:~~

~~"7-12A-2. DEFINITIONS.--As used in the Tobacco Products Tax Act:~~

~~A. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;~~

~~B. "cigar" means a roll for smoking made wholly or in part of tobacco and weighing greater than four and one-half pounds per thousand;~~

~~[B.] C. "distribute" means to sell or to give;~~

~~D. "e-cigarette" means any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substance the use or inhalation of which simulates smoking and includes any such device, or any part thereof,~~

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~~whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor. "E-cigarette" does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act;~~

~~E. "e-liquid" means liquid or other substance intended for use in an e-cigarette, not including any substance containing cannabis or oil derived from cannabis;~~

~~{C.} F. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit;~~

~~{D.} G. "first purchaser" means a person engaging in business in New Mexico [who] that manufactures tobacco products or [who] that purchases or receives on consignment tobacco products from any person outside of New Mexico, which tobacco products are to be distributed in New Mexico in the ordinary course of business;~~

~~H. "little cigar" means a roll for smoking made wholly or in part of tobacco, using an integrated cellulose acetate or other similar filter, and weighing not more than four and one-half pounds per thousand;~~

~~{E.} I. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, limited~~

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~~liability company, limited liability partnership, other association or gas, water or electric utility owned or operated by a county or municipality or other entity of the state; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department or instrumentality;~~

~~{F.} J. "product value" means the amount paid, net of any discounts taken and allowed, for tobacco products or, in the case of tobacco products received on consignment, the value of the tobacco products received or, in the case of tobacco products manufactured and sold in New Mexico, the proceeds from the sale by the manufacturer of the tobacco products; and~~

~~{G.} K. "tobacco product" means:~~

~~(1) any product, other than cigarettes, cigars and little cigars, made from or containing tobacco;~~

~~(2) e-liquid; and~~

~~(3) e-cigarettes."~~

~~SECTION 40. Section 7-12A-3 NMSA 1978 (being Laws 1986, Chapter 112, Section 4, as amended) is amended to read:~~

~~"7-12A-3. IMPOSITION AND [RATE] RATES OF TAX--REDUCTION OF RATE FOR CERTAIN TOBACCO PRODUCTS--DENOMINATION AS "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--~~

~~A. For the manufacture or acquisition of tobacco products in New Mexico, not including cigars, little cigars, e-liquid or e-cigarettes, to be distributed in the ordinary course of business and for the consumption of tobacco products in New Mexico, there is imposed an excise tax at the rate of twenty-five percent of the product value of the tobacco~~

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~~products.~~

~~B. For the manufacture or acquisition of cigars in New Mexico to be distributed in the ordinary course of business and for the consumption of cigars in New Mexico, there is imposed an excise tax at a rate equal to twenty-five percent of the product value of the cigar, not to exceed fifty cents (\$.50) per cigar.~~

~~C. For the manufacture or acquisition of little cigars in New Mexico to be distributed in the ordinary course of business and for the consumption of little cigars in New Mexico, there is imposed an excise tax at a rate equal to the rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978 per package of little cigars.~~

~~D. For the manufacture or acquisition of e-liquid in New Mexico to be distributed in the ordinary course of business and for the consumption of e-liquid in New Mexico, there is imposed an excise tax at a rate of five cents (\$.05) per milligram of nicotine by volume in the e-liquid. Such tax shall be computed based on the net volume of the e-liquid, as listed by the manufacturer.~~

~~E. The taxes imposed by this section shall be reduced by fifty percent for a tobacco product, cigar or little cigar for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(1).~~

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~~F. The taxes imposed by this section shall be reduced by twenty-five percent for a tobacco product, cigar or little cigar for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(2).~~

~~[B.] G. The [tax] taxes imposed by [Subsection A of] this section may be referred to as the "tobacco products tax".~~

~~[C.] H. The tobacco products tax shall be paid by the first purchaser on or before the twenty-fifth day of the month following the month in which the taxable event occurs."~~←SCORC←SFC

CC→CC→SFC→SECTION 39 40. Section 7-12A-2 NMSA 1978 (being Laws 1986, Chapter 112, Section 3, as amended) is amended to read:

~~"7-12A-2. DEFINITIONS.--As used in the Tobacco Products Tax Act:~~

~~A. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;~~

~~B. "cigar" means a roll for smoking made wholly or in part of tobacco and weighing greater than four and one-half pounds per thousand;~~

