

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 6

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

AN ACT

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

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1 THE PLACE OF BUSINESS OF THE SELLER TO DESTINATION-BASED
2 SOURCING; SUBJECTING FOR-PROFIT AND NONPROFIT HOSPITALS TO THE
3 STATE GROSS RECEIPTS TAX; SUBJECTING GOVERNMENT HOSPITALS TO
4 THE GOVERNMENTAL GROSS RECEIPTS TAX; INCREASING THE CIGARETTE
5 TAX; INCREASING THE TOBACCO PRODUCTS TAX; IMPOSING THE TAX ON
6 E-CIGARETTES; INCREASING THE RATE OF THE MOTOR VEHICLE EXCISE
7 TAX; INCREASING CERTAIN MOTOR VEHICLE REGISTRATION FEES;
8 IMPOSING A MUNICIPAL COMPENSATING TAX AND A COUNTY COMPENSATING
9 TAX; LIMITING THE HOLD HARMLESS DISTRIBUTIONS FOR CERTAIN LOCAL
10 GOVERNMENTS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE
11 NMSA 1978; MAKING AN APPROPRIATION.

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

16 "7-1-2. APPLICABILITY.--The Tax Administration Act
17 applies to and governs:

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

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

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

4 (5) Liquor Excise Tax Act;

5 (6) Local Liquor Excise Tax Act;

6 (7) any municipal local option gross receipts
7 tax or municipal compensating tax;

8 (8) any county local option gross receipts tax
9 or county compensating tax;

10 (9) Special Fuels Supplier Tax Act;

11 (10) Gasoline Tax Act;

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

15 (12) Alternative Fuel Tax Act;

16 (13) Cigarette Tax Act;

17 (14) Estate Tax Act;

18 (15) Railroad Car Company Tax Act;

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

24 (17) Corporate Income and Franchise Tax Act;

25 (18) Uniform Division of Income for Tax

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1 Purposes Act;

2 (19) Multistate Tax Compact;

3 (20) Tobacco Products Tax Act; and

4 (21) the telecommunications relay service
5 surcharge imposed by Section 63-9F-11 NMSA 1978, which
6 surcharge shall be considered a tax for the purposes of the Tax
7 Administration Act;

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

11 (1) Resources Excise Tax Act;

12 (2) Severance Tax Act;

13 (3) any severance surtax;

14 (4) Oil and Gas Severance Tax Act;

15 (5) Oil and Gas Conservation Tax Act;

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

17 (7) Oil and Gas Ad Valorem Production Tax Act;

18 (8) Natural Gas Processors Tax Act;

19 (9) Oil and Gas Production Equipment Ad
20 Valorem Tax Act;

21 (10) Copper Production Ad Valorem Tax Act;

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

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1 (12) Enhanced Oil Recovery Act;

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

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

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

9 (1) Weight Distance Tax Act;

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

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

14 (4) 911 emergency surcharge and the network
15 and database surcharge, which surcharges shall be considered
16 taxes for purposes of the Tax Administration Act;

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

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

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

25 D. the administration and enforcement of all other

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

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

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

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

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

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

24 [~~G.~~] D. "electronic payment" means a payment made
25 by automated clearinghouse deposit, any funds wire transfer

1 system or a credit card, debit card or electronic cash
2 transaction through the internet;

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

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

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

14 (1) the chief hearing officer;

15 (2) an employee of the administrative hearings
16 office; or

17 (3) a contractor of the administrative
18 hearings office;

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

22 ~~[H.]~~ I. "levy" means the lawful power, hereby
23 invested in the secretary, to take into possession or to
24 require the present or future surrender to the secretary or the
25 secretary's delegate of any property or rights to property

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1 belonging to a delinquent taxpayer;

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

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

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

1 with respect to that tax or tax act;

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

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

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

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

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

24 ~~[Q.]~~ R. "property" means property or rights to
25 property;

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

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

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

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

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

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

12 [~~X.~~] Y. "state" means any state of the United
13 States, the District of Columbia, the commonwealth of Puerto
14 Rico and any territory or possession of the United States;

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

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1 thereto;

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

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

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

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

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

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1 tax or governmental gross receipts tax of another person and
 2 the special agreement was approved by the secretary pursuant to
 3 the Tax Administration Act."

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

6 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS
 7 TAX.--

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

- 18 (1) within that municipality;
- 19 (2) on land owned by the state, commonly known
 20 as the "state fairgrounds", within the exterior boundaries of
 21 that municipality;
- 22 (3) outside the boundaries of any municipality
 23 on land owned by that municipality; and
- 24 (4) on an Indian reservation or pueblo grant
 25 in an area that is contiguous to that municipality and in which

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1 the municipality performs services pursuant to a contract
2 between the municipality and the Indian tribe or Indian pueblo
3 if:

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

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

12 B. If the reduction made by Laws 1991, Chapter 9,
13 Section 9 to the distribution under this section impairs the
14 ability of a municipality to meet its principal or interest
15 payment obligations for revenue bonds outstanding prior to July
16 1, 1991 that are secured by the pledge of all or part of the
17 municipality's revenue from the distribution made under this
18 section, then the amount distributed pursuant to this section
19 to that municipality shall be increased by an amount sufficient
20 to meet any required payment, provided that the distribution
21 amount does not exceed the amount that would have been due that
22 municipality under this section as it was in effect on June 30,
23 1992.

24 C. A distribution pursuant to this section may be
25 adjusted for a distribution made to a tax increment development

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1 district with respect to a portion of a gross receipts tax
 2 increment dedicated by a municipality pursuant to the Tax
 3 Increment for Development Act."

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

8 "7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

9 A. A distribution pursuant to Section 7-1-6.1 NMSA
 10 1978 shall be made to the comprehensive cancer center at the
 11 university of New Mexico health sciences center in an amount
 12 equal to [~~eighty-three~~] seventy-one hundredths percent of the
 13 net receipts, exclusive of penalties and interest, attributable
 14 to the cigarette tax.

15 B. A distribution pursuant to Section 7-1-6.1 NMSA
 16 1978 in an amount equal to [~~eight and eighty-nine~~] seven and
 17 fifty-two hundredths percent of the net receipts, exclusive of
 18 penalties and interest, attributable to the cigarette tax,
 19 shall be made, on behalf of and for the benefit of the
 20 university of New Mexico health sciences center, to the New
 21 Mexico finance authority.

22 C. A distribution pursuant to Section 7-1-6.1 NMSA
 23 1978 in an amount equal to three and [~~seventy-four~~] seventeen
 24 hundredths percent of the net receipts, exclusive of penalties
 25 and interest, attributable to the cigarette tax shall be made

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1 to the New Mexico finance authority for land acquisition and
2 the planning, designing, construction and equipping of
3 department of health facilities or improvements to such
4 facilities.

5 D. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 in an amount equal to [~~nine and seventy-seven~~] eight and
7 twenty-six hundredths percent of the net receipts, exclusive of
8 penalties and interest, attributable to the cigarette tax shall
9 be made to the New Mexico finance authority for deposit in the
10 credit enhancement account created in the authority.

11 E. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 in an amount equal to [~~sixty-two~~] fifty-three hundredths
13 percent of the net receipts, exclusive of penalties and
14 interest, attributable to the cigarette tax shall be made, on
15 behalf of and for the benefit of the rural county cancer
16 treatment fund, to the New Mexico finance authority."

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

19 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION
20 GROSS RECEIPTS AND COMPENSATING TAXES.--

21 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
22 shall be made to each municipality for which the department is
23 collecting a local option gross receipts tax and municipal
24 compensating tax imposed by that municipality in an amount,
25 subject to any increase or decrease made pursuant to Section

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1 7-1-6.15 NMSA 1978, equal to the net receipts attributable to
 2 the local option gross receipts tax and municipal compensating
 3 tax imposed by that municipality, less any deduction for
 4 administrative cost determined and made by the department
 5 pursuant to the provisions of the act authorizing imposition by
 6 that municipality of the local option gross receipts tax and
 7 municipal compensating tax and any additional administrative
 8 fee withheld pursuant to [~~Subsection C of~~] Section 7-1-6.41
 9 NMSA 1978.

