

1 AN ACT

2 RELATING TO TAXATION; AMENDING PERSONAL INCOME TAX BRACKETS;
3 LIMITING THE CAPITAL GAINS DEDUCTION FROM NET INCOME;
4 FORGIVING PENALTIES AND INTEREST FOR CERTAIN INCOME TAX
5 LIABILITIES; CREATING AN INCOME TAX DEPENDENT DEDUCTION;
6 INCREASING THE WORKING FAMILIES TAX CREDIT; REQUIRING
7 COMBINED REPORTING FOR A UNITARY GROUP; CHANGING REQUIREMENTS
8 FOR CORPORATIONS TO FILE A CONSOLIDATED RETURN; AMENDING AND
9 ADDING DEFINITIONS PURSUANT TO THE CORPORATE INCOME AND
10 FRANCHISE TAX ACT; CREATING A CORPORATE INCOME TAX DEDUCTION
11 TO OFFSET MATERIAL FINANCIAL EFFECTS OF CHANGES IN DEFERRED
12 TAX AMOUNTS; AMENDING THE UNIFORM DIVISION OF INCOME FOR TAX
13 PURPOSES ACT TO DETERMINE IN-STATE SALES OF INTANGIBLES AND
14 SERVICES BASED ON MARKET SOURCING RATHER THAN COST OF
15 PERFORMANCE; PROVIDING THAT THE COMPENSATING TAX RATE FOR
16 SERVICES EQUAL THE SAME RATE AS FOR PROPERTY; EXPANDING THE
17 IMPOSITION OF THAT TAX; PROVIDING FOR TAXATION OF CERTAIN
18 INTERNET SELLERS PURSUANT TO THE GROSS RECEIPTS AND
19 COMPENSATING TAX ACT; AMENDING SOURCING RULES FROM THE
20 PLACE OF BUSINESS OF THE SELLER TO DESTINATION-BASED
21 SOURCING; LIMITING AUDITS OF MARKETPLACE PROVIDERS AND
22 MARKETPLACE SELLERS; PROVIDING FOR THE TAXATION OF
23 FOR-PROFIT, NONPROFIT AND GOVERNMENT HOSPITALS PURSUANT TO
24 THE GROSS RECEIPTS AND COMPENSATING TAX ACT; EXEMPTING
25 NONPROFIT HOSPITALS FROM LOCAL OPTION GROSS RECEIPTS TAXES;

1 INCREASING THE CIGARETTE TAX; IMPOSING THE TOBACCO PRODUCTS
2 TAX ON LITTLE CIGARS AND E-LIQUID USED IN E-CIGARETTES;
3 REDUCING THE RATE OF TOBACCO PRODUCTS TAX ON CIGARS;
4 ~~PROVIDING A DISCOUNT IN TAX FOR CERTAIN CIGARETTES AND~~
5 ~~TOBACCO PRODUCTS;~~ INCREASING THE RATE OF THE MOTOR VEHICLE
6 EXCISE TAX; AMENDING THE DISTRIBUTION OF THE REVENUE OF THE
7 MOTOR VEHICLE EXCISE TAX; TEMPORARILY DISTRIBUTING A PORTION
8 OF THE REVENUE TO THE DEPARTMENT OF TRANSPORTATION TO
9 MITIGATE THE EMERGENCY ROAD CONDITIONS RELATED TO ACTIVITY
10 IN THE OIL FIELD IN STATE TRANSPORTATION COMMISSION DISTRICT
11 2 AND THEN DISTRIBUTING A PORTION OF THE REVENUE TO THE
12 LOCAL GOVERNMENTS ROAD FUND; IMPOSING A MUNICIPAL
13 COMPENSATING TAX AND A COUNTY COMPENSATING TAX; AMENDING,
14 REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN
15 APPROPRIATION.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

20 "7-1-2. APPLICABILITY.--The Tax Administration Act
21 applies to and governs:

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

25 (1) Income Tax Act;

- 1 (2) Withholding Tax Act;
- 2 (3) Oil and Gas Proceeds and Pass-Through
- 3 Entity Withholding Tax Act;
- 4 (4) Gross Receipts and Compensating Tax Act,
- 5 Interstate Telecommunications Gross Receipts Tax Act and
- 6 Leased Vehicle Gross Receipts Tax Act;
- 7 (5) Liquor Excise Tax Act;
- 8 (6) Local Liquor Excise Tax Act;
- 9 (7) any municipal local option gross
- 10 receipts tax or municipal compensating tax;
- 11 (8) any county local option gross receipts
- 12 tax or county compensating tax;
- 13 (9) Special Fuels Supplier Tax Act;
- 14 (10) Gasoline Tax Act;
- 15 (11) petroleum products loading fee, which
- 16 fee shall be considered a tax for the purpose of the Tax
- 17 Administration Act;
- 18 (12) Alternative Fuel Tax Act;
- 19 (13) Cigarette Tax Act;
- 20 (14) Estate Tax Act;
- 21 (15) Railroad Car Company Tax Act;
- 22 (16) Investment Credit Act, rural job tax
- 23 credit, Laboratory Partnership with Small Business Tax Credit
- 24 Act, Technology Jobs and Research and Development Tax Credit
- 25 Act, Film Production Tax Credit Act, Affordable Housing Tax

1 Credit Act and high-wage jobs tax credit;

2 (17) Corporate Income and Franchise Tax Act;

3 (18) Uniform Division of Income for Tax

4 Purposes Act;

5 (19) Multistate Tax Compact;

6 (20) Tobacco Products Tax Act; and

7 (21) the telecommunications relay service

8 surcharge imposed by Section 63-9F-11 NMSA 1978, which

9 surcharge shall be considered a tax for the purposes of the

10 Tax Administration Act;

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

14 (1) Resources Excise Tax Act;

15 (2) Severance Tax Act;

16 (3) any severance surtax;

17 (4) Oil and Gas Severance Tax Act;

18 (5) Oil and Gas Conservation Tax Act;

19 (6) Oil and Gas Emergency School Tax Act;

20 (7) Oil and Gas Ad Valorem Production Tax

21 Act;

22 (8) Natural Gas Processors Tax Act;

23 (9) Oil and Gas Production Equipment Ad

24 Valorem Tax Act;

25 (10) Copper Production Ad Valorem Tax Act;

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

5 (12) Enhanced Oil Recovery Act;

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

8 (14) intergovernmental production tax credit
9 and intergovernmental production equipment tax credit;

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

13 (1) Weight Distance Tax Act;

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

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

18 (4) 911 emergency surcharge and the network
19 and database surcharge, which surcharges shall be considered
20 taxes for purposes of the Tax Administration Act;

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

24 (6) the water conservation fee imposed by
25 Section 74-1-13 NMSA 1978, which fee shall be considered a

1 tax for the purposes of the Tax Administration Act; and

2 (7) the gaming tax imposed pursuant to the
3 Gaming Control Act; and

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

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

11 "7-1-3. DEFINITIONS.--Unless the context clearly
12 indicates a different meaning, the definitions of words and
13 phrases as they are stated in this section are to be used,
14 and whenever in the Tax Administration Act these words and
15 phrases appear, the singular includes the plural and the
16 plural includes the singular:

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

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

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

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

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

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

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

16 G. "hearing officer" means a person who has been
17 designated by the chief hearing officer to serve as a hearing
18 officer and who is:

19 (1) the chief hearing officer;

20 (2) an employee of the administrative
21 hearings office; or

22 (3) a contractor of the administrative
23 hearings office;

24 H. "Internal Revenue Code" means the Internal
25 Revenue Code of 1986, as that code may be amended or its

1 sections renumbered;

2 I. "levy" means the lawful power, hereby invested
3 in the secretary, to take into possession or to require the
4 present or future surrender to the secretary or the
5 secretary's delegate of any property or rights to property
6 belonging to a delinquent taxpayer;

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

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

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

23 M. "overpayment" means an amount paid, pursuant to
24 any law subject to administration and enforcement under the
25 provisions of the Tax Administration Act, by a person to the

1 department or withheld from the person in excess of tax due
2 from the person to the state at the time of the payment or at
3 the time the amount withheld is credited against tax due;

4 N. "paid" includes the term "paid over";

5 O. "pay" includes the term "pay over";

6 P. "payment" includes the term "payment over";

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

20 R. "property" means property or rights to
21 property;

22 S. "property or rights to property" means any
23 tangible property, real or personal, or any intangible
24 property of a taxpayer;

25 T. "return" means any tax or information return,

1 application or form, declaration of estimated tax or claim
2 for refund, including any amendments or supplements to the
3 return, required or permitted pursuant to a law subject to
4 administration and enforcement pursuant to the Tax
5 Administration Act and filed with the secretary or the
6 secretary's delegate by or on behalf of any person;

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

23 V. "secretary" means the secretary of taxation and
24 revenue and, except for purposes of Subsection B of Section
25 7-1-4 NMSA 1978, also includes the deputy secretary or a

1 division director or deputy division director delegated by
2 the secretary;

3 W. "secretary or the secretary's delegate" means
4 the secretary or any employee of the department exercising
5 authority lawfully delegated to that employee by the
6 secretary;

7 X. "security" means money, property or rights to
8 property or a surety bond;

9 Y. "state" means any state of the United States,
10 the District of Columbia, the commonwealth of Puerto Rico and
11 any territory or possession of the United States;

12 Z. "tax" means the total amount of each tax
13 imposed and required to be paid, withheld and paid or
14 collected and paid under provision of any law made subject to
15 administration and enforcement according to the provisions of
16 the Tax Administration Act, including the amount of any
17 interest or civil penalty relating thereto; "tax" also means
18 any amount of any abatement of tax made or any credit, rebate
19 or refund paid or credited by the department under any law
20 subject to administration and enforcement under the
21 provisions of the Tax Administration Act to any person
22 contrary to law, including the amount of any interest or
23 civil penalty relating thereto;

24 AA. "tax return preparer" means a person who
25 prepares for others for compensation or who employs one or

1 more persons to prepare for others for compensation any
2 return of income tax, a substantial portion of any return of
3 income tax, any claim for refund with respect to income tax
4 or a substantial portion of any claim for refund with respect
5 to income tax; provided that a person shall not be a "tax
6 return preparer" merely because such person:

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

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

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

17 BB. "taxpayer" means a person liable for payment
18 of any tax; a person responsible for withholding and payment
19 or for collection and payment of any tax; a person to whom an
20 assessment has been made, if the assessment remains unabated
21 or the amount thereof has not been paid; or a person who
22 entered into a special agreement pursuant to Section 7-1-21.1
23 NMSA 1978 to assume the liability of gross receipts tax or
24 governmental gross receipts tax of another person and the
25 special agreement was approved by the secretary pursuant to

1 the Tax Administration Act."