~~[B.] C. "distribute" means to sell or to give;~~

~~D. "closed system cartridge" means a single-use, pre-filled disposable cartridge containing five milliliters or less of e-liquid for use in an e-cigarette;~~

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~~E. "e-cigarette" means any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substance the use or inhalation of which simulates smoking and includes any such device, or any part thereof, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor. "E-cigarette" does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act;~~

~~F. "e-liquid" means liquid or other substance intended for use in an e-cigarette, not including any substance containing cannabis or oil derived from cannabis;~~

~~{C.} G. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit;~~

~~{D.} H. "first purchaser" means a person engaging in business in New Mexico [who] that manufactures tobacco products or [who] that purchases or receives on consignment tobacco products from any person outside of New Mexico, which tobacco products are to be distributed in New Mexico in the ordinary course of business;~~

~~I. "little cigar" means a roll for smoking made wholly or in part of tobacco, using an integrated~~

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~~cellulose acetate or other similar filter, and weighing not more than four and one-half pounds per thousand;~~

~~{E.} J. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, limited liability company, limited liability partnership, other association or gas, water or electric utility owned or operated by a county or municipality or other entity of the state; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department or instrumentality;~~

~~{F.} K. "product value" means the amount paid, net of any discounts taken and allowed, for tobacco products or, in the case of tobacco products received on consignment, the value of the tobacco products received or, in the case of tobacco products manufactured and sold in New Mexico, the proceeds from the sale by the manufacturer of the tobacco products; and~~

~~{G.} L. "tobacco product" means:~~

~~(1) any product, other than cigarettes, cigars and little cigars, made from or containing tobacco;~~

~~(2) e-liquid;~~

~~(3) e-cigarettes; and~~

~~(4) closed system cartridges."~~

~~SECTION 40. Section 7-12A-3 NMSA 1978 (being Laws 1986, Chapter 112, Section 4, as amended) is amended to read:~~

~~"7-12A-3. IMPOSITION AND [RATE] RATES OF TAX--REDUCTION OF RATE FOR CERTAIN TOBACCO PRODUCTS--DENOMINATION AS "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--"~~

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~~A. For the manufacture or acquisition of tobacco products in New Mexico, not including cigars, little cigars, e-liquid, e-cigarettes or closed system cartridges, to be distributed in the ordinary course of business and for the consumption of tobacco products in New Mexico, there is imposed an excise tax at the rate of twenty-five percent of the product value of the tobacco products.~~

~~B. For the manufacture or acquisition of cigars in New Mexico to be distributed in the ordinary course of business and for the consumption of cigars in New Mexico, there is imposed an excise tax at a rate equal to twenty-five percent of the product value of the cigar, not to exceed fifty cents (\$.50) per cigar.~~

~~C. For the manufacture or acquisition of little cigars in New Mexico to be distributed in the ordinary course of business and for the consumption of little cigars in New Mexico, there is imposed an excise tax at a rate equal to the rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978 per package of little cigars.~~

~~D. For the manufacture or acquisition of e-liquid in New Mexico to be distributed in the ordinary course of business and for the consumption of e-liquid in New Mexico, there is imposed an excise tax at a rate of five cents (\$.05) multiplied by the ratio of the number of milligrams of nicotine in the e-liquid to the number of milliliters of consumable~~

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~~material. Such tax shall be computed based on the concentration of the nicotine content of the e-liquid, as listed by the manufacturer on the manufacturer's invoice.~~

~~E. For the manufacture or acquisition of closed system cartridges in New Mexico to be distributed in the ordinary course of business, there is imposed an excise tax at a rate of fifty cents (\$.50) per closed system cartridge.~~

~~F. The taxes imposed by this section shall be reduced by fifty percent for a tobacco product, cigar or little cigar for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(1).~~

~~G. The taxes imposed by this section shall be reduced by twenty-five percent for a tobacco product, cigar or little cigar for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(2).~~

~~{B.} H. The {tax} taxes imposed by {Subsection A of} this section may be referred to as the "tobacco products tax".~~

~~{C.} I. The tobacco products tax shall be paid by the first purchaser on or before the twenty-fifth day of the month following the month in which the taxable event occurs."~~ ←SFC←CC←CC