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

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

17 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
 18 GROSS RECEIPTS AND COMPENSATING TAXES.--

19 A. Except as provided in Subsection B of this
 20 section, a transfer pursuant to Section 7-1-6.1 NMSA 1978 shall
 21 be made to each county for which the department is collecting a
 22 local option gross receipts tax and county compensating tax
 23 imposed by that county in an amount, subject to any increase or
 24 decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to
 25 the net receipts attributable to the local option gross

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1 receipts tax and county compensating tax imposed by that
2 county, less any deduction for administrative cost determined
3 and made by the department pursuant to the provisions of the
4 act authorizing imposition by that county of the local option
5 gross receipts tax and county compensating tax and any
6 additional administrative fee withheld pursuant to [~~Subsection~~
7 ~~6-0f~~] Section 7-1-6.41 NMSA 1978.

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

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

17 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
18 MUNICIPALITIES OR COUNTIES.--

19 A. The provisions of this section apply to:

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

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

25 (3) any transfer to a county with respect to

1 any local option gross receipts tax or county compensating tax
2 imposed by that county;

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

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

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

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

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

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

17 B. Before making a distribution or transfer
18 specified in Subsection A of this section to a municipality or
19 county for the month, amounts comprising the net receipts shall
20 be segregated into two mutually exclusive categories. One
21 category shall be for amounts relating to the current month,
22 and the other category shall be for amounts relating to prior
23 periods. The total of each category for a municipality or
24 county shall be reported each month to that municipality or
25 county. If the total of the amounts relating to prior periods

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1 is less than zero and its absolute value exceeds the greater of
2 one hundred dollars (\$100) or an amount equal to twenty percent
3 of the average distribution or transfer amount for that
4 municipality or county, then the following procedures shall be
5 carried out:

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

16 (2) if the revised total for prior periods
17 determined pursuant to Paragraph (1) of this subsection is
18 negative and its absolute value exceeds the greater of one
19 hundred dollars (\$100) or an amount equal to twenty percent of
20 the average distribution or transfer amount for that
21 municipality or county, the revised total for prior periods
22 shall be excluded from the distribution or transfers and the
23 net receipts to be distributed or transferred to the
24 municipality or county shall be equal to the amount for the
25 current month.

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

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

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

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

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

22 (4) that the municipality or county may
23 inspect, pursuant to Section 7-1-8.9 NMSA 1978, an application
24 for a claim for refund that gave rise to the recoverable
25 amount, exclusive of any amended returns that may be attached

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1 to the application.

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

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

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

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

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

24 (a) shall recover only up to fifty
25 percent of the average distribution or transfer of net receipts

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1 for that municipality or county; and

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

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

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

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

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

3 H. The secretary is authorized to decrease a
4 distribution or transfer to a municipality or county upon being
5 directed to do so by the secretary of finance and
6 administration pursuant to the State Aid Intercept Act or to
7 redirect a distribution or transfer to the New Mexico finance
8 authority pursuant to an ordinance or a resolution passed by
9 the county or municipality and a written agreement of the
10 municipality or county and the New Mexico finance authority.

11 Upon direction to decrease a distribution or transfer or notice
12 to redirect a distribution or transfer to a municipality or
13 county, the secretary shall decrease or redirect the next
14 designated distribution or transfer, and succeeding
15 distributions or transfers as necessary, by the amount of the
16 state distributions intercept authorized by the secretary of
17 finance and administration pursuant to the State Aid Intercept
18 Act or by the amount of the state distribution intercept
19 authorized pursuant to an ordinance or a resolution passed by
20 the county or municipality and a written agreement with the New
21 Mexico finance authority. The secretary shall transfer the
22 state distributions intercept amount to the municipal or county
23 treasurer or other person designated by the secretary of
24 finance and administration or to the New Mexico finance
25 authority pursuant to written agreement to pay the debt service

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

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

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

18 I. Upon the direction of the secretary of finance
19 and administration pursuant to Section 9-6-5.2 NMSA 1978, the
20 secretary shall temporarily withhold the balance of a
21 distribution to a municipality or county, net of any decrease
22 or redirected amount pursuant to Subsection H of this section
23 and any recoverable amount pursuant to Paragraph (2) of
24 Subsection B of this section, that has failed to submit an
25 audit report required by the Audit Act or a financial report

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1 required by Subsection F of Section 6-6-2 NMSA 1978. The
2 amount to be withheld, the source of the withheld distribution
3 and the number of months that the distribution is to be
4 withheld shall be as directed by the secretary of finance and
5 administration. A distribution withheld pursuant to this
6 subsection shall remain in the tax administration suspense fund
7 until distributed to the municipality or county and shall not
8 be distributed to the general fund. An amount withheld
9 pursuant to this subsection shall be distributed to the
10 municipality or county upon direction of the secretary of
11 finance and administration.

12 J. As used in this section:

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

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

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

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

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

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

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

23 (5) "repayment agreement" means an agreement
24 between the department and a municipality or county under which
25 the municipality or county agrees to allow the department to

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1 recover an amount determined pursuant to Paragraph (2) of
2 Subsection B of this section by decreasing distributions or
3 transfers to the municipality or county for one or more months
4 beginning with the distribution or transfer to be made with
5 respect to a designated month. No interest shall be charged."

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

8 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL GROSS RECEIPTS
9 TAX.--

10 A. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 shall be made in amounts equal to the following
12 percentages of the net receipts attributable to the
13 governmental gross receipts tax, less the net receipts
14 attributable to a hospital licensed by the department of
15 health:

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

21 B. ~~A distribution pursuant to Section 7-1-6.1 NMSA~~
22 ~~1978 shall be made]~~

23 (2) twenty-four percent to the energy,
24 minerals and natural resources department [~~in an amount equal~~
25 ~~to twenty-four percent of the net receipts attributable to the~~

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

11 ~~[C. A distribution pursuant to Section 7-1-6.1 NMSA~~
 12 ~~1978 shall be made]~~ and

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

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

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

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

12 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR
13 FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES
14 DEDUCTION.--

15 A. For a municipality that ~~[has not elected to~~
16 ~~impose]~~ does not have in effect a municipal hold harmless gross
17 receipts tax through an ordinance and that has a population of
18 less than ten thousand according to the most recent federal
19 decennial census, a distribution pursuant to Section 7-1-6.1
20 NMSA 1978 shall be made to [~~a~~] the municipality in an amount,
21 subject to any increase or decrease made pursuant to Section
22 7-1-6.15 NMSA 1978, equal to the [~~sum of:~~

23 ~~(1) the total deductions claimed pursuant to~~
24 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
25 ~~business locations attributable to the municipality multiplied~~

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1 by the sum of the combined rate of all municipal local option
 2 gross receipts taxes in effect in the municipality for the
 3 month plus one and two hundred twenty-five thousandths percent;
 4 and

5 ~~(2) the total deductions claimed pursuant to~~
 6 ~~Section 7-9-93 NMSA 1978 for the month by taxpayers from~~
 7 ~~business locations attributable to the municipality multiplied~~
 8 ~~by the sum of the combined rate of all municipal local option~~
 9 ~~gross receipts taxes in effect in the municipality for the~~
 10 ~~month plus one and two hundred twenty-five thousandths percent]~~
 11 applicable maximum distribution for the municipality.