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

4 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS
5 RECEIPTS TAX.--

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

17 (1) within that municipality;

18 (2) on land owned by the state, commonly
19 known as the "state fairgrounds", within the exterior
20 boundaries of that municipality;

21 (3) outside the boundaries of any
22 municipality on land owned by that municipality; and

23 (4) on an Indian reservation or pueblo grant
24 in an area that is contiguous to that municipality and in
25 which the municipality performs services pursuant to a

1 contract between the municipality and the Indian tribe or
2 Indian pueblo if:

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

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

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

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

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

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

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

12 "7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

13 A. A distribution pursuant to Section 7-1-6.1 NMSA
14 1978 shall be made to the comprehensive cancer center at the
15 university of New Mexico health sciences center in an amount
16 equal to seventy-one hundredths percent of the net receipts,
17 exclusive of penalties and interest, attributable to the
18 cigarette tax.

19 B. A distribution pursuant to Section 7-1-6.1 NMSA
20 1978 in an amount equal to seven and fifty-two hundredths
21 percent of the net receipts, exclusive of penalties and
22 interest, attributable to the cigarette tax, shall be made,
23 on behalf of and for the benefit of the university of New
24 Mexico health sciences center, to the New Mexico finance
25 authority.

1 C. A distribution pursuant to Section 7-1-6.1 NMSA
2 1978 in an amount equal to three and seventeen hundredths
3 percent of the net receipts, exclusive of penalties and
4 interest, attributable to the cigarette tax shall be made to
5 the New Mexico finance authority for land acquisition and the
6 planning, designing, construction and equipping of department
7 of health facilities or improvements to such facilities.

8 D. A distribution pursuant to Section 7-1-6.1 NMSA
9 1978 in an amount equal to eight and twenty-six hundredths
10 percent of the net receipts, exclusive of penalties and
11 interest, attributable to the cigarette tax shall be made to
12 the New Mexico finance authority for deposit in the credit
13 enhancement account created in the authority.

14 E. A distribution pursuant to Section 7-1-6.1 NMSA
15 1978 in an amount equal to fifty-three hundredths percent of
16 the net receipts, exclusive of penalties and interest,
17 attributable to the cigarette tax shall be made, on behalf of
18 and for the benefit of the rural county cancer treatment
19 fund, to the New Mexico finance authority."

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

22 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL
23 OPTION GROSS RECEIPTS AND COMPENSATING TAXES.--

24 A. A transfer pursuant to Section 7-1-6.1 NMSA
25 1978 shall be made to each municipality for which the

1 department is collecting a local option gross receipts tax
2 and municipal compensating tax imposed by that municipality
3 in an amount, subject to any increase or decrease made
4 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
5 receipts attributable to the local option gross receipts tax
6 and municipal compensating tax imposed by that municipality,
7 less any deduction for administrative cost determined and
8 made by the department pursuant to the provisions of the act
9 authorizing imposition by that municipality of the local
10 option gross receipts tax and municipal compensating tax and
11 any additional administrative fee withheld pursuant to
12 Section 7-1-6.41 NMSA 1978.

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

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

20 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
21 GROSS RECEIPTS AND COMPENSATING TAXES.--

22 A. Except as provided in Subsection B of this
23 section, a transfer pursuant to Section 7-1-6.1 NMSA 1978
24 shall be made to each county for which the department is
25 collecting a local option gross receipts tax and county

1 compensating tax imposed by that county in an amount, subject
2 to any increase or decrease made pursuant to Section 7-1-6.15
3 NMSA 1978, equal to the net receipts attributable to the
4 local option gross receipts tax and county compensating tax
5 imposed by that county, less any deduction for administrative
6 cost determined and made by the department pursuant to the
7 provisions of the act authorizing imposition by that county
8 of the local option gross receipts tax and county
9 compensating tax and any additional administrative fee
10 withheld pursuant to Section 7-1-6.41 NMSA 1978.

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

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

20 ~~"7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO~~
21 ~~MUNICIPALITIES OR COUNTIES.--~~

22 ~~A. The provisions of this section apply to:~~

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

25 ~~(2) any transfer to a municipality with~~

1 ~~respect to any local option gross receipts tax or municipal~~
2 ~~compensating tax imposed by that municipality;~~

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

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

8 ~~(5) any distribution to a municipality or a~~
9 ~~county of gasoline taxes pursuant to Section 7-1-6.9 NMSA~~
10 ~~1978;~~

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

14 ~~(7) any distribution to a county from the~~
15 ~~county government road fund pursuant to Section 7-1-6.26 NMSA~~
16 ~~1978;~~

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

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

21 ~~B. Before making a distribution or transfer~~
22 ~~specified in Subsection A of this section to a municipality~~
23 ~~or county for the month, amounts comprising the net receipts~~
24 ~~shall be segregated into two mutually exclusive categories.~~

25 ~~One category shall be for amounts relating to the current~~

1 month, and the other category shall be for amounts relating
2 to prior periods. The total of each category for a
3 municipality or county shall be reported each month to that
4 municipality or county. If the total of the amounts relating
5 to prior periods is less than zero and its absolute value
6 exceeds the greater of one hundred dollars (\$100) or an
7 amount equal to twenty percent of the average distribution or
8 transfer amount for that municipality or county, then the
9 following procedures shall be carried out:

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

20 (2) if the revised total for prior periods
21 determined pursuant to Paragraph (1) of this subsection is
22 negative and its absolute value exceeds the greater of one
23 hundred dollars (\$100) or an amount equal to twenty percent
24 of the average distribution or transfer amount for that
25 municipality or county, the revised total for prior periods

1 shall be excluded from the distribution or transfers and the
2 net receipts to be distributed or transferred to the
3 municipality or county shall be equal to the amount for the
4 current month.

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

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

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

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

23 (3) that if the municipality or county takes
24 no action within the ninety-day period, the department will
25 recover the amount from the next six distributions or

1 ~~transfers following the expiration of the ninety days; and~~

2 ~~(4) that the municipality or county may~~
3 ~~inspect, pursuant to Section 7-1-8.9 NMSA 1978, an~~
4 ~~application for a claim for refund that gave rise to the~~
5 ~~recoverable amount, exclusive of any amended returns that may~~
6 ~~be attached to the application.~~

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

11 ~~(1) the department may collect the~~
12 ~~recoverable amount by:~~

13 ~~(a) decreasing distributions or~~
14 ~~transfers to the municipality or county in accordance with a~~
15 ~~repayment agreement entered into with the municipality or~~
16 ~~county; or~~

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

24 ~~(2) if, pursuant to Subsection B of this~~
25 ~~section, the secretary determines that the recoverable amount~~

1 ~~is more than fifty percent of the average distribution or~~
2 ~~transfer of net receipts for that municipality or county, the~~
3 ~~secretary:~~

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

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

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

21 ~~F. No later than ninety days from the date notice~~
22 ~~pursuant to Subsection D of this section is given, the~~
23 ~~department shall provide the municipality or county adequate~~
24 ~~opportunity to review an application for a claim for refund~~
25 ~~that gave rise to the recoverable amount, exclusive of any~~

1 ~~amended returns that may be attached to the application,~~
2 ~~pursuant to Section 7-1-8.9 NMSA 1978.~~

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

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

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

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

22 ~~(2) after an adjustment of a distribution or~~
23 ~~transfer of net receipts creating a recoverable amount owed~~
24 ~~to the department shall be subordinate to any collection of~~
25 ~~any recoverable amount pursuant to Paragraph (2) of~~

1 ~~Subsection B of this section.~~

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

21 ~~J. As used in this section:~~

22 ~~(1) "amounts relating to the current month"~~
23 ~~means any amounts included in the net receipts of the current~~
24 ~~month that represent payment of tax due for the current~~
25 ~~month, correction of amounts processed in the current month~~

1 ~~that relate to the current month or that otherwise relate to~~
2 ~~obligations due for the current month;~~

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

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

15 ~~(a) the average monthly amount~~
16 ~~distributed or transferred to a municipality or county in the~~
17 ~~thirty-six-month period preceding the current month;~~

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

22 ~~(c) if distribution or transfer to a~~
23 ~~municipality or county has been made for less than twelve~~
24 ~~months, the average monthly amount distributed or transferred~~
25 ~~to the municipality or county in the months preceding the~~

1 ~~current month;~~

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

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

13 SECTION 8. Section 7-1-6.38 NMSA 1978 (being Laws 1994,
14 Chapter 145, Section 1, as amended) is amended to read:

15 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL GROSS RECEIPTS
16 TAX.--

17 A. A distribution pursuant to Section 7-1-6.1 NMSA
18 1978 shall be made in amounts equal to the following
19 percentages of the net receipts attributable to the
20 governmental gross receipts tax, less the net receipts
21 attributable to a hospital licensed by the department of
22 health:

23 (1) seventy-five percent to the public
24 project revolving fund administered by the New Mexico finance
25 authority;

1 (2) twenty-four percent to the energy,
2 minerals and natural resources department; provided that
3 forty-one and two-thirds percent of the distribution is
4 appropriated to the energy, minerals and natural resources
5 department to implement the provisions of the New Mexico
6 Youth Conservation Corps Act and fifty-eight and one-third
7 percent of the distribution is appropriated to the energy,
8 minerals and natural resources department for state park and
9 recreation area capital improvements, including the costs of
10 planning, engineering, design, construction, renovation,
11 repair, equipment and furnishings; and

12 (3) one percent to the cultural affairs
13 department for capital improvements at state museums and
14 monuments administered by the cultural affairs department.

15 B. The state pledges to and agrees with the
16 holders of any bonds or notes issued by the New Mexico
17 finance authority or by the energy, minerals and natural
18 resources department and payable from the net receipts
19 attributable to the governmental gross receipts tax
20 distributed to the New Mexico finance authority or the
21 energy, minerals and natural resources department pursuant to
22 this section that the state will not limit, reduce or alter
23 the distribution of the net receipts attributable to the
24 governmental gross receipts tax to the New Mexico finance
25 authority or the energy, minerals and natural resources

1 department or limit, reduce or alter the rate of imposition
2 of the governmental gross receipts tax until the bonds or
3 notes together with the interest thereon are fully met and
4 discharged. The New Mexico finance authority and the energy,
5 minerals and natural resources department are authorized to
6 include this pledge and agreement of the state in any
7 agreement with the holders of the bonds or notes."

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

10 "DISTRIBUTION--MUNICIPALITIES AND COUNTIES.--

11 A. Prior to July 1, 2021, a distribution pursuant
12 to Section 7-1-6.1 NMSA 1978 shall be made to municipalities
13 from the net receipts attributable to the gross receipts tax
14 in an amount equal to one million two hundred fifty thousand
15 dollars (\$1,250,000). The amount to be distributed to each
16 municipality shall be in proportion to the population of each
17 municipality in the proportion that the population of each
18 municipality is to the total population of all
19 municipalities, according to the most recent federal
20 decennial census.