CC→SECTION 42. Section 7-12A-2 NMSA 1978 (being Laws 1986, Chapter 112, Section 3, as amended) is amended to read:

"7-12A-2. DEFINITIONS.--As used in the Tobacco Products Tax Act:

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A. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "cigar" means a roll for smoking made wholly or in part of tobacco and weighing greater than four and one-half pounds per thousand;

[B-] C. "distribute" means to sell or to give;

D. "closed system cartridge" means a single-use, pre-filled disposable cartridge containing five milliliters or less of e-liquid for use in an e-cigarette;

E. "e-cigarette" means any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substance the use or inhalation of which simulates smoking and includes any such device, or any part thereof, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor. "E-cigarette" does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act;

F. "e-liquid" means liquid or other substance intended for use in an e-cigarette, not including any substance containing cannabis or oil derived from cannabis;

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[G-] G. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit;

[D-] H. "first purchaser" means a person engaging in business in New Mexico ~~[who]~~ that manufactures tobacco products or ~~[who]~~ that purchases or receives on consignment tobacco products from any person outside of New Mexico, which tobacco products are to be distributed in New Mexico in the ordinary course of business;

I. "little cigar" means a roll for smoking made wholly or in part of tobacco, using an integrated cellulose acetate or other similar filter, and weighing not more than four and one-half pounds per thousand;

[E-] J. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, limited liability company, limited liability partnership, other association or gas, water or electric utility owned or operated by a county or municipality or other entity of the state; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department or instrumentality;

[F-] K. "product value" means the amount paid, net of any discounts taken and allowed, for tobacco products or, in the case of tobacco products received on consignment, the value of the tobacco products received or, in the case of tobacco products manufactured and sold in New Mexico, the proceeds from the sale by the manufacturer of the tobacco products; and

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[G-] L. "tobacco product" means:

(1) any product, other than cigarettes, cigars and little cigars, made from or containing tobacco;

(2) e-liquid;

(3) e-cigarettes; and

(4) closed system cartridges."

SECTION 43. Section 7-12A-3 NMSA 1978 (being Laws 1986, Chapter 112, Section 4, as amended) is amended to read:

"7-12A-3. IMPOSITION AND [RATE] RATES OF TAX--REDUCTION OF RATE FOR CERTAIN TOBACCO PRODUCTS--DENOMINATION AS "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

A. For the manufacture or acquisition of tobacco products in New Mexico, not including cigars, little cigars, e-liquid, e-cigarettes or closed system cartridges, to be distributed in the ordinary course of business and for the consumption of tobacco products in New Mexico, there is imposed an excise tax at the rate of twenty-five percent of the product value of the tobacco products.

B. For the manufacture or acquisition of cigars in New Mexico to be distributed in the ordinary course of business and for the consumption of cigars in New Mexico, there is imposed an excise tax at a rate equal to twenty-five percent of the product value of the cigar, not to exceed fifty cents (\$.50) per cigar.

C. For the manufacture or acquisition of little

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cigars in New Mexico to be distributed in the ordinary course of business and for the consumption of little cigars in New Mexico, there is imposed an excise tax at a rate equal to the rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978 per package of little cigars.

D. For the manufacture or acquisition of e-liquid in New Mexico to be distributed in the ordinary course of business and for the consumption of e-liquid in New Mexico, there is imposed an excise tax at a rate equal to twelve and one-half percent of the product value of the e-liquid.

E. For the manufacture or acquisition of closed system cartridges in New Mexico to be distributed in the ordinary course of business, there is imposed an excise tax at a rate of fifty cents (\$.50) per closed system cartridge.

F. The taxes imposed by this section shall be reduced by fifty percent for a tobacco product, cigar or little cigar for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(1).

G. The taxes imposed by this section shall be reduced by twenty-five percent for a tobacco product, cigar or little cigar for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(2).

[B.] H. The [tax] taxes imposed by [Subsection A of] this section may be referred to as the "tobacco products tax".

[G.] I. The tobacco products tax shall be paid by

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the first purchaser on or before the twenty-fifth day of the month following the month in which the taxable event occurs."