12 B. For a municipality that does not have in effect
 13 a municipal hold harmless gross receipts tax through an
 14 ordinance and that has a population of at least ten thousand
 15 but less than twenty-five thousand according to the most recent
 16 federal decennial census, a distribution pursuant to Section
 17 7-1-6.1 NMSA 1978 shall be made to the municipality in an
 18 amount, subject to any increase or decrease made pursuant to
 19 Section 7-1-6.15 NMSA 1978, equal to eighty-two percent of the
 20 applicable maximum distribution for the municipality.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 ~~D.]~~ E. If the ~~[reductions]~~ changes made by this
 16 ~~[2013]~~ 2019 act to the distributions made pursuant to
 17 ~~[Subsections A and B of]~~ this section impair the ability of a
 18 municipality to meet its principal or interest payment
 19 obligations for revenue bonds that are outstanding prior to
 20 July 1, ~~[2013]~~ 2019 and that are secured by the pledge of all
 21 or part of the municipality's revenue from the distribution
 22 made pursuant to this section, then the amount distributed
 23 pursuant to this section to that municipality shall be
 24 increased by an amount sufficient to meet the required payment;
 25 provided that the total amount distributed to that municipality

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1 pursuant to this section does not exceed the amount that would
2 have been due that municipality pursuant to this section as it
3 was in effect on June 30, [~~2013~~] 2019.

4 [~~E.~~] F. For the purposes of this section:

5 (1) "business locations attributable to the
6 municipality" means business locations:

7 [~~(1)~~] (a) within the municipality;

8 [~~(2)~~] (b) on land owned by the state,
9 commonly known as the "state fairgrounds", within the exterior
10 boundaries of the municipality;

11 [~~(3)~~] (c) outside the boundaries of the
12 municipality on land owned by the municipality; and

13 [~~(4)~~] (d) on an Indian reservation or
14 pueblo grant in an area that is contiguous to the municipality
15 and in which the municipality performs services pursuant to a
16 contract between the municipality and the Indian tribe or
17 Indian pueblo if: [~~(a)~~] 1) the contract describes an area in
18 which the municipality is required to perform services and
19 requires the municipality to perform services that are
20 substantially the same as the services the municipality
21 performs for itself; and [~~(b)~~] 2) the governing body of the
22 municipality has submitted a copy of the contract to the
23 secretary; and

24 (2) "maximum distribution" means:

25 (a) for a municipality that has a

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

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

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

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

25 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD

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1 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

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

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

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

22 ~~(3) the total deductions claimed pursuant to~~
23 ~~Section 7-9-93 NMSA 1978 for the month by taxpayers from~~
24 ~~business locations within a municipality in the county~~
25 ~~multiplied by the combined rate of all county local option~~

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1 ~~gross receipts taxes in effect for the month that are imposed~~
 2 ~~throughout the county; and~~

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

10 B. For a county not described in Subsection A of
 11 this section, a distribution pursuant to Section 7-1-6.1 NMSA
 12 1978 shall be made to the county in an amount, subject to any
 13 increase or decrease made pursuant to Section 7-1-6.15 NMSA
 14 1978, equal to the ~~[sum of:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

underscored material = new
~~[bracketed material] = delete~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 ~~(j)]~~ (5) on or after July 1, 2023 and prior

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

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

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

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

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

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

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

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

25 D. If the ~~[reductions]~~ changes made by this ~~[2013]~~

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

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

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

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

23 (a) the total deductions claimed
24 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month
25 by taxpayers from business locations within a municipality in

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1 the county multiplied by the combined rate of all county local
 2 option gross receipts taxes in effect for the month that are
 3 imposed throughout the county; and

4 (b) the total deductions claimed
 5 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month
 6 by taxpayers from business locations in the county but not
 7 within a municipality multiplied by the combined rate of all
 8 county local option gross receipts taxes in effect for the
 9 month that are imposed in the county area not within a
 10 municipality; and

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

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

20 (b) the total deductions claimed
 21 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month
 22 by taxpayers from business locations in the county but not
 23 within a municipality multiplied by the combined rate of all
 24 county local option gross receipts taxes in effect on January
 25 1, 2007 that are imposed in the county area not within a

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1 municipality."

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

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

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

15 B. Prior to July 1, 2021, a distribution pursuant
16 to Section 7-1-6.1 NMSA 1978 shall be made to counties from the
17 net receipts attributable to the gross receipts tax in an
18 amount equal to seven hundred fifty thousand dollars
19 (\$750,000). The amount to be distributed to each county shall
20 be in proportion to the population of each county in proportion
21 to the total population of all counties, according to the most
22 recent federal decennial census."

23 SECTION 12. 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:

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underscoring material = new
~~[bracketed material] = delete~~

1 "7-1-14. [NEW MATERIAL] LOCATION WHERE CERTAIN GROSS
2 RECEIPTS ARE TO BE REPORTED.--

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

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

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

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

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

24 (c) for a person engaged in the business
25 of providing services with respect to the selling of real

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

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

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

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

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

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

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

24 (a) outside a municipality;

25 (b) within an Indian reservation or

1 pueblo grant;

2 (c) within a tax increment development
3 district; and

4 (d) within any other taxing
5 jurisdiction.

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

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

13 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by
14 Section 7-2-3 NMSA 1978 shall be at the following rates for any
15 taxable year beginning on or after January 1, [2008] 2019:

16 A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
[Not over \$4,000	1.7% of taxable income
Over \$4,000 but not over \$8,000	\$68.00 plus 3.2% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$196 plus 4.7% of excess over \$8,000
Over \$12,000	\$384 plus 4.9% of excess over \$12,000.

17 B. ~~For heads of household, surviving spouses and~~

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1 ~~married individuals filing joint returns:~~

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

10 ~~G. For single individuals and for estates and~~
11 ~~trusts:~~

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

20	<u>Not over \$5,000</u>	<u>1.7% of taxable income</u>
21	<u>Over \$5,000 but not over \$7,500</u>	<u>\$85.00 plus 3.2% of</u>
22		<u>excess over \$5,000</u>
23	<u>Over \$7,500 but not over \$17,500</u>	<u>\$165 plus 4.7% of excess</u>
24		<u>over \$7,500</u>
25	<u>Over \$17,500 but not over \$37,500</u>	<u>\$635 plus 5.2% of excess</u>

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1		<u>over \$17,500</u>
2	<u>Over \$37,500 but not over \$75,000</u>	<u>\$1,675 plus 5.5% of</u>
3		<u>excess over \$37,500</u>
4	<u>Over \$75,000 but not over \$150,000</u>	<u>\$3,737 plus 5.8% of</u>
5		<u>excess over \$75,000</u>
6	<u>Over \$150,000</u>	<u>\$8,087 plus 6.5% of</u>
7		<u>excess over \$150,000.</u>

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

10	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
11	<u>Not over \$10,000</u>	<u>1.7% of taxable income</u>
12	<u>Over \$10,000 but not over \$15,000</u>	<u>\$170 plus 3.2% of</u>
13		<u>excess over \$10,000</u>
14	<u>Over \$15,000 but not over \$35,000</u>	<u>\$330 plus 4.7% of excess</u>
15		<u>over \$15,000</u>
16	<u>Over \$35,000 but not over \$75,000</u>	<u>\$1,270 plus 5.2% of</u>
17		<u>excess over \$35,000</u>
18	<u>Over \$75,000 but not over \$150,000</u>	<u>\$3,350 plus 5.5% of</u>
19		<u>excess over \$75,000</u>
20	<u>Over \$150,000 but not over \$300,000</u>	<u>\$7,475 plus 5.8% of</u>
21		<u>excess over \$150,000</u>
22	<u>Over \$300,000</u>	<u>\$16,175 plus 6.5% of</u>
23		<u>excess over \$300,000.</u>

24 C. For single individuals and for estates and
 25 trusts:

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underscored material = new
 [bracketed material] = delete

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

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

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

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

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1 "7-2-18.15. WORKING FAMILIES TAX CREDIT.--

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

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

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

17 "7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

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

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

24 ~~(2) the following percentage of the taxpayer's~~
25 ~~net capital gain income for the taxable year for which the~~