21 B. Prior to July 1, 2021, a distribution pursuant
22 to Section 7-1-6.1 NMSA 1978 shall be made to counties from
23 the net receipts attributable to the gross receipts tax in an
24 amount equal to seven hundred fifty thousand dollars
25 (\$750,000). The amount to be distributed to each county

1 shall be in the proportion that the population of each county
2 is to the total population of all counties, according to the
3 most recent federal decennial census."

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

6 "7-1-11. INSPECTION OF BOOKS OF TAXPAYERS--EXCEPTION
7 FOR MARKETPLACE PROVIDERS AND MARKETPLACE
8 SELLERS--CREDENTIALS.--

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

14 B. The department shall audit a marketplace
15 provider, but not a marketplace seller, with respect to gross
16 receipts from transactions facilitated by a marketplace
17 provider and for which the marketplace seller may claim a
18 deduction pursuant to Section 36 of this 2019 act, unless an
19 audit of the marketplace seller is necessary to determine the
20 correct amount of tax due, including examining the
21 marketplace seller:

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

24 (2) to determine if the marketplace provider
25 should be relieved of liability pursuant to Subsection C of

1 Section 7-9-5 NMSA 1978; or

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

4 C. Auditors and other officials of the department
5 designated by the secretary are authorized to request and
6 require the production for examination of the records and
7 books of account of a taxpayer. Auditors and officials of
8 the department designated by the secretary shall be furnished
9 with credentials identifying them as such, which they shall
10 display to any taxpayer whose books are sought to be
11 examined.

12 D. Taxpayers shall upon request make their records
13 and books of account available for inspection at reasonable
14 hours to the secretary or the secretary's delegate who
15 presents proper identification to the taxpayer.

16 E. If the taxpayer's records and books of account
17 do not exist or are insufficient to determine the taxpayer's
18 tax liability, if any, the department may use any reasonable
19 method of estimating the tax liability, including using
20 information about similar persons, businesses or industries
21 to estimate the taxpayer's liability.

22 F. The secretary or the secretary's delegate shall
23 develop and maintain written audit policies and procedures
24 for all audit programs in which the department routinely
25 conducts field audits of taxpayers, including policies and

1 procedures concerning audit notification, scheduling, records
2 that may be examined, analysis that may be done, sampling
3 procedures, gathering information or evidence from third
4 parties, policies concerning the rights of taxpayers under
5 audit and related matters. Department audit policies and
6 procedures shall be made available to a person who requests
7 them, at a reasonable charge to defray the cost of preparing
8 and distributing those policies and procedures.

9 G. Nothing in this section shall be construed to
10 require the department to provide the following:

- 11 (1) information that is confidential
12 pursuant to Section 7-1-8 NMSA 1978; or
13 (2) methods, techniques and analysis used to
14 select taxpayers for audit, including the use of:
15 (a) data analytics;
16 (b) data mining;
17 (c) a scoring model;
18 (d) internal controls; and
19 (e) metadata used to detect fraud and
20 noncompliance.

21 H. For purposes of this section:

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

25 (2) "data mining" means the process of

1 analyzing data from different perspectives and summarizing it
2 into useful information by collecting data into data sets for
3 the purpose of discovering patterns;

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

7 (4) "methods, techniques and analysis" means
8 a systematic way to accomplish a tactic, qualitative or
9 quantitative component of research and the use of a specific
10 method;

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

15 (6) "marketplace provider" means a
16 "marketplace provider", as that term is used in the Gross
17 Receipts and Compensating Tax Act;

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

21 (8) "metadata" means data that provides
22 information about other data."

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

1 "7-1-14. LOCATION WHERE CERTAIN GROSS RECEIPTS ARE TO
2 BE REPORTED--LOCATION FOR TRANSACTIONS SUBJECT TO THE
3 COMPENSATING TAX.--

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

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

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

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

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

25 (c) for a person engaged in the

1 business of providing services with respect to the selling of
2 real estate, the location of the real property is the "place
3 of business", and all gross receipts and deductions from that
4 sale are to be reported from that place of business; and

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

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

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

18 B. Consistent with this section and with
19 intergovernmental agreements, the secretary may, by rule,
20 provide for the reporting of gross receipts and deductions
21 from transactions not otherwise specified in this section,
22 including reporting gross receipts and deductions to
23 locations:

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

1 (2) for reporting tax imposed by taxing
2 jurisdictions at the jurisdiction's location, including:
3 (a) outside a municipality;
4 (b) within an Indian reservation or
5 pueblo grant;
6 (c) within a tax increment development
7 district; and
8 (d) within any other taxing
9 jurisdiction.

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

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

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

25 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed

1 by Section 7-2-3 NMSA 1978 shall be at the following rates
2 for any taxable year beginning on or after January 1, 2021:

3 A. For married individuals filing separate
4 returns:

5 If the taxable income is:	The tax shall be:
6 Not over \$4,000	1.7% of taxable income
7 Over \$4,000 but not over \$8,000	\$68.00 plus 3.2% of
8	excess over \$4,000
9 Over \$8,000 but not over \$12,000	\$196 plus 4.7% of
10	excess over \$8,000
11 Over \$12,000 but not over \$157,500	\$384 plus 4.9% of
12	excess over \$12,000
13 Over \$157,500	\$7,513.50 plus 5.9% of
14	excess over \$157,500.

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

17 If the taxable income is:	The tax shall be:
18 Not over \$8,000	1.7% of taxable income
19 Over \$8,000 but not over \$16,000	\$136 plus 3.2% of
20	excess over \$8,000
21 Over \$16,000 but not over \$24,000	\$392 plus 4.7% of
22	excess over \$16,000
23 Over \$24,000 but not over \$315,000	\$768 plus 4.9% of
24	excess over \$24,000
25 Over \$315,000	\$15,027 plus 5.9% of

1 excess over \$315,000.

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

4 If the taxable income is:	5 The tax shall be:
6 Not over \$5,500	7 1.7% of taxable income
8 Over \$5,500 but not over \$11,000	9 \$93.50 plus 3.2% of 10 excess over \$5,500
11 Over \$11,000 but not over \$16,000	12 \$269.50 plus 4.7% of 13 excess over \$11,000
14 Over \$16,000 but not over \$210,000	15 \$504.50 plus 4.9% of 16 excess over \$16,000
17 Over \$210,000	18 \$10,010.50 plus 5.9% of 19 excess over \$210,000.

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

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

25 (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."

SECTION 13. 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.--

1 A. A resident who files an individual New Mexico
2 income tax return may claim a credit in an amount equal to
3 seventeen percent of the federal income tax credit for which
4 that individual is eligible for the same taxable year
5 pursuant to Section 32 of the Internal Revenue Code. The
6 credit provided in this section may be referred to as the
7 "working families tax credit".

8 B. The working families tax credit may be deducted
9 from the income tax liability of an individual who claims the
10 credit and qualifies for the credit pursuant to this section.
11 If the credit exceeds the individual's income tax liability
12 for the taxable year, the excess shall be refunded to the
13 individual."

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

16 "7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

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

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

23 (2) forty percent of the taxpayer's net
24 capital gain income for the taxable year for which the
25 deduction is being claimed.

1 B. Married individuals who file separate returns
2 for a taxable year in which they could have filed a joint
3 return may each claim only one-half of the deduction provided
4 by this section that would have been allowed on the joint
5 return.

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

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

12 **SECTION 15.** A new section of the Income Tax Act is
13 enacted to read:

14 "DEDUCTION FROM NET INCOME FOR CERTAIN DEPENDENTS.--

15 A. As long as the exemption amount pursuant to
16 Section 151 of the Internal Revenue Code means zero, a
17 taxpayer who is not a dependent of another individual and
18 files a return as a head of household or married filing
19 jointly may claim a deduction from net income in an amount
20 equal to the product of four thousand dollars (\$4,000)
21 multiplied by the difference between the number of dependents
22 claimed on the taxpayer's return and one.

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

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

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

13 **SECTION 16.** Section 7-2A-2 NMSA 1978 (being Laws 1986,
14 Chapter 20, Section 33, as amended) is amended to read:

15 "7-2A-2. DEFINITIONS.--For the purpose of the Corporate
16 Income and Franchise Tax Act and unless the context requires
17 otherwise:

18 A. "bank" means any national bank, national
19 banking association, state bank or bank holding company;

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

1 the filing group;

2 C. "base income" means the federal taxable income
3 or the federal net operating loss of a corporation for the
4 taxable year calculated pursuant to the Internal Revenue
5 Code, after special deductions provided in Sections 241
6 through 249 of the Internal Revenue Code but without any
7 deduction for net operating losses, as if the corporation
8 filed a federal tax return as a separate domestic entity,
9 modified as follows:

10 (1) adding to that income:

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

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

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

21 (2) subtracting from that income:

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

24 (b) other amounts that the state is
25 prohibited from taxing because of the laws or constitution of

1 this state or the United States net of any related expenses;

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

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

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

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

25 E. "common ownership" means the direct or indirect

1 control or ownership of more than fifty percent of the
2 outstanding voting stock, ownership of which is determined
3 pursuant to Section 1563 of the Internal Revenue Code, as
4 that section may be amended or renumbered, of:

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

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

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

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

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

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

21 G. "corporation" means corporations, joint stock
22 companies, real estate trusts organized and operated under
23 the Real Estate Trust Act, financial corporations and banks,
24 other business associations and, for corporate income tax
25 purposes, partnerships and limited liability companies taxed

1 as corporations under the Internal Revenue Code;

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

6 I. "filing group" means a group of corporations
7 properly included in a return pursuant to Section 7-2A-8.3
8 NMSA 1978 for a particular taxable year;

9 J. "fiscal year" means any accounting period of
10 twelve months ending on the last day of any month other than
11 December;

12 K. "grandfathered net operating loss carryover"
13 means:

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

22 (2) reduced by:

23 (a) adding back deductions that were
24 taken by the corporation or corporations for royalties or
25 interest paid to one or more related corporations, but only

1 to the extent that such adjustment would not create a net
2 loss for such related corporations; and

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

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

12 L. "Internal Revenue Code" means the United States
13 Internal Revenue Code of 1986, as amended;

14 M. "net income" means:

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

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

23 N. "net operating loss carryover" means the
24 apportioned net loss properly reported on an original or
25 amended tax return for taxable years beginning on or after

1 January 1, 2020 by the taxpayer:

2
3 (1) plus:

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

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

14 (2) minus:

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

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

23 O. "net operating loss deduction" means the
24 portion of the net operating loss carryover that may be
25 deducted from the taxpayer's apportioned net income under the

1 Internal Revenue Code for the taxable year in which the
2 deduction is taken, including the eighty percent limitation
3 of Section 172(a) of the Internal Revenue Code calculated on
4 the basis of the taxpayer's apportioned net income;