SECTION 44. Section 7-14-4 NMSA 1978 (being Laws 1988, Chapter 73, Section 14) is amended to read:

"7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE TAX.--The rate of the motor vehicle excise tax is [three] four and two-tenths three and one-half four and two-tenths percent and is applied to the price paid for the vehicle. If the price paid does not represent the value of the vehicle in the condition that existed at the time it was acquired, the tax rate shall be applied to the reasonable value of the vehicle in such condition at such time. However, allowances granted for vehicle trade-ins may be deducted from the price paid or the reasonable value of the vehicle purchased."

SECTION 45. Section 7-14-10 NMSA 1978 (being Laws 1988, Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from the tax and any associated interest and penalties shall be deposited in the "motor vehicle suspense fund", hereby created in the state treasury. As of the end of each month, the net receipts attributable to the tax and associated penalties and interest shall be distributed as follows:

SFC A. [four and fifteen-hundredths] two and

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~~ninety-six ←SGORC SFC→two and ninety-six←SFC SFC→SGORC→three
and fifty-six←SGORC←SFC hundredths percent to the state road
fund; and~~

~~B. the remainder to the general fund."~~←SFC

CC→SFC→A. prior to July 1, 2021:

~~(1) sixty-seven and eighty-seven hundredths
percent to the general fund;~~

~~(2) three and fifty-six hundredths percent to
the state road fund; and~~

~~(3) twenty-eight and fifty-seven hundredths
percent to the department of transportation, for expenditures
needed to mitigate the emergency road conditions related to
activity in the oil field in state transportation commission
district 2; and~~

~~B. beginning July 1, 2021:~~

~~(1) sixty-seven and eighty-seven hundredths
percent to the general fund;~~

~~(2) seventeen and eighty-four hundredths
percent to the state road fund; and~~

~~(3) fourteen and twenty-nine hundredths
percent to the local governments road fund."~~←SFC←CC

CC→A. prior to July 1, 2021:

(1) seventy-one and eighty-nine hundredths
percent to the general fund;

(2) three and eleven hundredths percent to the
state road fund; and

(3) twenty-five percent to the department of
transportation, for expenditures needed to mitigate the

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emergency road conditions related to activity in the oil field in state transportation commission district 2; and

B. beginning July 1, 2021:

(1) fifty-nine and thirty-nine hundredths percent to the general fund;

(2) twenty-one and eighty-six hundredths percent to the state road fund; and

(3) eighteen and seventy-five hundredths percent to the local governments road fund."←CC

SECTION 46. Section 7-19-14 NMSA 1978 (being Laws 1979, Chapter 397, Section 5, as amended) is amended to read:

"7-19-14. SPECIFIC EXEMPTIONS.--No supplemental municipal gross receipts tax shall be imposed on the gross receipts arising from:

A. prior to July 1, 2021, transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or

B. a business located outside the boundaries of a municipality on land owned by that municipality for which a gross receipts tax distribution is made pursuant to Section 7-1-6.4 NMSA 1978."

SECTION 47. Section 7-19D-1 NMSA 1978 (being Laws 1993, Chapter 346, Section 1) is amended to read:

"7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA 1978 .213724.9

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may be cited as the "Municipal Local Option Gross Receipts and
Compensating Taxes Act".

SECTION 48. Section 7-19D-5 NMSA 1978 (being Laws 1993,
Chapter 346, Section 5, as amended) is amended to read:

"7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the
provisions of the Municipal Local Option Gross Receipts and
Compensating Taxes Act shall be imposed on the gross receipts
arising from:

A. prior to July 1, 2021, transporting persons or
property for hire by railroad, motor vehicle, air
transportation or any other means from one point within the
municipality to another point outside the municipality; or

B. a business located outside the boundaries of a
municipality on land owned by that municipality for which a
state gross receipts tax distribution is made pursuant to
Section 7-1-6.4 NMSA 1978."

SECTION 49. Section 7-19D-7 NMSA 1978 (being Laws 1993,
Chapter 346, Section 7, as amended) is amended to read:

"7-19D-7. COLLECTION BY DEPARTMENT [~~TRANSFER OF~~
~~PROCEEDS--DEDUCTIONS~~].--[A.] The department shall collect each
tax imposed pursuant to the provisions of the Municipal Local
Option Gross Receipts and Compensating Taxes Act in the same
manner and at the same time it collects the state gross
receipts [~~tax~~] and compensating taxes.