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1 ~~deduction is being claimed:~~

2 ~~(a) for a taxable year beginning in~~
3 ~~2003, ten percent;~~

4 ~~(b) for a taxable year beginning in~~
5 ~~2004, twenty percent;~~

6 ~~(c) for a taxable year beginning in~~
7 ~~2005, thirty percent;~~

8 ~~(d) for a taxable year beginning in~~
9 ~~2006, forty percent; and~~

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

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

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

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

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

25 "[NEW MATERIAL] DEDUCTION FROM NET INCOME FOR CERTAIN

1 DEPENDENTS.--

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

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

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

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

25 SECTION 17. Section 7-2A-2 NMSA 1978 (being Laws 1986,

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1 Chapter 20, Section 33, as amended) is amended to read:

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

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

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

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

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

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

25 ~~(2) interest received on a state or local~~

1 bond; and

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

6 federal net operating loss of a corporation for the taxable
7 year calculated pursuant to the Internal Revenue Code, after
8 special deductions provided in Sections 241 through 249 of the
9 Internal Revenue Code but without any deduction for net
10 operating losses, as if the corporation filed a federal tax
11 return as a separate domestic entity, modified as follows:

12 (1) adding to that income:

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

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

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

23 (2) subtracting from that income:

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

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

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

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

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

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

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

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

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

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

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

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

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

22 ~~[E.]~~ G. "corporation" means corporations, joint
23 stock companies, real estate trusts organized and operated
24 under the Real Estate Trust Act, financial corporations and
25 banks, other business associations and, for corporate income

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1 tax purposes, partnerships and limited liability companies
2 taxed as corporations under the Internal Revenue Code;

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

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

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

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

15 (1) the amount of net loss properly reported
16 to New Mexico in taxable years beginning January 1, 2013 and
17 prior to January 1, 2020 as part of a timely filed original
18 return, or an amended return filed prior to March 15, 2019, to
19 the extent such loss can be attributed to one or more
20 corporations that are properly included in the taxpayer's
21 return for the first taxable year beginning on or after January
22 1, 2020;

23 (2) reduced by:

24 (a) adding back deductions that were
25 taken by the corporation or corporations for royalties or

1 interest paid to one or more related corporations, but only to
2 the extent that such adjustment would not create a net loss for
3 such related corporations; and

4 (b) the amount of net operating loss
5 deductions taken prior to January 1, 2020, that would be
6 charged against those losses consistent with the Internal
7 Revenue Code and provisions of the Corporate Income and
8 Franchise Tax Act applicable to the year of the deduction; 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 ~~[H.]~~ L. "Internal Revenue Code" means the United
13 States Internal Revenue Code of 1986, as amended;

14 ~~[I.]~~ M. "net income" means: ~~[base income adjusted~~
15 ~~to exclude:~~

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

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

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

23 ~~(a) net operating loss carryback~~
24 ~~deductions to that year from taxable years beginning prior to~~
25 ~~January 1, 1991 claimed and allowed, as provided by the~~

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1 ~~Internal Revenue Code; and~~

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

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

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

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

18 ~~(c) in either case, if the net operating~~
19 ~~loss carryover exceeds the amount of net income exclusive of~~
20 ~~the net operating loss carryover for the taxable year to which~~
21 ~~the exclusion first applies, in the next four succeeding~~
22 ~~taxable years in turn until the net operating loss carryover is~~
23 ~~exhausted for any net operating loss carryover from a taxable~~
24 ~~year prior to January 1, 2013; in no event may a net operating~~
25 ~~loss carryover from a taxable year beginning prior to January~~

1 ~~1, 2013 be excluded in any taxable year after the fourth~~
2 ~~taxable year beginning after the taxable year to which the~~
3 ~~exclusion first applies; and~~

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

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

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

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

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1 ~~which the exclusion first applies; and 2) on or after January~~
2 ~~1, 2013 be excluded in any taxable year after the nineteenth~~
3 ~~taxable year beginning after the taxable year to which the~~
4 ~~exclusion first applies;~~

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

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

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

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

1 (1) plus:

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

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

12 (2) minus:

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

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

21 0. "net operating loss deduction" means the portion
22 of the net operating loss carryover that may be deducted from
23 the taxpayer's apportioned net income under the Internal
24 Revenue Code for the taxable year in which the deduction is
25 taken, including the eighty percent limitation of Section

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1 172(a) of the Internal Revenue Code calculated on the basis of
2 the taxpayer's apportioned net income;

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

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

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

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

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

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

6 ~~[P.]~~ V. "state" means any state of the United
7 States, the District of Columbia, the commonwealth of Puerto
8 Rico, any territory or possession of the United States or
9 political subdivision thereof or any political subdivision of a
10 foreign country;

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

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

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

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

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

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

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

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

underscored material = new
[bracketed material] = delete

1 (1) related through common ownership; and
2 (2) economically interdependent with one
3 another as demonstrated by the following factors:

4 (a) centralized management;

5 (b) functional integration; and

6 (c) economies of scale;

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

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

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

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

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

23 "7-2A-3. IMPOSITION AND LEVY OF TAXES.--

24 A. A tax to be known as the "corporate income tax"
25 is imposed at the rate specified in the Corporate Income and

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1 Franchise Tax Act upon the [~~net~~] taxable income of [~~every~~
2 ~~domestic corporation and upon the net income of every foreign~~
3 ~~corporation employed or~~] a corporation or group of
4 corporations, in whatever jurisdiction organized or
5 incorporated, that is engaged in the transaction of business
6 in, into or from this state or deriving any income from any
7 property or employment within this state.

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

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

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

20 [~~A. A unitary corporation that is subject to~~
21 ~~taxation under the Corporate Income and Franchise Tax Act and~~
22 ~~that has not previously filed a combined return pursuant to~~
23 ~~this section or a consolidated return pursuant to Section~~
24 ~~7-2A-8.4 NMSA 1978 may elect to file a combined return with~~
25 ~~other unitary corporations as though the entire combined net~~

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1 ~~income were that of one corporation; provided, however, that~~
2 ~~for taxable years beginning on or after January 1, 2014, a~~
3 ~~unitary corporation that provides retail sales of goods in a~~
4 ~~facility of more than thirty thousand square feet under one~~
5 ~~roof in New Mexico shall file a combined return with other~~
6 ~~unitary corporations as though the entire combined net income~~
7 ~~were that of one corporation. The return filed under this~~
8 ~~method of reporting shall include the net income of all the~~
9 ~~unitary corporations. Transactions among the unitary~~
10 ~~corporations may be eliminated by applying the appropriate~~
11 ~~rules for reporting income for a consolidated federal income~~
12 ~~tax return. Any corporation that has filed an income tax~~
13 ~~return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978~~
14 ~~shall not file pursuant to this section unless the secretary~~
15 ~~gives prior permission to file on a combined return basis.~~

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

23 ~~C. For taxable years beginning on or after January~~
24 ~~1, 1993, no unitary corporation once included in a combined~~
25 ~~return may elect, or be granted permission by the secretary,~~

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1 ~~for any subsequent taxable year to separately account pursuant~~
2 ~~to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.~~

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

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

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

10 A. Corporations that are part of a unitary group
11 shall file a return properly reporting and paying tax on
12 taxable income as a worldwide combined group unless they
13 properly elect to report and pay tax on taxable income as a
14 water's-edge or consolidated group, pursuant to department
15 rules and instructions, on the first original return required
16 to be filed for taxable years beginning on or after January 1,
17 2020. Corporations electing to file a consolidated return must
18 file on that same basis for federal income tax purposes. Once
19 a unitary or consolidated group has properly made an election
20 to file as a water's-edge or consolidated group, neither the
21 group nor any of the group's members may file a return on any
22 other basis without permission of the secretary. Corporations
23 that are part of a unitary group filing a return are jointly
24 and severally liable for the tax imposed pursuant to the
25 Corporate Income and Franchise Tax Act on taxable income.