5 P. "person" means any individual, estate, trust,
6 receiver, cooperative association, club, corporation,
7 company, firm, partnership, limited liability company, joint
8 venture, syndicate or other association; "person" also means,
9 to the extent permitted by law, any federal, state or other
10 governmental unit or subdivision or agency, department or
11 instrumentality thereof;

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

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

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

1 T. "secretary" means the secretary of taxation and
2 revenue or the secretary's delegate;

3
4 U. "separate year return" means a properly filed
5 original or amended return for a taxable year beginning on or
6 after January 1, 2020 by a taxpayer reporting a loss, a
7 portion of which is claimed as part of the net operating loss
8 carryover by another taxpayer in a subsequent return period;

9 V. "state" means any state of the United States,
10 the District of Columbia, the commonwealth of Puerto Rico,
11 any territory or possession of the United States or political
12 subdivision thereof or any political subdivision of a foreign
13 country;

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

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

23 Y. "taxable year" means the calendar year or
24 fiscal year upon the basis of which the net income is
25 computed under the Corporate Income and Franchise Tax Act and

1 includes, in the case of the return made for a fractional
2 part of a year under the provisions of that act, the period
3 for which the return is made;

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

8 AA. "unitary group" means a group of two or more
9 corporations, including a captive real estate investment
10 trust, but not including an S corporation, an insurance
11 company subject to the provisions of the New Mexico Insurance
12 Code, an insurance company that would be subject to the New
13 Mexico Insurance Code if the insurance company engaged in
14 business in this state or a real estate investment trust that
15 is not a captive real estate investment trust, that are:

16 (1) related through common ownership; and

17 (2) economically interdependent with one

18 another as demonstrated by the following factors:

19 (a) centralized management;

20 (b) functional integration; and

21 (c) economies of scale;

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

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

1 and

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

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

12 SECTION 17. Section 7-2A-3 NMSA 1978 (being Laws 1981,
13 Chapter 37, Section 36, as amended) is amended to read:

14 "7-2A-3. IMPOSITION AND LEVY OF TAXES.--

15 A. A tax to be known as the "corporate income tax"
16 is imposed at the rate specified in the Corporate Income and
17 Franchise Tax Act upon the taxable income of a corporation or
18 group of corporations, in whatever jurisdiction organized or
19 incorporated, that is engaged in the transaction of business
20 in, into or from this state or deriving any income from any
21 property or employment within this state.

22 B. A tax to be known as the "corporate franchise
23 tax" is imposed in the amount specified in the Corporate
24 Income and Franchise Tax Act upon every domestic corporation
25 and upon every foreign corporation employed or engaged in the

1 transaction of business in, into or from this state or
2 deriving any income from any property or employment within
3 this state and upon every domestic or foreign corporation,
4 whether engaged in active business or not, but having or
5 exercising its corporate franchise in this state."

6 SECTION 18. Section 7-2A-5 NMSA 1978 (being Laws 1981,
7 Chapter 37, Section 38, as amended) is amended to read:

8 "7-2A-5. CORPORATE INCOME TAX RATES.--The corporate
9 income tax imposed on corporations by Section 7-2A-3 NMSA
10 1978 shall be:

11	If the taxable income is:	The tax shall be:
12	Not over \$500,000	4.8% of taxable income
13	Over \$500,000	\$24,000 plus
14		5.9% of excess
15		over \$500,000."

16 SECTION 19. Section 7-2A-8.3 NMSA 1978 (being Laws
17 1983, Chapter 213, Section 12, as amended) is amended to
18 read:

19 "7-2A-8.3. COMBINED AND CONSOLIDATED RETURNS.--

20 A. Corporations that are part of a unitary group
21 shall file a return properly reporting and paying tax on
22 taxable income as a worldwide combined group unless they
23 properly elect to report and pay tax on taxable income as a
24 water's-edge or consolidated group, pursuant to department
25 rules and instructions, on the first original return required

1 to be filed for taxable years beginning on or after January
2 1, 2020. Corporations electing to file a consolidated return
3 must file on that same basis for federal income tax purposes.
4 Once a unitary or consolidated group has properly made an
5 election to file as a water's-edge or consolidated group, the
6 group and any of the group's members shall file a return on
7 that basis for at least seven consecutive years unless the
8 secretary grants permission otherwise. Corporations that are
9 part of a unitary group filing a return are jointly and
10 severally liable for the tax imposed pursuant to the
11 Corporate Income and Franchise Tax Act on taxable income.

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

20 **SECTION 20.** A new section of the Corporate Income and
21 Franchise Tax Act is enacted to read:

22 "DEDUCTION TO OFFSET MATERIAL FINANCIAL EFFECTS OF
23 CHANGES IN DEFERRED TAX AMOUNTS DUE TO CERTAIN CHANGES MADE
24 TO SECTIONS 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 AND 7-4-18 NMSA
25 1978.--

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

7 B. The deduction for each taxable year shall not
8 exceed one-tenth of the amount of the aggregate increase in
9 net deferred tax liabilities, the aggregate decrease in net
10 deferred tax assets or an aggregate change from a net
11 deferred tax asset to a net deferred tax liability, as
12 measured under generally accepted accounting principles, that
13 resulted from the changes to Sections 7-2A-2, 7-2A-3,
14 7-2A-8.3, 7-4-10 and 7-4-18 NMSA 1978 made by this 2019 act;
15 provided that:

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

25 (2) if the deduction provided by this

1 section is greater than the taxpayer's net income, any excess
2 amount shall be carried forward and applied as a deduction to
3 the taxpayer's net income in future income years until fully
4 utilized.

5 C. A filing group shall not claim a deduction
6 pursuant to this section unless the filing group files a
7 preliminary notice with the secretary prior to January 1,
8 2023 and provides necessary information to show the
9 calculation of the deduction expected to be claimed, as the
10 secretary may require."

11 SECTION 21. Section 7-4-10 NMSA 1978 (being Laws 1993,
12 Chapter 153, Section 1, as amended) is amended to read:

13 "7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

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

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

1 the taxable year.

2 C. If a filing group, or a taxpayer that is not a
3 member of a filing group, has a headquarters operation in New
4 Mexico, the filing group or the taxpayer may elect to have
5 business income apportioned to this state by multiplying the
6 income by the sales factor for the taxable year.

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

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

18 (2) if the election is made for a taxable
19 year beginning on or after January 1, 2020, to the taxable
20 year in which the election is made and to each taxable year
21 thereafter until the taxpayer notifies the department, in
22 writing, that the election is terminated, except that the
23 taxpayer shall not terminate the election until the method of
24 apportioning business income provided by Subsection B or C of
25 this section has been used by the taxpayer for at least three

1 consecutive taxable years, including a total of at least
2 thirty-six calendar months; and

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

7 E. For purposes of this section:

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

11 (2) "headquarters operation" means:

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

1 headquarters is subordinate to the national headquarters; or

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

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

- 11 (a) construction;
- 12 (b) farming;
- 13 (c) electric power generation;
- 14 (d) processing natural resources,
15 including hydrocarbons; or
- 16 (e) processing or preparation of meals
17 for immediate consumption; and

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

25 SECTION 22. Section 7-4-18 NMSA 1978 (being Laws 1965,

1 Chapter 203, Section 18) is amended to read:

2 "7-4-18. DETERMINATION OF SALES IN THIS STATE OF
3 SERVICES AND OTHER PROPERTY FOR INCLUSION IN SALES FACTOR.--

4 A. Sales, other than sales described in Section
5 7-4-17 NMSA 1978, are in this state:

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

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

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

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

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

21 C. If the taxpayer is not taxable in a state to
22 which a sale is assigned pursuant to Subsection A of this
23 section or if the state of assignment cannot be determined or
24 reasonably approximated pursuant to Subsection B of this
25 section, that sale shall be excluded from the numerator and

1 denominator of the sales factor.

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

5 SECTION 23. Section 7-9-3 NMSA 1978 (being Laws 1978,
6 Chapter 46, Section 1, as amended) is amended to read:

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

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

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

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

20 D. "financial corporation" means a savings and
21 loan association or an incorporated savings and loan company,
22 trust company, mortgage banking company, consumer finance
23 company or other financial corporation;

24 E. "initial use" or "initially used" means the
25 first employment for the intended purpose and does not

1 include the following activities:

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

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

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

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

12 (5) similar activities;

13 F. "leasing" means an arrangement whereby, for a
14 consideration, property is employed for or by any person
15 other than the owner of the property, except that the
16 granting of a license to use property is licensing and is not
17 a lease;

18 G. "local option gross receipts tax" means a tax
19 authorized to be imposed by a county or municipality upon a
20 taxpayer's gross receipts and required to be collected by the
21 department at the same time and in the same manner as the
22 gross receipts tax;

23 H. "manufactured home" means a movable or portable
24 housing structure for human occupancy that exceeds either a
25 width of eight feet or a length of forty feet constructed to

1 be towed on its own chassis and designed to be installed with
2 or without a permanent foundation;

3 I. "manufacturing" means combining or processing
4 components or materials to increase their value for sale in
5 the ordinary course of business, but does not include
6 construction;

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

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

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

22 K. "marketplace seller" means a person who sells,
23 leases or licenses tangible personal property or services or
24 who licenses the use of real property through a marketplace
25 provider;

1 L. "person" means:

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

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

12 M. "property" means:

13 (1) real property;

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

16 (3) licenses, including licenses of digital
17 goods, but not including the licenses of copyrights,
18 trademarks or patents; and

19 (4) franchises;

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

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

25 (2) advancing technology in a field of

1 technical endeavor;

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

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

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

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

21 O. "secretary" means the secretary of taxation and
22 revenue or the secretary's delegate;

23 P. "service" means all activities engaged in for
24 other persons for a consideration, which activities involve
25 predominantly the performance of a service as distinguished

1 from selling or leasing property. "Service" includes
2 activities performed by a person for its members or
3 shareholders. In determining what is a service, the intended
4 use, principal objective or ultimate objective of the
5 contracting parties shall not be controlling. "Service"
6 includes construction activities and all tangible personal
7 property that will become an ingredient or component part of
8 a construction project. That tangible personal property
9 retains its character as tangible personal property until it
10 is installed as an ingredient or component part of a
11 construction project in New Mexico. Sales of tangible
12 personal property that will become an ingredient or component
13 part of a construction project to persons engaged in the
14 construction business are sales of tangible personal
15 property; and

16 Q. "use" or "using" includes use, consumption or
17 storage other than storage for subsequent sale in the
18 ordinary course of business or for use solely outside this
19 state."

20 SECTION 24. Section 7-9-3.2 NMSA 1978 (being Laws 1991,
21 Chapter 8, Section 1, as amended) is amended to read:

22 "7-9-3.2. ADDITIONAL DEFINITION.--

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

1 subdivision from:

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

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

7 (3) refuse collection or refuse disposal or
8 both;

9 (4) sewage services;

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

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

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

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

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

24 (1) cash discounts taken and allowed;

25 (2) governmental gross receipts tax payable

1 on transactions reportable for the period; and

2 (3) any type of time-price differential.