[~~B. Except as provided in Subsection C of this
section, the department shall withhold an administrative fee
pursuant to Section 1 of this 1997 act. The department shall
transfer to each municipality for which it is collecting a tax~~

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~~pursuant to the provisions of the Municipal Local Option Gross Receipts Taxes Act the amount of each tax collected for that municipality, less the administrative fee withheld and less any disbursements for tax credits, refunds and the payment of interest applicable to the tax. The transfer to the municipality shall be made within the month following the month in which the tax is collected.~~

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

SECTION 50. A new Section 7-19D-9.1 NMSA 1978 is enacted to read:

"7-19D-9.1. [NEW MATERIAL] MUNICIPAL COMPENSATING TAX.--

A. Beginning July 1, 2021, for the privilege of using tangible personal property in a municipality, there is imposed on the person using the property an excise tax at a rate equal to the combined gross receipts tax rates imposed and in effect pursuant to the Supplemental Municipal Gross Receipts Tax Act and the Municipal Local Option Gross Receipts and Compensating Taxes Act of the value of tangible personal property that was:

- (1) manufactured by the person using the

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property in the state; or

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

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

C. For the privilege of using a license or franchise in a municipality, there is imposed on the person using the license or franchise an excise tax equal to the tax rate provided in Subsection A of this section against the value of the license or franchise as determined pursuant to Section 7-9-7 NMSA 1978. The department by rule, ruling or instruction shall fairly apportion, where appropriate, the value of a license or franchise to its value in use in the municipality. For use of a license or franchise to be taxable under this subsection, the value of the license or franchise shall be acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the license or franchise been acquired from a person with nexus with this

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state.

D. For the privilege of using services in a municipality, there is imposed on the person using the services an excise tax at the rate provided in Subsection A of this section of the value of the services at the time the product of the service was acquired. For use of services to be taxable under this subsection, the services shall have been performed by a person outside this state and the product of which was acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the service or product of the service been acquired from a person with nexus with this state.

E. The governing body of a municipality may dedicate the revenue from the tax imposed pursuant to this section for any municipal purpose. If the governing body proposes to dedicate revenue for a specific purpose, the dedicated revenue shall be used by the municipality for that purpose unless a subsequent ordinance is adopted to change the purpose to which the revenue is dedicated or to place the revenue in the general fund of the municipality.

F. Any law that affects the municipal compensating tax, or any law supplemental or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any

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outstanding revenue bonds that may be secured by a pledge of such municipal compensating tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

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

SECTION 51. Section 7-20E-1 NMSA 1978 (being Laws 1993, Chapter 354, Section 1) is amended to read:

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

SECTION 52. Section 7-20E-7 NMSA 1978 (being Laws 1993, Chapter 354, Section 7, as amended) is amended to read:

"7-20E-7. COLLECTION BY DEPARTMENT [~~TRANSFER OF PROCEEDS--DEDUCTIONS~~].--[A.] The department shall collect each tax imposed pursuant to the provisions of the County Local Option Gross Receipts and Compensating Taxes Act in the same manner and at the same time it collects the state gross receipts [~~tax~~] and compensating taxes.

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

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~~tax is collected.]"~~

SECTION 53. A new Section 7-20E-9.1 NMSA 1978 is enacted to read:

"7-20E-9.1. [NEW MATERIAL] COUNTY COMPENSATING TAX.--

A. Beginning July 1, 2021, for the privilege of using tangible personal property in a county, there is imposed on the person using the property an excise tax at a rate equal to the combined gross receipts tax rates imposed and in effect pursuant to the Local Hospital Gross Receipts Tax Act, the County Local Option Gross Receipts and Compensating Taxes Act and the County Correctional Facility Gross Receipts Tax Act of the value of tangible personal property that was:

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

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

B. For the purpose of Subsection A of this section, the value of tangible personal property shall be the adjusted basis of the property for federal income tax purposes determined as of the time of acquisition or introduction into this state or of conversion to use, whichever is later. If no adjusted basis for federal income tax purposes is established

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for the property, a reasonable value of the property shall be used.

C. For the privilege of using a license or franchise in a county, there is imposed on the person using the license or franchise an excise tax equal to the tax rate provided in Subsection A of this section against the value of the license or franchise as determined pursuant to Section 7-9-7 NMSA 1978. The department by rule, ruling or instruction shall fairly apportion, where appropriate, the value of a license or franchise to its value in use in the county. For use of a license or franchise to be taxable under this subsection, the value of the license or franchise shall be acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the license or franchise been acquired from a person with nexus with this state.