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

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

11 "7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

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

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

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

25 ~~(2) in the taxable year beginning on or after~~

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1 ~~January 1, 2015 and prior to January 1, 2016, by multiplying~~
2 ~~the income by a fraction, the numerator of which is three~~
3 ~~multiplied by the sales factor plus the property factor plus~~
4 ~~the payroll factor and the denominator of which is five;~~

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

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

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

23 C. A taxpayer whose principal business activity in
24 New Mexico is a headquarters operation may elect to have
25 business income apportioned to this state by multiplying the

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1 income by [~~a fraction, the numerator of which is the total~~
 2 ~~sales of the taxpayer in New Mexico during the taxable year and~~
 3 ~~the denominator of which is the total sales of the taxpayer~~
 4 ~~from any location within or outside of the state during]~~ the
 5 sales factor for the taxable year.

6 D. To elect the method of apportionment provided by
 7 Subsection B or C of this section, the taxpayer shall notify
 8 the department of the election, in writing, no later than the
 9 date on which the taxpayer files the return for the first
 10 taxable year to which the election will apply. The election
 11 will apply to that taxable year and to each taxable year
 12 thereafter until the taxpayer notifies the department, in
 13 writing, that the election is terminated, except that the
 14 taxpayer shall not terminate the election until the method of
 15 apportioning business income provided by Subsection B or C of
 16 this section has been used by the taxpayer for at least three
 17 consecutive taxable years, including a total of at least
 18 thirty-six calendar months. The election [~~will~~] shall apply to
 19 [~~the separately filed return of the taxpayer or the~~] a
 20 taxpayer's properly filed separate return or a combined or
 21 consolidated return [~~the taxpayer has elected to be included~~]
 22 properly filed pursuant to Section 7-2A-8.3 [~~or 7-2A-8.4~~] NMSA
 23 1978.

24 E. For purposes of this section:

25 (1) "headquarters operation" means:

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

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

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

24 (a) construction;

25 (b) farming;

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

7 (d) processing natural resources,
8 including hydrocarbons."

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

11 "7-4-18. DETERMINATION OF SALES IN THIS STATE OF SERVICES
12 AND OTHER [THAN TANGIBLE PERSONAL] PROPERTY FOR INCLUSION IN
13 SALES FACTOR.--

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

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

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

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

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underscored material = new
[bracketed material] = delete

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

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

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

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

13 C. If the taxpayer is not taxable in a state to
14 which a sale is assigned pursuant to Subsection A of this
15 section or if the state of assignment cannot be determined or
16 reasonably approximated pursuant to Subsection B of this
17 section, that sale shall be excluded from the numerator and
18 denominator of the sales factor.

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

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

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

25 A. "buying" or "selling" means a transfer of

1 property for consideration or the performance of service for
2 consideration;

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

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

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

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

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

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

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

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

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1 (5) similar activities;

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

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

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

24 [H.] I. "manufacturing" means combining or
25 processing components or materials to increase their value for

1 sale in the ordinary course of business, but does not include
2 construction;

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

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

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

18 K. "marketplace seller" means a person who sells,
19 leases or licenses tangible personal property or services or
20 who licenses the use of real property through a marketplace
21 provider;

22 [~~F.~~] L. "person" means:

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

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

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

8 [~~J.~~] M. "property" means:

9 (1) real property;

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

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

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

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

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

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

24 (3) developing a new or improved product,
25 process or system with new or improved function, performance,

1 reliability or quality, whether or not the new or improved
2 product, process or system is offered for sale, lease or other
3 transfer;

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

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

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

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

18 [~~M.~~] P. "service" means all activities engaged in
19 for other persons for a consideration, which activities involve
20 predominantly the performance of a service as distinguished
21 from selling or leasing property. "Service" includes
22 activities performed by a person for its members or
23 shareholders. In determining what is a service, the intended
24 use, principal objective or ultimate objective of the
25 contracting parties shall not be controlling. "Service"

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1 includes construction activities and all tangible personal
2 property that will become an ingredient or component part of a
3 construction project. That tangible personal property retains
4 its character as tangible personal property until it is
5 installed as an ingredient or component part of a construction
6 project in New Mexico. Sales of tangible personal property
7 that will become an ingredient or component part of a
8 construction project to persons engaged in the construction
9 business are sales of tangible personal property; and

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

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

16 "7-9-3.2. ADDITIONAL DEFINITION.--

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

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

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

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1 (3) refuse collection or refuse disposal or
2 both;

3 (4) sewage services;

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

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

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

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

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

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

19 (1) cash discounts taken and allowed;

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

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

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

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

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

8 "7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in
9 the Gross Receipts and Compensating Tax Act, "engaging in
10 business" means carrying on or causing to be carried on any
11 activity with the purpose of direct or indirect benefit.

12 [~~except that:~~

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

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

1 property, sales of licenses and sales of services and licenses
2 for use of real property sourced to this state pursuant to
3 Section 7-1-14 NMSA 1978, of at least one hundred thousand
4 dollars (\$100,000)."

5 SECTION 25. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
6 Chapter 272, Section 3, as amended) is amended to read:

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

8 A. As used in the Gross Receipts and Compensating
9 Tax Act:

10 (1) "gross receipts" means the total amount of
11 money or the value of other consideration received from selling
12 property in New Mexico, from leasing or licensing property
13 employed in New Mexico, from granting a right to use a
14 franchise employed in New Mexico, from selling services
15 performed outside New Mexico, the product of which is initially
16 used in New Mexico, or from performing services in New Mexico.

17 In an exchange in which the money or other consideration
18 received does not represent the value of the property or
19 service exchanged, "gross receipts" means the reasonable value
20 of the property or service exchanged;

21 (2) "gross receipts" includes:

22 (a) any receipts from sales of tangible
23 personal property handled on consignment;

24 (b) the total commissions or fees
25 derived from the business of buying, selling or promoting the

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1 purchase, sale or lease, as an agent or broker on a commission
2 or fee basis, of any property, service, stock, bond or
3 security;

4 (c) amounts paid by members of any
5 cooperative association or similar organization for sales or
6 leases of personal property or performance of services by such
7 organization;

8 (d) amounts received from transmitting
9 messages or conversations by persons providing telephone or
10 telegraph services;

11 (e) amounts received by a New Mexico
12 florist from the sale of flowers, plants or other products that
13 are customarily sold by florists where the sale is made
14 pursuant to orders placed with the New Mexico florist that are
15 filled and delivered outside New Mexico by an out-of-state
16 florist; ~~and~~

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

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1 service provider", "mobile telecommunications services",
2 "customer" and "place of primary use" have the meanings given
3 in the federal Mobile Telecommunications Sourcing Act; and
4 (g) receipts collected by a marketplace
5 provider engaging in business in the state from sales, leases
6 and licenses of tangible personal property, sales of licenses
7 and sales of services or licenses for use of real property that
8 are sourced to this state and are facilitated by the
9 marketplace provider on behalf of marketplace sellers,
10 regardless of whether the marketplace sellers are engaging in
11 business in the state; and

12 (3) "gross receipts" excludes:

13 (a) cash discounts allowed and taken;

14 (b) New Mexico gross receipts tax,
15 governmental gross receipts tax and leased vehicle gross
16 receipts tax payable on transactions for the reporting period;

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

20 (d) any gross receipts or sales taxes
21 imposed by an Indian nation, tribe or pueblo; provided that the
22 tax is approved, if approval is required by federal law or
23 regulation, by the secretary of the interior of the United
24 States; and provided further that the gross receipts or sales
25 tax imposed by the Indian nation, tribe or pueblo provides a

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1 reciprocal exclusion for gross receipts, sales or gross
2 receipts-based excise taxes imposed by the state or its
3 political subdivisions;

4 (e) any type of time-price differential;

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

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

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

23 SECTION 26. Section 7-9-4.3 NMSA 1978 (being Laws 1991,
24 Chapter 8, Section 2, as amended by Laws 1993, Chapter 332,
25 Section 1 and by Laws 1993, Chapter 352, Section 1) is amended

1 to read:

2 "7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
 3 "GOVERNMENTAL GROSS RECEIPTS TAX".--For the privilege of
 4 engaging in certain activities by governments, there is imposed
 5 on every agency, institution, instrumentality or political
 6 subdivision of the state, except any school district and [~~any~~]
 7 an entity licensed by the department of health, other than a
 8 hospital, that is principally engaged in providing health care
 9 services, an excise tax of five percent of governmental gross
 10 receipts. The tax imposed by this section shall be referred to
 11 as the "governmental gross receipts tax"."