3 C. As used in this section, "facilities open to
4 the general public" does not include point of sale registers
5 or electronic devices at a bookstore owned or operated by a
6 public post-secondary educational institution when the
7 registers or devices are utilized in the sale of textbooks or
8 other materials required for courses at the institution to a
9 student enrolled at the institution who displays a valid
10 student identification card."

11 **SECTION 25.** Section 7-9-3.3 NMSA 1978 (being Laws 2003,
12 Chapter 272, Section 4) is amended to read:

13 "7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in
14 the Gross Receipts and Compensating Tax Act, "engaging in
15 business" means carrying on or causing to be carried on any
16 activity with the purpose of direct or indirect benefit. For
17 a person who lacks physical presence in this state, including
18 a marketplace provider, "engaging in business" means having,
19 in the previous calendar year, total taxable gross receipts
20 from sales, leases and licenses of tangible personal
21 property, sales of licenses and sales of services and
22 licenses for use of real property sourced to this state
23 pursuant to Section 7-1-14 NMSA 1978, of at least one hundred
24 thousand dollars (\$100,000)."

25 **SECTION 26.** Section 7-9-3.5 NMSA 1978 (being Laws 2003,

1 Chapter 272, Section 3, as amended) is amended to read:

2 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

3 A. As used in the Gross Receipts and Compensating
4 Tax Act:

5 (1) "gross receipts" means the total amount
6 of money or the value of other consideration received from
7 selling property in New Mexico, from leasing or licensing
8 property employed in New Mexico, from granting a right to use
9 a franchise employed in New Mexico, from selling services
10 performed outside New Mexico, the product of which is
11 initially used in New Mexico, or from performing services in
12 New Mexico. In an exchange in which the money or other
13 consideration received does not represent the value of the
14 property or service exchanged, "gross receipts" means the
15 reasonable value of the property or service exchanged;

16 (2) "gross receipts" includes:

17 (a) any receipts from sales of tangible
18 personal property handled on consignment;

19 (b) the total commissions or fees
20 derived from the business of buying, selling or promoting the
21 purchase, sale or lease, as an agent or broker on a
22 commission or fee basis, of any property, service, stock,
23 bond or security;

24 (c) amounts paid by members of any
25 cooperative association or similar organization for sales or

1 leases of personal property or performance of services by
2 such organization;

3 (d) amounts received from transmitting
4 messages or conversations by persons providing telephone or
5 telegraph services;

6 (e) amounts received by a New Mexico
7 florist from the sale of flowers, plants or other products
8 that are customarily sold by florists where the sale is made
9 pursuant to orders placed with the New Mexico florist that
10 are filled and delivered outside New Mexico by an out-of-
11 state florist;

12 (f) the receipts of a home service
13 provider from providing mobile telecommunications services to
14 customers whose place of primary use is in New Mexico if: 1)
15 the mobile telecommunications services originate and
16 terminate in the same state, regardless of where the services
17 originate, terminate or pass through; and 2) the charges for
18 mobile telecommunications services are billed by or for a
19 customer's home service provider and are deemed provided by
20 the home service provider. For the purposes of this section,
21 "home service provider", "mobile telecommunications
22 services", "customer" and "place of primary use" have the
23 meanings given in the federal Mobile Telecommunications
24 Sourcing Act; and

25 (g) receipts collected by a marketplace

1 provider engaging in business in the state from sales, leases
2 and licenses of tangible personal property, sales of licenses
3 and sales of services or licenses for use of real property
4 that are sourced to this state and are facilitated by the
5 marketplace provider on behalf of marketplace sellers,
6 regardless of whether the marketplace sellers are engaging in
7 business in the state; and

8 (3) "gross receipts" excludes:

9 (a) cash discounts allowed and taken;

10 (b) New Mexico gross receipts tax,
11 governmental gross receipts tax and leased vehicle gross
12 receipts tax payable on transactions for the reporting
13 period;

14 (c) taxes imposed pursuant to the
15 provisions of any local option gross receipts tax that is
16 payable on transactions for the reporting period;

17 (d) any gross receipts or sales taxes
18 imposed by an Indian nation, tribe or pueblo; provided that
19 the tax is approved, if approval is required by federal law
20 or regulation, by the secretary of the interior of the United
21 States; and provided further that the gross receipts or sales
22 tax imposed by the Indian nation, tribe or pueblo provides a
23 reciprocal exclusion for gross receipts, sales or gross
24 receipts-based excise taxes imposed by the state or its
25 political subdivisions;

1 (e) any type of time-price
2 differential;

3 (f) amounts received solely on behalf
4 of another in a disclosed agency capacity; and

5 (g) amounts received by a New Mexico
6 florist from the sale of flowers, plants or other products
7 that are customarily sold by florists where the sale is made
8 pursuant to orders placed with an out-of-state florist for
9 filling and delivery in New Mexico by a New Mexico florist.

10 B. When the sale of property or service is made
11 under any type of charge, conditional or time-sales contract
12 or the leasing of property is made under a leasing contract,
13 the seller or lessor may elect to treat all receipts,
14 excluding any type of time-price differential, under such
15 contracts as gross receipts as and when the payments are
16 actually received. If the seller or lessor transfers the
17 seller's or lessor's interest in any such contract to a third
18 person, the seller or lessor shall pay the gross receipts tax
19 upon the full sale or leasing contract amount, excluding any
20 type of time-price differential."

21 SECTION 27. Section 7-9-4.3 NMSA 1978 (being Laws 1991,
22 Chapter 8, Section 2, as amended by Laws 1993, Chapter 332,
23 Section 1 and by Laws 1993, Chapter 352, Section 1) is
24 amended to read:

25 "7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS

1 "GOVERNMENTAL GROSS RECEIPTS TAX".--For the privilege of
2 engaging in certain activities by governments, there is
3 imposed on every agency, institution, instrumentality or
4 political subdivision of the state, except any school
5 district and an entity licensed by the department of health,
6 other than a hospital, that is principally engaged in
7 providing health care services, an excise tax of five percent
8 of governmental gross receipts. The tax imposed by this
9 section shall be referred to as the "governmental gross
10 receipts tax".

11 SECTION 28. Section 7-9-5 NMSA 1978 (being Laws 1966,
12 Chapter 47, Section 5, as amended) is amended to read:

13 "7-9-5. PRESUMPTION OF TAXABILITY.--

14 A. To prevent evasion of the gross receipts tax
15 and to aid in its administration, it is presumed that all
16 receipts of a person engaging in business are subject to the
17 gross receipts tax. A person engaged solely in transactions
18 specifically exempt under the provisions of the Gross
19 Receipts and Compensating Tax Act shall not be required to
20 register or file a return under that act.

21 B. If receipts from nontaxable charges for mobile
22 telecommunications services are aggregated with and not
23 separately stated from taxable charges for mobile
24 telecommunications services, the charges for nontaxable
25 mobile telecommunications services shall be subject to gross

1 receipts tax unless the home service provider can reasonably
2 identify nontaxable charges in its books and records that are
3 kept in the regular course of business. For the purposes of
4 this subsection, "charges for mobile telecommunications
5 services", "home service provider" and "mobile
6 telecommunications services" have the meanings given in the
7 federal Mobile Telecommunications Sourcing Act.

8 C. A marketplace provider engaging in business in
9 this state is not liable for amounts of gross receipts tax
10 collected incorrectly due to the marketplace provider
11 reasonably relying on erroneous information provided by the
12 seller."

13 SECTION 29. Section 7-9-6 NMSA 1978 (being Laws 1966,
14 Chapter 47, Section 6, as amended) is amended to read:

15 "7-9-6. SEPARATELY STATING THE GROSS RECEIPTS TAX.--

16 A. Taxpayers subject to the Gross Receipts and
17 Compensating Tax Act, when billing a customer, shall
18 separately state the amount of tax associated with the
19 transaction or provide a statement affirmatively indicating
20 that the gross receipts tax is included in the amount billed.

21 B. When the gross receipts tax is stated
22 separately on the books of the seller or lessor, and if the
23 total amount of tax that is stated separately on transactions
24 reportable within one reporting period is in excess of the
25 amount of gross receipts tax otherwise payable on the

1 transactions on which the tax was stated separately, the
2 excess amount of tax stated on the transactions within that
3 reporting period shall be included in gross receipts."

4 SECTION 30. Section 7-9-7 NMSA 1978 (being Laws 1966,
5 Chapter 47, Section 7, as amended) is amended to read:

6 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
7 "COMPENSATING TAX".--

8 A. For the privilege of using tangible property in
9 New Mexico, there is imposed on the person using the property
10 an excise tax equal to five and one-eighth percent of the
11 value of tangible property that was:

12 (1) manufactured by the person using the
13 property in the state; or

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

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

1 property shall be used.

2 C. For the privilege of using a license or
3 franchise in New Mexico, there is imposed on the person using
4 the license or franchise an excise tax equal to the rate
5 provided in Subsection A of this section against the value of
6 the license or franchise in its use in this state. The
7 department by rule, ruling or instruction shall fairly
8 apportion, where appropriate, the value of a license or
9 franchise to its value in use in New Mexico. For use of a
10 license or franchise to be taxable under this subsection, the
11 value of the license or franchise shall be acquired inside or
12 outside this state as the result of a transaction with a
13 person located outside this state that would have been
14 subject to the gross receipts tax had the license or
15 franchise been acquired from a person with nexus with this
16 state.

17 D. For the privilege of using services in New
18 Mexico, there is imposed on the person using the services an
19 excise tax equal to the rate provided in Subsection A of this
20 section against the value of the services at the time the
21 product of the service was acquired. For use of services to
22 be taxable under this subsection, the services shall have
23 been performed by a person outside this state and the product
24 of the service was acquired inside or outside this state as
25 the result of a transaction with a person located outside

1 this state that would have been subject to the gross receipts
2 tax had the service or product of the service been acquired
3 from a person with nexus with this state.

4 E. The tax imposed by this section shall be
5 referred to as the "compensating tax".

6 SECTION 31. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
7 Chapter 45, Section 1, as amended) is amended to read:

8 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION
9 ACTIONS WITH RESPECT TO CERTAIN TAX LIABILITIES.--

10 The department shall take no action to enforce
11 collection of gross receipts tax for a tax period prior to
12 July 1, 2019 on persons engaging in business if that person:

13 A. lacked physical presence in the state; and

14 B. did not report taxable gross receipts prior to
15 July 1, 2019."

16 SECTION 32. Section 7-9-13.1 NMSA 1978 (being Laws
17 1989, Chapter 262, Section 4) is amended to read:

18 "7-9-13.1. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN
19 SERVICES.--

20 A. Exempted from the gross receipts tax are the
21 receipts from selling research and development services
22 performed outside New Mexico the product of which is
23 initially used in New Mexico and that are sold:

24 (1) between affiliated corporations;

25 (2) to the United States by persons, other

1 than organizations described in Subsection A of Section
2 7-9-29 NMSA 1978, who are prime contractors operating
3 facilities in New Mexico designated as national laboratories
4 by act of congress; or

5 (3) to persons, other than organizations
6 described in Subsection A of Section 7-9-29 NMSA 1978, who
7 are prime contractors operating facilities in New Mexico
8 designated as national laboratories by act of congress.