D. For the privilege of using services in a county, there is imposed on the person using the services an excise tax at the rate provided in Subsection A of this section of the value of the services at the time the product of the service was acquired. For use of services to be taxable under this subsection, the services shall have been performed by a person outside this state and the product of which was acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the service or product of the service been acquired from a person with nexus with this state.

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

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

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

SCORC → ~~SECTION 54. Section 66-6-2 NMSA 1978 (being Laws 1978, Chapter 35, Section 337, as amended) is amended to read:~~
~~"66-6-2. PASSENGER VEHICLES--REGISTRATION FEES.--For the registration of motor vehicles other than motorcycles, trucks, buses and tractors, the division shall collect the following fees for each twelve-month registration period:~~

~~A. for a vehicle whose gross factory shipping~~

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~~weight is not more than two thousand pounds, [twenty-seven dollars (\$27.00)]; provided, however, that after five years of registration, calculated from the date when the vehicle was first registered in this or another state, the fee is twenty-one dollars (\$21.00)] thirty-three dollars seventy-five cents (\$33.75);~~

~~B. for a vehicle whose gross factory shipping weight is more than two thousand but not more than three thousand pounds, [thirty-nine dollars (\$39.00)]; provided, however, that after five years of registration, calculated from the date when the vehicle was first registered in this or another state, the fee is thirty-one dollars (\$31.00)] forty-eight dollars seventy-five cents (\$48.75);~~

~~C. for a vehicle whose gross factory shipping weight is more than three thousand pounds, [fifty-six dollars (\$56.00)]; provided, however, that after five years of registration, calculated from the date when the vehicle was first registered in this or another state, the fee is forty-five dollars (\$45.00)] seventy dollars (\$70.00); and~~

~~D. for a vehicle registered pursuant to the provisions of this section, a tire recycling fee of one dollar fifty cents (\$1.50)."~~

~~SECTION 55. Section 66-6-4 NMSA 1978 (being Laws 1978, Chapter 35, Section 339, as amended) is amended to read:~~

~~"66-6-4. REGISTRATION FEES--TRUCKS, TRUCK TRACTORS, ROAD TRACTORS AND BUSES.--~~

~~A. Within their respective jurisdictions, the motor vehicle division and the [motor transportation] New Mexico~~

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~~state police division of the department of public safety shall charge registration fees for trucks, truck tractors, road tractors and buses, except as otherwise provided by law, according to the schedule of Subsection B of this section.~~

B. Declared Gross Weight	Fee
001 to 4,000	[\$40] 50
4,001 to 6,000	{55} 65
6,001 to 8,000	{69} 79
8,001 to 10,000	{84} 94
10,001 to 12,000	{99} 109
12,001 to 14,000	{113} 123
14,001 to 16,000	{128} 138
16,001 to 18,000	{143} 153
18,001 to 20,000	{157} 167
20,001 to 22,000	{172} 182
22,001 to 24,000	{187} 197
24,001 to 26,000	{201} 211
26,001 to 48,000	{118} 128
48,001 and over	{172} 182.

~~{C. All trucks whose declared gross weight or whose gross vehicle weight is less than twenty-six thousand pounds, after five years of registration, calculated from the date when the vehicle was first registered in this or another state, shall be charged registration fees at eighty percent of the rate set out in Subsection B of this section.~~

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~~D.] C. All trucks with a gross vehicle weight of more than twenty-six thousand pounds and all truck tractors and road tractors used to tow freight trailers shall be registered on the basis of gross combination vehicle weight.~~

~~[E.] D. All trucks with a gross vehicle weight of twenty-six thousand pounds or less shall be registered on the basis of gross vehicle weight. A trailer, semitrailer or pole trailer towed by a truck of such gross vehicle weight shall be classified as a utility trailer for registration purposes unless otherwise provided by law.~~

~~[F.] E. All farm vehicles having a declared gross weight of more than six thousand pounds shall be charged registration fees of two-thirds of the rate of the respective fees provided in this section and shall be issued distinctive registration plates. "Farm vehicle" means a vehicle owned by a person whose principal occupation is farming or ranching and which vehicle is used principally in the transportation of farm and ranch products to market and farm and ranch supplies and livestock from the place of purchase to farms and ranches in this state; provided that the vehicle is not used for hire.~~