12 SECTION 27. Section 7-9-5 NMSA 1978 (being Laws 1966,
 13 Chapter 47, Section 5, as amended) is amended to read:

14 "7-9-5. PRESUMPTION OF TAXABILITY.--

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

22 B. If receipts from nontaxable charges for mobile
 23 telecommunications services are aggregated with and not
 24 separately stated from taxable charges for mobile
 25 telecommunications services, [~~then~~] the charges for nontaxable

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

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

14 SECTION 28. Section 7-9-6 NMSA 1978 (being Laws 1966,
15 Chapter 47, Section 6, as amended) is amended to read:

16 "7-9-6. SEPARATELY STATING THE GROSS RECEIPTS TAX.--

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

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

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

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

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

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

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

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

20 ~~(3) acquired as the result of a transaction~~
 21 ~~that was not initially subject to the compensating tax imposed~~
 22 ~~by Paragraph (2) of this subsection or the gross receipts tax~~
 23 ~~but which transaction, because of the buyer's subsequent use of~~
 24 ~~the property, should have been subject to the compensating tax~~
 25 ~~imposed by Paragraph (2) of this subsection or the gross~~

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1 ~~receipts tax~~].

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

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

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

1 the rate provided in Subsection A of this section against the
 2 value of the services at the time [they were rendered] the
 3 product of the service was acquired. For use of services to be
 4 taxable under this subsection, [must] the services shall have
 5 been [rendered as the result of a transaction that was not
 6 initially subject to the gross receipts tax but which
 7 transaction, because of the buyer's subsequent use of the
 8 services, should have been subject to the gross receipts tax]
 9 performed by a person outside this state and the product of the
 10 service was acquired inside or outside this state as the result
 11 of a transaction with a person located outside this state that
 12 would have been subject to the gross receipts tax had the
 13 service or product of the service been acquired from a person
 14 with nexus with this state.

15 ~~[D.]~~ E. The tax imposed by this section shall be
 16 referred to as the "compensating tax"."

17 **SECTION 30.** Section 7-9-7.1 NMSA 1978 (being Laws 1993,
 18 Chapter 45, Section 1, as amended) is amended to read:

19 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION
 20 ACTIONS WITH RESPECT TO CERTAIN [COMPENSATING] TAX
 21 LIABILITIES.--

22 ~~[A. The department shall take no action to enforce~~
 23 ~~collection of compensating tax due on purchases made by an~~
 24 ~~individual if:~~

25 ~~(1) the property is used only for nonbusiness~~

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1 purposes;

2 ~~(2) the property is not a manufactured home;~~
3 and

4 ~~(3) the individual is not an agent for~~
5 ~~collection of compensating tax pursuant to Section 7-9-10 NMSA~~
6 ~~1978.~~

7 ~~B. The prohibition in Subsection A of this section~~
8 ~~does not prevent the department from enforcing collection of~~
9 ~~compensating tax on purchases from persons who are not~~
10 ~~individuals, who are agents for collection pursuant to Section~~
11 ~~7-9-10 NMSA 1978 or who use the property in the course of~~
12 ~~engaging in business in New Mexico or from enforcing collection~~
13 ~~of compensating tax due on purchase of manufactured homes.] The~~
14 ~~department shall take no action to enforce collection of gross~~
15 ~~receipts tax for a tax period prior to July 1, 2019 on persons~~
16 ~~engaging in business if that person:~~

17 A. lacked physical presence in the state; and

18 B. did not report taxable gross receipts prior to
19 July 1, 2019."

20 SECTION 31. Section 7-9-13.1 NMSA 1978 (being Laws 1989,
21 Chapter 262, Section 4) is amended to read:

22 "7-9-13.1. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN
23 ~~SERVICES [PERFORMED OUTSIDE THE STATE THE PRODUCT OF WHICH IS~~
24 ~~INITIALLY USED IN NEW MEXICO--EXCEPTIONS].--~~

25 A. ~~[Except as provided otherwise in Subsection B of~~

1 ~~this section~~] Exempted from the gross receipts tax are the
 2 receipts from selling research and development services
 3 performed outside New Mexico the product of which is initially
 4 used in New Mexico

5 ~~[B. The exemption provided by this section does not~~
 6 ~~apply to research and development services other than research~~
 7 ~~and development services] and that are sold:~~

8 (1) ~~sold~~] between affiliated corporations;

9 (2) ~~sold~~] to the United States by persons,
 10 other than organizations described in Subsection A of Section
 11 7-9-29 NMSA 1978, who are prime contractors operating
 12 facilities in New Mexico designated as national laboratories by
 13 act of congress; or

14 (3) ~~sold~~] to persons, other than
 15 organizations described in Subsection A of Section 7-9-29 NMSA
 16 1978, who are prime contractors operating facilities in New
 17 Mexico designated as national laboratories by act of congress.

18 ~~[G.]~~ B. An "affiliated corporation" means a
 19 corporation that directly or indirectly, through one or more
 20 intermediaries controls, is controlled by or is under common
 21 control with the subject corporation. "Control" means
 22 ownership of stock in a corporation ~~which~~ that represents at
 23 least eighty percent of the total voting power of that
 24 corporation and has a stated or par value equal to at least
 25 eighty percent of the total stated or par value of the stock of

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1 that corporation."

2 SECTION 32. Section 7-9-29 NMSA 1978 (being Laws 1970,
3 Chapter 12, Section 3, as amended) is amended to read:

4 "7-9-29. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN
5 ORGANIZATIONS.--

6 A. Exempted from the gross receipts tax are the
7 receipts of organizations that demonstrate to the department
8 that they have been granted exemption from the federal income
9 tax by the United States commissioner of internal revenue as
10 organizations described in Section 501(c)(3) of the United
11 States Internal Revenue Code of [~~1954~~] 1986, as that section
12 may be amended or renumbered, except for receipts of a hospital
13 licensed by the department of health.

14 B. Exempted from the gross receipts tax are the
15 receipts from carrying on chamber of commerce, visitor bureau
16 and convention bureau functions of organizations that
17 demonstrate to the department that they have been granted
18 exemption from the federal income tax by the United States
19 commissioner of internal revenue as organizations described in
20 Section 501(c)(6) of the United States Internal Revenue Code of
21 [~~1954~~] 1986, as that section may be amended or renumbered.

22 C. This section does not apply to receipts derived
23 from an unrelated trade or business as defined in Section 513
24 of the United States Internal Revenue Code of [~~1954~~] 1986, as
25 that section may be amended or renumbered.

1 D. The exemptions provided by Subsections A and B
 2 of this section shall not apply to an organization that will
 3 have more than three hundred million dollars (\$300,000,000) in
 4 receipts for the fiscal year in which the exemption is claimed,
 5 as reasonably estimated by the organization."

6 SECTION 33. A new section of the Gross Receipts and
 7 Compensating Tax Act is enacted to read:

8 "[NEW MATERIAL] EXEMPTION--HOSPITALS FROM LOCAL OPTION
 9 GROSS RECEIPTS TAXES.--Exempted from any local option gross
 10 receipts tax, but not the state gross receipts tax, are
 11 receipts of a hospital licensed by the department of health."