9 B. An "affiliated corporation" means a corporation
10 that directly or indirectly, through one or more
11 intermediaries controls, is controlled by or is under common
12 control with the subject corporation. "Control" means
13 ownership of stock in a corporation that represents at least
14 eighty percent of the total voting power of that corporation
15 and has a stated or par value equal to at least eighty
16 percent of the total stated or par value of the stock of that
17 corporation."

18 SECTION 33. Section 7-9-29 NMSA 1978 (being Laws 1970,
19 Chapter 12, Section 3, as amended) is amended to read:

20 "7-9-29. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN
21 ORGANIZATIONS.--

22 A. Exempted from the gross receipts tax are the
23 receipts of organizations that demonstrate to the department
24 that they have been granted exemption from the federal income
25 tax by the United States commissioner of internal revenue as

1 organizations described in Section 501(c)(3) of the United
2 States Internal Revenue Code of 1986, as that section may be
3 amended or renumbered, except for receipts of a hospital
4 licensed by the department of health.

5 B. Exempted from the gross receipts tax are the
6 receipts from carrying on chamber of commerce, visitor bureau
7 and convention bureau functions of organizations that
8 demonstrate to the department that they have been granted
9 exemption from the federal income tax by the United States
10 commissioner of internal revenue as organizations described
11 in Section 501(c)(6) of the United States Internal Revenue
12 Code of 1986, as that section may be amended or renumbered.

13 C. This section does not apply to receipts derived
14 from an unrelated trade or business as defined in Section 513
15 of the United States Internal Revenue Code of 1986, as that
16 section may be amended or renumbered."

17 **SECTION 34.** A new section of the Gross Receipts and
18 Compensating Tax Act is enacted to read:

19 "EXEMPTION--NONPROFIT HOSPITALS FROM LOCAL OPTION GROSS
20 RECEIPTS TAXES.--

21 A. Exempted from any local option gross receipts
22 tax, but not the state gross receipts tax, are receipts of a
23 nonprofit hospital licensed by the department of health.

24 B. As used in this section, "nonprofit hospital"
25 means a hospital that has been granted exemption from federal

1 income tax by the United States commissioner of internal
2 revenue as an organization described in Section 501(c)(3) of
3 the Internal Revenue Code."

4 SECTION 35. Section 7-9-73.1 NMSA 1978 (being Laws
5 1991, Chapter 8, Section 3, as amended) is amended to read:

6 "7-9-73.1. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL
7 GROSS RECEIPTS--HOSPITALS.--

8 A. Sixty percent of the receipts of hospitals
9 licensed by the department of health may be deducted from
10 gross receipts; provided that this deduction may be applied
11 only to the taxable gross receipts remaining after all other
12 appropriate deductions have been taken.

13 B. Sixty percent of the receipts of a hospital
14 licensed by the department of health may be deducted from
15 governmental gross receipts."

16 SECTION 36. A new section of the Gross Receipts and
17 Compensating Tax Act is enacted to read:

18 "DEDUCTION--GROSS RECEIPTS--MARKETPLACE SELLER.--

19 A. A marketplace seller may deduct receipts for
20 sales, leases and licenses of tangible personal property,
21 sales of licenses and sales of services or licenses for use
22 of real property that are facilitated by a marketplace
23 provider; provided that the marketplace seller obtains
24 documentation from the marketplace provider indicating that
25 the marketplace provider is registered with the department

1 and has remitted or will remit the taxes due on the gross
2 receipts from those transactions.

3 B. The deduction provided by this section shall
4 not apply if the marketplace provider is determined not to
5 owe the tax due to the marketplace provider's reliance on
6 information provided by the seller as determined pursuant to
7 Subsection C of Section 7-9-5 NMSA 1978."

8 **SECTION 37.** A new section of the Gross Receipts and
9 Compensating Tax Act is enacted to read:

10 "AUTHORITY TO ESTABLISH STANDARDS FOR CERTIFIED SERVICE
11 PROVIDERS.--

12 A. The secretary is authorized to provide
13 information, upon which taxpayers may rely, as to the
14 taxability of gross receipts from particular transactions,
15 including taxability matrices, and is further authorized to
16 establish standards for the certification of certified
17 service providers that offer software-based systems to enable
18 taxpayers to properly determine the taxability of gross
19 receipts from particular transactions.

20 B. As used in this section, "certified service
21 provider" means "certified service provider" as defined in
22 the Streamlined Sales and Use Tax Administration Act."

23 **SECTION 38.** Section 7-9F-3 NMSA 1978 (being Laws 2000
24 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to
25 read:

1 "7-9F-3. DEFINITIONS.--As used in the Technology Jobs
2 and Research and Development Tax Credit Act:

3 A. "affiliate" means a person who directly or
4 indirectly owns or controls, is owned or controlled by or is
5 under common ownership or control with another person through
6 ownership of voting securities or other ownership interests
7 representing a majority of the total voting power of the
8 entity;

9 B. "annual payroll expense" means the wages paid
10 or payable to employees in the state by the taxpayer in the
11 taxable year for which the taxpayer applies for an additional
12 credit pursuant to the Technology Jobs and Research and
13 Development Tax Credit Act;

14 C. "base payroll expense" means the wages paid or
15 payable by the taxpayer in the taxable year prior to the
16 taxable year for which the taxpayer applies for an additional
17 credit pursuant to the Technology Jobs and Research and
18 Development Tax Credit Act, adjusted for any increase from
19 the preceding taxable year in the consumer price index for
20 the United States for all items as published by the United
21 States department of labor in the taxable year for which the
22 additional credit is claimed. In a taxable year during which
23 a taxpayer has been part of a business merger or acquisition
24 or other change in business organization, the taxpayer's base
25 payroll expense shall include the payroll expense of all

1 entities included in the reorganization for all positions
2 that are included in the business entity resulting from the
3 reorganization;

4 D. "department" means the taxation and revenue
5 department, the secretary of taxation and revenue or any
6 employee of the department exercising authority lawfully
7 delegated to that employee by the secretary;

8 E. "facility" means a factory, mill, plant,
9 refinery, warehouse, dairy, feedlot, building or complex of
10 buildings located within the state, including the land on
11 which it is located and all machinery, equipment and other
12 real and tangible personal property located at or within it
13 and used in connection with its operation;

14 F. "local option gross receipts tax" means a tax
15 authorized to be imposed by a county or municipality upon a
16 taxpayer's gross receipts, as that term is defined in the
17 Gross Receipts and Compensating Tax Act, and required to be
18 collected by the department at the same time and in the same
19 manner as the gross receipts tax;

20 G. "qualified expenditure" means an expenditure or
21 an allocated portion of an expenditure by a taxpayer in
22 connection with qualified research at a qualified facility,
23 including expenditures for depletable land and rent paid or
24 incurred for land, improvements, the allowable amount paid or
25 incurred to operate or maintain a facility, buildings,

1 equipment, computer software, computer software upgrades,
2 consultants and contractors performing work in New Mexico,
3 payroll, technical books and manuals and test materials, but
4 not including any expenditure on property that is owned by a
5 municipality or county in connection with an industrial
6 revenue bond project, property for which the taxpayer has
7 received any credit pursuant to the Investment Credit Act,
8 property that was owned by the taxpayer or an affiliate
9 before July 3, 2000 or research and development expenditures
10 reimbursed by a person who is not an affiliate of the
11 taxpayer. If a "qualified expenditure" is an allocation of
12 an expenditure, the cost accounting methodology used for the
13 allocation of the expenditure shall be the same cost
14 accounting methodology used by the taxpayer in its other
15 business activities;

16 H. "qualified facility" means a facility in New
17 Mexico at which qualified research is conducted other than a
18 facility operated by a taxpayer for the United States or any
19 agency, department or instrumentality thereof;

20 I. "qualified research" means research:

21 (1) that is undertaken for the purpose of
22 discovering information:

23 (a) that is technological in nature;

24 and

25 (b) the application of which is

1 intended to be useful in the development of a new or improved
2 business component of the taxpayer; and

3 (2) substantially all of the activities of
4 which constitute elements of a process of experimentation
5 related to a new or improved function, performance,
6 reliability or quality, but not related to style, taste or
7 cosmetic or seasonal design factors;

8 J. "qualified research and development small
9 business" means a taxpayer that:

10 (1) employed no more than fifty employees as
11 determined by the number of employees for which the taxpayer
12 was liable for unemployment insurance coverage in the taxable
13 year for which an additional credit is claimed;

14 (2) had total qualified expenditures of no
15 more than five million dollars (\$5,000,000) in the taxable
16 year for which an additional credit is claimed; and

17 (3) did not have more than fifty percent of
18 its voting securities or other equity interest with the right
19 to designate or elect the board of directors or other
20 governing body of the business owned directly or indirectly
21 by another business;

22 K. "rural area" means any area of the state other
23 than the state fairgrounds, an incorporated municipality with
24 a population of thirty thousand or more according to the most
25 recent federal decennial census and any area within three

1 miles of the external boundaries of an incorporated
2 municipality with a population of thirty thousand or more
3 according to the most recent federal decennial census;

4 L. "taxpayer" means any of the following persons,
5 other than a federal, state or other governmental unit or
6 subdivision or an agency, department, institution or
7 instrumentality thereof:

8 (1) a person liable for payment of any tax;

9 (2) a person responsible for withholding and
10 payment or collection and payment of any tax;

11 (3) a person to whom an assessment has been
12 made if the assessment remains unabated or the assessed
13 amount has not been paid; or

14 (4) for purposes of the additional credit
15 against the taxpayer's income tax pursuant to the Technology
16 Jobs and Research and Development Tax Credit Act and to the
17 extent of their respective interest in that entity, the
18 shareholders, members, partners or other owners of:

19 (a) a small business corporation that
20 has elected to be treated as an S corporation for federal
21 income tax purposes; or

22 (b) an entity treated as a partnership
23 or disregarded entity for federal income tax purposes; and

24 M. "wages" means remuneration for services
25 performed by an employee in New Mexico for an employer."

1 **SECTION 39.** Section 7-12-3 NMSA 1978 (being Laws 1971,
2 Chapter 77, Section 3, as amended) is amended to read:

3 "7-12-3. EXCISE TAX ON CIGARETTES--REDUCTION OF RATE
4 FOR CERTAIN CIGARETTES.--

5 A. For the privilege of selling, giving or
6 consuming cigarettes in New Mexico, there is levied an excise
7 tax at a rate of ten cents (\$.10) for each cigarette sold,
8 given or consumed in this state.