~~[G.] F. In addition to other registration fees imposed by this section, [beginning July 1, 1994] an annual tire recycling fee of one dollar fifty cents (\$1.50) is imposed at the time of registration on each vehicle subject to a registration fee pursuant to this section, except for vehicles with a declared gross weight of greater than twenty-six thousand pounds upon which registration fees are imposed by Subsection B of this section.~~

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~~{H.} G. Three percent of registration fees of trucks having from twenty-six thousand one pounds to forty-eight thousand pounds declared gross vehicle weight is to be transferred to the recycling and illegal dumping fund pursuant to the provisions of Section 66-6-23 NMSA 1978.~~

~~{I.} H. Three and seventy-five hundredths percent of registration fees of trucks in excess of forty-eight thousand pounds declared gross vehicle weight is to be transferred to the recycling and illegal dumping fund pursuant to the provisions of Section 66-6-23 NMSA 1978."~~ ← SCORC

SECTION 54. TEMPORARY PROVISION--REFERENCES IN LAW.--

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

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

SCORC → ~~SECTION 57. TEMPORARY PROVISION--UNDERPAID INCOME TAX DUE TO CHANGES MADE TO SECTIONS OF THE INCOME TAX ACT--FORGIVING PENALTIES AND INTEREST.--A taxpayer who paid income tax for taxable year 2019 in installments through withholding or estimated tax payments pursuant to Section 7-2-12.2 NMSA 1978 but underpaid due to the changes made to~~

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~~Sections 7-2-7 and 7-2-34 NMSA 1978 pursuant to this act shall not be subject to the penalties and interest provisions of the Tax Administration Act for the underpayment; provided that the underpayment is solely attributable to the changes made to Sections 7-2-7 and 7-2-34 NMSA 1978 pursuant to this act.~~←

CC→SECTION ~~57~~ 55. TEMPORARY PROVISION--UNDERPAID INCOME TAX DUE TO CHANGES MADE TO SECTIONS OF THE INCOME TAX ACT--FORGIVING PENALTIES AND INTEREST.--A taxpayer who paid income tax for taxable year 2019 in installments through withholding or estimated tax payments pursuant to Section 7-2-12.2 NMSA 1978 but underpaid due to the changes made to ~~Sections 7-2-7 and~~ Section 7-2-34 NMSA 1978 pursuant to this act shall not be subject to the penalties and interest provisions of the Tax Administration Act for the underpayment; provided that the underpayment is solely attributable to the changes made to ~~Sections 7-2-7 and~~ Section 7-2-34 NMSA 1978 pursuant to this act.←CC

SECTION ~~58~~ 56. REPEAL.--Sections 7-1-6.57 and 7-9-96.1 NMSA 1978 (being Laws 2007, Chapter 361, Sections 1 and 7) are repealed.

SECTION ~~59~~ 57. DELAYED REPEAL.--

A. Section SFC→SCORC→~~11~~ 9←SCORC←SFC of this act is repealed effective July 1, 2021.

B. Section 7-1-6.55 NMSA 1978 (being Laws 2007, Chapter 331, Section 4) is repealed effective July 1, 2021.

SCORC→C. Sections 7-2A-8 and 7-2A-8.4 NMSA 1978 (being Laws 1981, Chapter 37, Section 41 and Laws 1983, Chapter 213, Section 13, as amended) are repealed effective January 1,

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SCORC → ~~E~~ ~~D~~ ←SCORC. Sections 7-20C-5, 7-20E-5 and 7-20F-6 NMSA 1978 (being Laws 1991, Chapter 176, Section 5, Laws 1993, Chapter 354, Section 5 and Laws 1993, Chapter 303, Section 6, as amended) are repealed effective July 1, 2021.