9 B. The tax imposed by this section shall be
10 referred to as the "cigarette tax".

11 C. The tax imposed by this section shall be
12 reduced by fifty percent for a cigarette for which a modified
13 risk tobacco product order has been issued by the United
14 States secretary of health and human services pursuant to
15 Section 21 U.S.C. 387k(g)(1).

16 D. The tax imposed by this section shall be
17 reduced by twenty-five percent for a cigarette for which a
18 modified risk tobacco product order has been issued by the
19 United States secretary of health and human services pursuant
20 to Section 21 U.S.C. 387k(g)(2)."

21 **SECTION 40.** Section 7-12-3.1 NMSA 1978 (being Laws
22 1986, Chapter 13, Section 3, as amended) is amended to read:

23 "7-12-3.1. CIGARETTE INVENTORY TAX--IMPOSITION OF TAX--
24 DATE PAYMENT OF TAX DUE.--

25 A. A tax that may be identified as the "cigarette

1 inventory tax" is imposed on a distributor that has in its
2 possession tax-exempt stamps, tax-credit stamps or tax
3 stamps, not affixed to packages of cigarettes, at the close
4 of business on the day prior to the date on which an increase
5 in the cigarette tax imposed by Section 7-12-3 NMSA 1978 is
6 effective.

7 B. The cigarette inventory tax due from the
8 distributor is calculated by multiplying the number of tax
9 stamps not affixed to packages of cigarettes in the
10 distributor's possession by the increase in the excise tax.
11 Tax-exempt stamps and tax-credit stamps are not included in
12 the calculation to determine the amount of cigarette
13 inventory tax to be paid by a distributor.

14 C. The cigarette inventory tax is to be paid to
15 the department on or before the twenty-fifth day of the month
16 following the month in which the increase in the cigarette
17 tax is effective."

18 SECTION 41. Section 7-12-7 NMSA 1978 (being Laws 1971,
19 Chapter 77, Section 7, as amended) is amended to read:

20 "7-12-7. SALE OF STAMPS--PRICES.--

21 A. Only the department shall sell stamps. Stamps
22 may be sold by the department only to a distributor.

23 B. Stamps shall display a serial number. Stamps
24 bearing the same serial number shall not be sold to more than
25 one distributor. The department shall keep records of the

1 serial numbers of the stamps provided to each distributor.

2 C. A stamp shall be affixed to a package of
3 cigarettes in such a manner as to clearly display the serial
4 number at the point of sale.

5 D. Tax stamps shall be sold at their face value
6 with the following discounts:

7 (1) forty-six hundredths percent less than
8 the face value of the first thirty thousand dollars (\$30,000)
9 of stamps purchased in one calendar month;

10 (2) thirty-six hundredths percent less than
11 the face value of the second thirty thousand dollars
12 (\$30,000) of stamps purchased in one calendar month; and

13 (3) twenty-two hundredths percent less than
14 the face value of stamps purchased in excess of sixty
15 thousand dollars (\$60,000) in one calendar month.

16 E. Tax-credit stamps shall be provided only to
17 distributors and shall be provided free of charge; provided
18 that the distributor is in full compliance with the reporting
19 requirements of the Cigarette Tax Act and rules adopted
20 pursuant to that act.

21 F. If the face value of tax stamps sold in a
22 single sale is less than one thousand dollars (\$1,000), the
23 discount provided for in this section shall not be allowed.

24 G. Payment for tax stamps shall be made on or
25 before the twenty-fifth day of the month following the month

1 in which the sale of stamps by the department is made.

2 H. Tax-exempt stamps shall be provided only to
3 distributors and shall be free of charge; provided that the
4 distributor is in full compliance with the reporting
5 requirements of the Cigarette Tax Act and rules adopted
6 pursuant to that act."

7 SECTION 42. Section 7-12A-2 NMSA 1978 (being Laws 1986,
8 Chapter 112, Section 3, as amended) is amended to read:

9 "7-12A-2. DEFINITIONS.--As used in the Tobacco Products
10 Tax Act:

11 A. "department" means the taxation and revenue
12 department, the secretary or any employee of the department
13 exercising authority lawfully delegated to that employee by
14 the secretary;

15 B. "cigar" means a roll for smoking made wholly or
16 in part of tobacco and weighing greater than four and one-
17 half pounds per thousand;

18 C. "distribute" means to sell or to give;

19 D. "closed system cartridge" means a single-use,
20 pre-filled disposable cartridge containing five milliliters
21 or less of e-liquid for use in an e-cigarette;

22 E. "e-cigarette" means any electronic oral device,
23 whether composed of a heating element and battery or an
24 electronic circuit, that provides a vapor of nicotine or any
25 other substance the use or inhalation of which simulates

1 smoking and includes any such device, or any part thereof,
2 whether manufactured, distributed, marketed or sold as an
3 e-cigarette, e-cigar, e-pipe or any other product, name or
4 descriptor. "E-cigarette" does not include any product
5 regulated as a drug or device by the United States food and
6 drug administration under the Federal Food, Drug, and
7 Cosmetic Act;

8 F. "e-liquid" means liquid or other substance
9 intended for use in an e-cigarette, not including any
10 substance containing cannabis or oil derived from cannabis;

11 G. "engaging in business" means carrying on or
12 causing to be carried on any activity with the purpose of
13 direct or indirect benefit;

14 H. "first purchaser" means a person engaging in
15 business in New Mexico that manufactures tobacco products or
16 that purchases or receives on consignment tobacco products
17 from any person outside of New Mexico, which tobacco products
18 are to be distributed in New Mexico in the ordinary course of
19 business;

20 I. "little cigar" means a roll for smoking made
21 wholly or in part of tobacco, using an integrated cellulose
22 acetate or other similar filter, and weighing not more than
23 four and one-half pounds per thousand;

24 J. "person" means any individual, estate, trust,
25 receiver, cooperative association, club, corporation,

1 company, firm, partnership, joint venture, syndicate, limited
2 liability company, limited liability partnership, other
3 association or gas, water or electric utility owned or
4 operated by a county or municipality or other entity of the
5 state; "person" also means, to the extent permitted by law, a
6 federal, state or other governmental unit or subdivision or
7 an agency, department or instrumentality;

8 K. "product value" means the amount paid, net of
9 any discounts taken and allowed, for tobacco products or, in
10 the case of tobacco products received on consignment, the
11 value of the tobacco products received or, in the case of
12 tobacco products manufactured and sold in New Mexico, the
13 proceeds from the sale by the manufacturer of the tobacco
14 products; and

15 L. "tobacco product" means:

16 (1) any product, other than cigarettes,
17 cigars and little cigars, made from or containing tobacco;

18 (2) e-liquid;

19 (3) e-cigarettes; and

20 (4) closed system cartridges."

21 SECTION 43. Section 7-12A-3 NMSA 1978 (being Laws 1986,
22 Chapter 112, Section 4, as amended) is amended to read:

23 "7-12A-3. IMPOSITION AND RATES OF TAX--REDUCTION OF
24 RATE FOR CERTAIN TOBACCO PRODUCTS--DENOMINATION AS "TOBACCO
25 PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

1 A. For the manufacture or acquisition of tobacco
2 products in New Mexico, not including cigars, little cigars,
3 e-liquid, e-cigarettes or closed system cartridges, to be
4 distributed in the ordinary course of business and for the
5 consumption of tobacco products in New Mexico, there is
6 imposed an excise tax at the rate of twenty-five percent of
7 the product value of the tobacco products.

8 B. For the manufacture or acquisition of cigars in
9 New Mexico to be distributed in the ordinary course of
10 business and for the consumption of cigars in New Mexico,
11 there is imposed an excise tax at a rate equal to twenty-five
12 percent of the product value of the cigar, not to exceed
13 fifty cents (\$.50) per cigar.

14 C. For the manufacture or acquisition of little
15 cigars in New Mexico to be distributed in the ordinary course
16 of business and for the consumption of little cigars in New
17 Mexico, there is imposed an excise tax at a rate equal to the
18 rate imposed on cigarettes pursuant to Section 7-12-3 NMSA
19 1978 per package of little cigars.

20 D. For the manufacture or acquisition of e-liquid
21 in New Mexico to be distributed in the ordinary course of
22 business and for the consumption of e-liquid in New Mexico,
23 there is imposed an excise tax at a rate equal to twelve and
24 one-half percent of the product value of the e-liquid.

25 E. For the manufacture or acquisition of closed

1 system cartridges in New Mexico to be distributed in the
2 ordinary course of business, there is imposed an excise tax
3 at a rate of fifty cents (\$.50) per closed system cartridge.

4 ~~F. The taxes imposed by this section shall be~~
5 ~~reduced by fifty percent for a tobacco product, cigar or~~
6 ~~little cigar for which a modified risk tobacco product order~~
7 ~~has been issued by the United States secretary of health and~~
8 ~~human services pursuant to Section 21 U.S.C. 387k(g)(1).~~

9 ~~G. The taxes imposed by this section shall be~~
10 ~~reduced by twenty-five percent for a tobacco product, cigar~~
11 ~~or little cigar for which a modified risk tobacco product~~
12 ~~order has been issued by the United States secretary of~~
13 ~~health and human services pursuant to Section 21 U.S.C.~~
14 ~~387k(g)(2).~~

15 H. The taxes imposed by this section may be
16 referred to as the "tobacco products tax".

17 I. The tobacco products tax shall be paid by the
18 first purchaser on or before the twenty-fifth day of the
19 month following the month in which the taxable event occurs."

20 SECTION 44. Section 7-14-4 NMSA 1978 (being Laws 1988,
21 Chapter 73, Section 14) is amended to read:

22 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE
23 EXCISE TAX.--The rate of the motor vehicle excise tax is four
24 percent and is applied to the price paid for the vehicle. If
25 the price paid does not represent the value of the vehicle in

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

6 SECTION 45. Section 7-14-10 NMSA 1978 (being Laws 1988,
7 Chapter 73, Section 20, as amended) is amended to read:

8 "7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from
9 the tax and any associated interest and penalties shall be
10 deposited in the "motor vehicle suspense fund", hereby
11 created in the state treasury. As of the end of each month,
12 the net receipts attributable to the tax and associated
13 penalties and interest shall be distributed as follows:

14 A. prior to July 1, 2021:

15 (1) seventy-one and eighty-nine hundredths
16 percent to the general fund;

17 (2) three and eleven hundredths percent to
18 the state road fund; and

19 (3) twenty-five percent to the department of
20 transportation, for expenditures needed to mitigate the
21 emergency road conditions related to activity in the oil
22 field in state transportation commission district 2; and

23 B. beginning July 1, 2021:

24 (1) fifty-nine and thirty-nine hundredths
25 percent to the general fund;

1 (2) twenty-one and eighty-six hundredths
2 percent to the state road fund; and

3 (3) eighteen and seventy-five hundredths
4 percent to the local governments road fund."

5 **SECTION 46.** Section 7-19-14 NMSA 1978 (being Laws 1979,
6 Chapter 397, Section 5, as amended) is amended to read:

7 "7-19-14. SPECIFIC EXEMPTIONS.--No supplemental
8 municipal gross receipts tax shall be imposed on the gross
9 receipts arising from:

10 A. prior to July 1, 2021, transporting persons or
11 property for hire by railroad, motor vehicle, air
12 transportation or any other means from one point within the
13 municipality to another point outside the municipality; or

14 B. a business located outside the boundaries of a
15 municipality on land owned by that municipality for which a
16 gross receipts tax distribution is made pursuant to Section
17 7-1-6.4 NMSA 1978."

18 **SECTION 47.** Section 7-19D-1 NMSA 1978 (being Laws 1993,
19 Chapter 346, Section 1) is amended to read:

20 "7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA
21 1978 may be cited as the "Municipal Local Option Gross
22 Receipts and Compensating Taxes Act"."

23 **SECTION 48.** Section 7-19D-5 NMSA 1978 (being Laws 1993,
24 Chapter 346, Section 5, as amended) is amended to read:

25 "7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by

1 the provisions of the Municipal Local Option Gross Receipts
2 and Compensating Taxes Act shall be imposed on the gross
3 receipts arising from:

4 A. prior to July 1, 2021, transporting persons or
5 property for hire by railroad, motor vehicle, air
6 transportation or any other means from one point within the
7 municipality to another point outside the municipality; or

8 B. a business located outside the boundaries of a
9 municipality on land owned by that municipality for which a
10 state gross receipts tax distribution is made pursuant to
11 Section 7-1-6.4 NMSA 1978."

12 **SECTION 49.** Section 7-19D-7 NMSA 1978 (being Laws 1993,
13 Chapter 346, Section 7, as amended) is amended to read:

14 "7-19D-7. COLLECTION BY DEPARTMENT.--The department
15 shall collect each tax imposed pursuant to the provisions of
16 the Municipal Local Option Gross Receipts and Compensating
17 Taxes Act in the same manner and at the same time it collects
18 the state gross receipts and compensating taxes."

19 **SECTION 50.** A new Section 7-19D-9.1 NMSA 1978 is
20 enacted to read:

21 "7-19D-9.1. MUNICIPAL COMPENSATING TAX.--

22 A. Beginning July 1, 2021, for the privilege of
23 using tangible personal property in a municipality, there is
24 imposed on the person using the property an excise tax at a
25 rate equal to the combined gross receipts tax rates imposed

1 and in effect pursuant to the Supplemental Municipal Gross
2 Receipts Tax Act and the Municipal Local Option Gross
3 Receipts and Compensating Taxes Act of the value of tangible
4 personal property that was:

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

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

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

20 C. For the privilege of using a license or
21 franchise in a municipality, there is imposed on the person
22 using the license or franchise an excise tax equal to the tax
23 rate provided in Subsection A of this section against the
24 value of the license or franchise as determined pursuant to
25 Section 7-9-7 NMSA 1978. The department by rule, ruling or

1 instruction shall fairly apportion, where appropriate, the
2 value of a license or franchise to its value in use in the
3 municipality. For use of a license or franchise to be
4 taxable under this subsection, the value of the license or
5 franchise shall be acquired inside or outside this state as
6 the result of a transaction with a person located outside
7 this state that would have been subject to the gross receipts
8 tax had the license or franchise been acquired from a person
9 with nexus with this state.

10 D. For the privilege of using services in a
11 municipality, there is imposed on the person using the
12 services an excise tax at the rate provided in Subsection A
13 of this section of the value of the services at the time the
14 product of the service was acquired. For use of services to
15 be taxable under this subsection, the services shall have
16 been performed by a person outside this state and the product
17 of which was acquired inside or outside this state as the
18 result of a transaction with a person located outside this
19 state that would have been subject to the gross receipts tax
20 had the service or product of the service been acquired from
21 a person with nexus with this state.

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

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

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

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

15 SECTION 51. Section 7-20E-1 NMSA 1978 (being Laws 1993,
16 Chapter 354, Section 1) is amended to read:

17 "7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA
18 1978 may be cited as the "County Local Option Gross Receipts
19 and Compensating Taxes Act".

20 SECTION 52. Section 7-20E-7 NMSA 1978 (being Laws 1993,
21 Chapter 354, Section 7, as amended) is amended to read:

22 "7-20E-7. COLLECTION BY DEPARTMENT.--The department
23 shall collect each tax imposed pursuant to the provisions of
24 the County Local Option Gross Receipts and Compensating Taxes
25 Act in the same manner and at the same time it collects the

1 state gross receipts and compensating taxes."

2 SECTION 53. A new Section 7-20E-9.1 NMSA 1978 is
3 enacted to read:

4 "7-20E-9.1. COUNTY COMPENSATING TAX.--

5 A. Beginning July 1, 2021, for the privilege of
6 using tangible personal property in a county, there is
7 imposed on the person using the property an excise tax at a
8 rate equal to the combined gross receipts tax rates imposed
9 and in effect pursuant to the Local Hospital Gross Receipts
10 Tax Act, the County Local Option Gross Receipts and
11 Compensating Taxes Act and the County Correctional Facility
12 Gross Receipts Tax Act of the value of tangible personal
13 property that was:

14 (1) manufactured by the person using the
15 property in the state; or

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

21 B. For the purpose of Subsection A of this
22 section, the value of tangible personal property shall be the
23 adjusted basis of the property for federal income tax
24 purposes determined as of the time of acquisition or
25 introduction into this state or of conversion to use,

1 whichever is later. If no adjusted basis for federal income
2 tax purposes is established for the property, a reasonable
3 value of the property shall be used.

4 C. For the privilege of using a license or
5 franchise in a county, there is imposed on the person using
6 the license or franchise an excise tax equal to the tax rate
7 provided in Subsection A of this section against the value of
8 the license or franchise as determined pursuant to Section
9 7-9-7 NMSA 1978. The department by rule, ruling or
10 instruction shall fairly apportion, where appropriate, the
11 value of a license or franchise to its value in use in the
12 county. For use of a license or franchise to be taxable
13 under this subsection, the value of the license or franchise
14 shall be acquired inside or outside this state as the result
15 of a transaction with a person located outside this state
16 that would have been subject to the gross receipts tax had
17 the license or franchise been acquired from a person with
18 nexus with this state.

19 D. For the privilege of using services in a
20 county, there is imposed on the person using the services an
21 excise tax at the rate provided in Subsection A of this
22 section of the value of the services at the time the product
23 of the service was acquired. For use of services to be
24 taxable under this subsection, the services shall have been
25 performed by a person outside this state and the product of

1 which was acquired inside or outside this state as the result
2 of a transaction with a person located outside this state
3 that would have been subject to the gross receipts tax had
4 the service or product of the service been acquired from a
5 person with nexus with this state.

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

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

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

24 **SECTION 54. TEMPORARY PROVISION--REFERENCES IN LAW.--**

25 A. References in law to the County Local Option

1 Gross Receipts Taxes Act shall be deemed to be references to
2 the County Local Option Gross Receipts and Compensating Taxes
3 Act.

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

8 **SECTION 55. TEMPORARY PROVISION--UNDERPAID INCOME TAX**
9 **DUE TO CHANGES MADE TO SECTIONS OF THE INCOME TAX**
10 **ACT--FORGIVING PENALTIES AND INTEREST.--**A taxpayer who paid
11 income tax for taxable year 2019 in installments through
12 withholding or estimated tax payments pursuant to Section
13 7-2-12.2 NMSA 1978 but underpaid due to the changes made to
14 Section 7-2-34 NMSA 1978 pursuant to this act shall not be
15 subject to the penalties and interest provisions of the Tax
16 Administration Act for the underpayment; provided that the
17 underpayment is solely attributable to the changes made to
18 Section 7-2-34 NMSA 1978 pursuant to this act.

19 **SECTION 56. REPEAL.--**Sections 7-1-6.57 and 7-9-96.1
20 NMSA 1978 (being Laws 2007, Chapter 361, Sections 1 and 7)
21 are repealed.

22 **SECTION 57. DELAYED REPEAL.--**

23 A. Section 9 of this act is repealed effective
24 July 1, 2021.

25 B. Section 7-1-6.55 NMSA 1978 (being Laws 2007,

1 Chapter 331, Section 4) is repealed effective July 1, 2021.

2 C. Sections 7-20C-5, 7-20E-5 and 7-20F-6 NMSA 1978
3 (being Laws 1991, Chapter 176, Section 5, Laws 1993, Chapter
4 354, Section 5 and Laws 1993, Chapter 303, Section 6, as
5 amended) are repealed effective July 1, 2021.

6 **SECTION 58. DELAYED REPEAL.--**Sections 7-2A-8 and
7 7-2A-8.4 NMSA 1978 (being Laws 1981, Chapter 37, Section 41
8 and Laws 1983, Chapter 213, Section 13, as amended) are
9 repealed effective January 1, 2020.

10 **SECTION 59. APPLICABILITY.--**

11 A. The provisions of Sections 13 through 15 of
12 this act apply to taxable years beginning on or after January
13 1, 2019.

14 B. The provisions of Sections 16 through 22 and 58
15 of this act apply to taxable years beginning on or after
16 January 1, 2020.

17 C. The provisions of Section 12 of this act apply
18 to taxable years beginning on or after January 1, 2021.

19 **SECTION 60. EFFECTIVE DATE.--**

20 A. The effective date of the provisions of
21 Sections 1 through 10, 23 through 29, 31, 33 through 49, 51,
22 52 and 54 through 56 of this act is July 1, 2019.

23 B. The effective date of the provisions of
24 Sections 16 through 22 of this act is January 1, 2020.

25 C. The effective date of the provisions of

1 Sections 11, 30, 32, 50 and 53 of this act is July 1, 2021.

2 SECTION 61. CONTINGENT EFFECTIVE DATE.--The effective
3 date of the provisions of Section 12 of this act is the date
4 on which the secretary of finance and administration certifies
5 to the New Mexico compilation commission and the director of
6 the legislative council service that fiscal year 2020
7 recurring general fund revenues are less than five percent
8 above fiscal year 2019 recurring general fund revenues. If
9 the certification is not made prior to February 19, 2021, the
10 provisions of Section 12 of this act shall not take effect.==

HTRC/HB 6/a
Page 106

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