CC → SFC → SCORC → ~~SECTION 60. APPLICABILITY. --~~

~~A. The provisions of Sections 13 through 16 of this act apply to taxable years beginning on or after January 1, 2019.~~

~~B. The provisions of Sections 17 through 21 of this act apply to taxable years beginning on or after January 1, 2020.~~

~~SECTION 61. EFFECTIVE DATE. --~~

~~A. The effective date of the provisions of Sections 1 through 11, 22 through 28, 30, 32 through 49, 51, 52 and 54 through 58 of this act is July 1, 2019.~~

~~B. The effective date of the provisions of Sections 17 through 21 of this act is January 1, 2020.~~

~~C. The effective date of the provisions of Sections 12, 29, 31, 50 and 53 of this act is July 1,~~

2021. ←SCORC ←SFC ←CC

CC → SCORC → ~~SECTION 60. APPLICABILITY. --~~

~~A. The provisions of Sections 13 through 16 of this act apply to taxable years beginning on or after January 1, 2019.~~

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~~B. The provisions of Sections 17 through 21 of this act apply to taxable years beginning on or after January 1, 2020.~~

~~SECTION 61. EFFECTIVE DATE.--~~

~~A. The effective date of the provisions of Sections 1 through 11, 22 through 28, 30, 32 through 49, 51, 52 and 54 through 58 of this act is July 1, 2019.~~

~~B. The effective date of the provisions of Sections 17 through 21 of this act is January 1, 2020.~~

~~C. The effective date of the provisions of Sections 12, 29, 31, 50 and 53 of this act is July 1, 2021.←SCORG←CC~~

~~SFC→SCORG→SECTION 54. APPLICABILITY.--~~

~~A. The provisions of Sections 11 and 12 of this act apply to taxable years beginning on or after January 1, 2019.~~

~~B. The provisions of Sections 13 through 19 of this act apply to taxable years beginning on or after January 1, 2020.~~

~~SECTION 55. EFFECTIVE DATE.--~~

~~A. The effective date of the provisions of Sections 1 through 9, 20 through 26, 28, 30 through 46, 48, 49, 51 and 52 of this act is July 1, 2019.~~

~~B. The effective date of the provisions of Sections 13 through 19 of this act is January 1, 2020.~~

~~C. The effective date of the provisions of Sections 10, 27, 29, 47 and 50 of this act is July 1, 2021.←SCORG←SFC~~

~~CC→SFC→SECTION 54. DELAYED REPEAL.--Sections 7-2A-8 and 7-2A-8.4 NMSA 1978 (being Laws 1981, Chapter 37, Section 41 and Laws 1983, Chapter 213, Section 13, as amended) are repealed~~

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~~effective January 1, 2020.~~

~~SECTION 55. APPLICABILITY.--~~

~~A. The provisions of Sections 11 and 12 of this act apply to taxable years beginning on or after January 1, 2019.~~

~~B. The provisions of Sections 13 through 19 and 54 of this act apply to taxable years beginning on or after January 1, 2020.~~

~~SECTION 56. EFFECTIVE DATE.--~~

~~A. The effective date of the provisions of Sections 1 through 9, 20 through 26, 28, 30 through 46, 48, 49, 51 and 52 of this act is July 1, 2019.~~

~~B. The effective date of the provisions of Sections 13 through 19 and 54 of this act is January 1, 2020.~~

~~C. The effective date of the provisions of Sections 10, 27, 29, 47 and 50 of this act is July 1, 2021.~~ ←SFC←CC

CC→SECTION 58. DELAYED REPEAL.--Sections 7-2A-8 and 7-2A-8.4 NMSA 1978 (being Laws 1981, Chapter 37, Section 41 and Laws 1983, Chapter 213, Section 13, as amended) are repealed effective January 1, 2020.

SECTION 59. APPLICABILITY.--

A. The provisions of Sections 13 through 15 of this act apply to taxable years beginning on or after January 1, 2019.

B. The provisions of Sections 16 through 22 and 58 of this act apply to taxable years beginning on or after

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January 1, 2020.

C. The provisions of Section 12 of this act apply to taxable years beginning on or after January 1, 2021.

SECTION 60. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 10, 23 through 29, 31, 33 through 49, 51, 52 and 54 through 56 of this act is July 1, 2019.

B. The effective date of the provisions of Sections 16 through 22 of this act is January 1, 2020.

C. The effective date of the provisions of Sections 11, 30, 32, 50 and 53 of this act is July 1, 2021.

SECTION 61. CONTINGENT EFFECTIVE DATE.--The effective date of the provisions of Section 12 of this act is the date on which the secretary of finance and administration certifies to the New Mexico compilation commission and the director of the legislative council service that fiscal year 2020 recurring general fund revenues are less than five percent above fiscal year 2019 recurring general fund revenues. If the certification is not made prior to February 19, 2021, the provisions of Section 12 of this act shall not take effect.←CC