12 SECTION 34. Section 7-9-73.1 NMSA 1978 (being Laws 1991,
 13 Chapter 8, Section 3, as amended) is amended to read:

14 "7-9-73.1. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS
 15 RECEIPTS--HOSPITALS.--[Fifty]

16 A. Sixty percent of the receipts of hospitals
 17 licensed by the department of health may be deducted from gross
 18 receipts; provided that this deduction may be applied only to
 19 the taxable gross receipts remaining after all other
 20 appropriate deductions have been taken.

21 B. Sixty percent of the receipts of a hospital
 22 licensed by the department of health may be deducted from
 23 governmental gross receipts."

24 SECTION 35. A new section of the Gross Receipts and
 25 Compensating Tax Act is enacted to read:

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1 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--MARKETPLACE
2 SELLER.--

3 A. A marketplace seller may deduct receipts for
4 sales, leases and licenses of tangible personal property, sales
5 of licenses and sales of services or licenses for use of real
6 property that are facilitated by a marketplace provider;
7 provided that the marketplace seller obtains documentation from
8 the marketplace provider indicating that the marketplace
9 provider is registered with the department and has remitted or
10 will remit the taxes due on the gross receipts from those
11 transactions.

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

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

19 "[NEW MATERIAL] AUTHORITY TO ESTABLISH STANDARDS FOR
20 CERTIFIED SERVICE PROVIDERS.--

21 A. The secretary is authorized to provide
22 information, upon which taxpayers may rely, as to the
23 taxability of gross receipts from particular transactions,
24 including taxability matrices, and is further authorized to
25 establish standards for the certification of certified service

1 providers that offer software-based systems to enable taxpayers
2 to properly determine the taxability of gross receipts from
3 particular transactions.

4 B. As used in this section, "certified service
5 provider" means "certified service provider" as defined in the
6 Streamlined Sales and Use Tax Administration Act."

7 SECTION 37. Section 7-9F-3 NMSA 1978 (being Laws 2000
8 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to
9 read:

10 "7-9F-3. DEFINITIONS.--As used in the Technology Jobs and
11 Research and Development Tax Credit Act:

12 A. "affiliate" means a person who directly or
13 indirectly owns or controls, is owned or controlled by or is
14 under common ownership or control with another person through
15 ownership of voting securities or other ownership interests
16 representing a majority of the total voting power of the
17 entity;

18 B. "annual payroll expense" means the wages paid or
19 payable to employees in the state by the taxpayer in the
20 taxable year for which the taxpayer applies for an additional
21 credit pursuant to the Technology Jobs and Research and
22 Development Tax Credit Act;

23 C. "base payroll expense" means the wages paid or
24 payable by the taxpayer in the taxable year prior to the
25 taxable year for which the taxpayer applies for an additional

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1 credit pursuant to the Technology Jobs and Research and
2 Development Tax Credit Act, adjusted for any increase from the
3 preceding taxable year in the consumer price index for the
4 United States for all items as published by the United States
5 department of labor in the taxable year for which the
6 additional credit is claimed. In a taxable year during which a
7 taxpayer has been part of a business merger or acquisition or
8 other change in business organization, the taxpayer's base
9 payroll expense shall include the payroll expense of all
10 entities included in the reorganization for all positions that
11 are included in the business entity resulting from the
12 reorganization;

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

17 E. "facility" means a factory, mill, plant,
18 refinery, warehouse, dairy, feedlot, building or complex of
19 buildings located within the state, including the land on which
20 it is located and all machinery, equipment and other real and
21 tangible personal property located at or within it and used in
22 connection with its operation;

23 F. "local option gross receipts tax" means a tax
24 authorized to be imposed by a county or municipality upon ~~the~~
25 a taxpayer's gross receipts, as that term is defined in the

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

13 G. "qualified expenditure" means an expenditure or
14 an allocated portion of an expenditure by a taxpayer in
15 connection with qualified research at a qualified facility,
16 including expenditures for depletable land and rent paid or
17 incurred for land, improvements, the allowable amount paid or
18 incurred to operate or maintain a facility, buildings,
19 equipment, computer software, computer software upgrades,
20 consultants and contractors performing work in New Mexico,
21 payroll, technical books and manuals and test materials, but
22 not including any expenditure on property that is owned by a
23 municipality or county in connection with an industrial revenue
24 bond project, property for which the taxpayer has received any
25 credit pursuant to the Investment Credit Act, property that was

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1 owned by the taxpayer or an affiliate before July 3, 2000 or
2 research and development expenditures reimbursed by a person
3 who is not an affiliate of the taxpayer. If a "qualified
4 expenditure" is an allocation of an expenditure, the cost
5 accounting methodology used for the allocation of the
6 expenditure shall be the same cost accounting methodology used
7 by the taxpayer in its other business activities;

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

12 I. "qualified research" means research:

13 (1) that is undertaken for the purpose of
14 discovering information:

15 (a) that is technological in nature; and

16 (b) the application of which is intended
17 to be useful in the development of a new or improved business
18 component of the taxpayer; and

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

24 J. "qualified research and development small
25 business" means a taxpayer that:

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

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

8 (3) did not have more than fifty percent of
9 its voting securities or other equity interest with the right
10 to designate or elect the board of directors or other governing
11 body of the business owned directly or indirectly by another
12 business;

13 K. "rural area" means any area of the state other
14 than the state fairgrounds, an incorporated municipality with a
15 population of thirty thousand or more according to the most
16 recent federal decennial census and any area within three miles
17 of the external boundaries of an incorporated municipality with
18 a population of thirty thousand or more according to the most
19 recent federal decennial census;

20 L. "taxpayer" means any of the following persons,
21 other than a federal, state or other governmental unit or
22 subdivision or an agency, department, institution or
23 instrumentality thereof:

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

25 (2) a person responsible for withholding and

1 payment or collection and payment of any tax;

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

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

10 (a) a small business corporation that
11 has elected to be treated as an S corporation for federal
12 income tax purposes; or

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

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

17 **SECTION 38.** Section 7-12-2 NMSA 1978 (being Laws 1971,
18 Chapter 77, Section 2, as amended) is amended to read:

19 "7-12-2. DEFINITIONS.--As used in the Cigarette Tax Act:

20 A. "cigarette" means:

21 (1) any roll of tobacco or any substitute for
22 tobacco wrapped in paper or in any substance not containing
23 tobacco;

24 (2) any roll of tobacco that is wrapped in any
25 substance containing tobacco, other than one hundred percent

1 natural leaf tobacco, which, because of its appearance, the
2 type of tobacco used in the filler, its packaging and labeling,
3 or its marketing and advertising, is likely to be offered to,
4 or purchased by, consumers as a cigarette, as described in
5 Paragraph (1) of this subsection;

6 (3) bidis and kreteks; or

7 (4) any other roll of tobacco that is defined
8 as a "cigarette" in Subsection D of Section 6-4-12 NMSA 1978;

9 B. "close of business" means that time when a
10 business ceases to operate for the remainder of the day or
11 12:00 a.m., if the business is open and conducting business at
12 12:00 a.m.;

13 C. "contraband cigarettes" means cigarette packages
14 with counterfeit stamps, counterfeit cigarettes, cigarettes
15 that have false or fraudulent manufacturing labels, cigarettes
16 not sold in packages of five, ten, twenty or twenty-five,
17 cigarette packages without the tax, tax-credit or tax-exempt
18 stamps required by the Cigarette Tax Act and cigarettes
19 produced by a manufacturer or in a brand family not included in
20 the directory;

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

25 E. "directory" means a listing of tobacco product

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1 manufacturers and brand families that is developed, maintained
2 and published by the attorney general under the Tobacco Escrow
3 Fund Act;

4 F. "distributor" means a person licensed pursuant
5 to the Cigarette Tax Act to sell or distribute cigarettes in
6 New Mexico. "Distributor" does not include:

7 (1) a retailer;

8 (2) a cigarette manufacturer, export warehouse
9 proprietor or importer with a valid permit pursuant to 26
10 U.S.C. 5713, if that person sells cigarettes in New Mexico only
11 to distributors that hold valid licenses under the laws of a
12 state or sells to an export warehouse proprietor or to another
13 manufacturer; or

14 (3) a common or contract carrier transporting
15 cigarettes pursuant to a bill of lading or freight bill, or a
16 person who ships cigarettes through the state by a common or
17 contract carrier pursuant to a bill of lading or freight bill;

18 G. "license" means a license granted pursuant to
19 the Cigarette Tax Act that authorizes the holder to conduct
20 business as a manufacturer or distributor of cigarettes;

21 H. "manufacturer" means a person that manufactures,
22 fabricates, assembles, processes or labels a cigarette or that
23 imports from outside the United States, directly or indirectly,
24 a finished cigarette for sale or distribution in the United
25 States;

1 I. "master settlement agreement" means the
 2 settlement agreement and related documents entered into on
 3 November 23, 1998 by the state and leading United States
 4 tobacco product manufacturers;

5 J. "package" means an individual pack, box or other
 6 container; "package" does not include a container that itself
 7 contains other containers, such as a carton of cigarettes;

8 K. "qualifying tribal cigarette tax" means an
 9 excise, privilege or similar tax at a minimum rate of:

10 (1) [~~three and seventy-five hundredths cents~~
 11 ~~(\$.0375)~~] five and forty-five hundredths cents (\$.0545) per
 12 cigarette if the cigarettes are packaged in lots of twenty or
 13 twenty-five;

14 (2) [~~seven and one-half cents (\$.075)~~] ten and
 15 nine-tenths cents (\$.109) per cigarette if the cigarettes are
 16 packaged in lots of ten; or

17 (3) [~~fifteen cents (\$.15)~~] twenty-one and
 18 eight-tenths cents (\$.218) per cigarette if the cigarettes are
 19 packaged in lots of five;

20 L. "retailer" means a person, whether located
 21 within or outside of New Mexico, that sells cigarettes at
 22 retail to a consumer in New Mexico and the sale is not for
 23 resale;

24 M. "stamp" means an adhesive label issued and
 25 authorized by the department to be affixed to cigarette

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1 packages for excise tax purposes and upon which is printed a
2 serial number and the words "State of New Mexico" and "tobacco
3 tax";

4 N. "tax stamp" means a stamp that has a specific
5 cigarette tax value pursuant to the Cigarette Tax Act;

6 O. "tax-credit stamp" means a stamp that indicates
7 the cigarette package bearing the stamp is to be or has been
8 sold by a retailer located on land of a tribe that has imposed
9 a qualifying tribal cigarette tax;

10 P. "tax-exempt stamp" means a stamp that indicates
11 a tax-exempt status pursuant to the Cigarette Tax Act;

12 Q. "tribal member" means a person who is recognized
13 by the governing body of an Indian tribe to be an enrolled
14 member of that Indian tribe;

15 R. "tribe" means a federally recognized Indian
16 nation, tribe or pueblo located wholly or partially in New
17 Mexico, including:

18 (1) a political subdivision, agency or
19 department of a tribe;

20 (2) an incorporated or unincorporated
21 enterprise of a tribe, one or more tribes or a political
22 subdivision of a tribe; or

23 (3) a corporation considered to be an Indian
24 or a tribe by the federal government or the state; and

25 S. "tribe's land" means the reservation, pueblo

1 grant or trust land of a tribe and property held by the United
 2 States in trust jointly for the nineteen New Mexico Indian
 3 pueblos pursuant to Public Law 95-232."

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

6 "7-12-3. EXCISE TAX ON CIGARETTES--~~[RATES]~~.--

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

11 ~~[(1) eight and three-tenths cents (\$.083) if
 12 the cigarettes are packaged in lots of twenty or twenty-five;~~

13 ~~(2) sixteen and six-tenths cents (\$.166) if
 14 the cigarettes are packaged in lots of ten; or~~

15 ~~(3) thirty-three and two-tenths cents (\$.332)
 16 if the cigarettes are packaged in lots of five.]~~

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

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

21 "7-12-3.1. CIGARETTE INVENTORY TAX--IMPOSITION OF TAX--
 22 DATE PAYMENT OF TAX DUE.--

23 A. A tax that may be identified as the "cigarette
 24 inventory tax" is imposed on a distributor that has in its
 25 possession tax-exempt stamps, tax-credit stamps or tax stamps,

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1 [whether or] not affixed to packages of cigarettes, at the
2 close of business on the day prior to the date on which an
3 increase in the cigarette tax imposed by Section 7-12-3 NMSA
4 1978 is effective.

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

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

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

18 "7-12-7. SALE OF STAMPS--PRICES.--

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

21 B. Stamps shall display a serial number. Stamps
22 bearing the same serial number shall not be sold to more than
23 one distributor. The department shall keep records of the
24 serial numbers of the stamps provided to each distributor.

25 C. A stamp shall be affixed to a package of

1 cigarettes in such a manner as to clearly display the serial
2 number at the point of sale.

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

5 (1) [~~fifty-five~~] forty-six hundredths percent
6 less than the face value of the first thirty thousand dollars
7 (\$30,000) of stamps purchased in one calendar month;

8 (2) [~~forty-four~~] thirty-six hundredths percent
9 less than the face value of the second thirty thousand dollars
10 (\$30,000) of stamps purchased in one calendar month; and

11 (3) [~~twenty-seven~~] twenty-two hundredths
12 percent less than the face value of stamps purchased in excess
13 of sixty thousand dollars (\$60,000) in one calendar month.

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

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

22 G. Payment for tax stamps shall be made on or
23 before the twenty-fifth day of the month following the month in
24 which the sale of stamps by the department is made.

25 H. Tax-exempt stamps shall be provided only to

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

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

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

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

13 B. "distribute" means to sell or to give;

14 C. "e-cigarette":

15 (1) means any electronic oral device that can
16 be used to provide a vapor or aerosol of nicotine or any other
17 substance to the person inhaling from the device; and

18 (2) includes any such device, or any part
19 thereof, whether manufactured, distributed, marketed or sold as
20 an e-cigarette, e-cigar, e-pipe or any other product name or
21 descriptor;

22 [~~G.~~] D. "engaging in business" means carrying on or
23 causing to be carried on any activity with the purpose of
24 direct or indirect benefit;

25 [~~D.~~] E. "first purchaser" means a person engaging

1 in business in New Mexico [~~who~~] that manufactures tobacco
 2 products or [~~who~~] that purchases or receives on consignment
 3 tobacco products from any person outside of New Mexico, which
 4 tobacco products are to be distributed in New Mexico in the
 5 ordinary course of business;

6 [~~E.~~] F. "person" means any individual, estate,
 7 trust, receiver, cooperative association, club, corporation,
 8 company, firm, partnership, joint venture, syndicate, limited
 9 liability company, limited liability partnership, other
 10 association or gas, water or electric utility owned or operated
 11 by a county or municipality or other entity of the state;
 12 "person" also means, to the extent permitted by law, a federal,
 13 state or other governmental unit or subdivision or an agency,
 14 department or instrumentality;

15 [~~F.~~] G. "product value" means the amount paid, net
 16 of any discounts taken and allowed, for tobacco products or, in
 17 the case of tobacco products received on consignment, the value
 18 of the tobacco products received or, in the case of tobacco
 19 products manufactured and sold in New Mexico, the proceeds from
 20 the sale by the manufacturer of the tobacco products; and

21 [~~G.~~] H. "tobacco product" means:

22 (1) any product, other than cigarettes, made
 23 of or derived from [~~or containing~~] tobacco or nicotine that is
 24 intended for human consumption, whether smoked, heated, chewed,
 25 absorbed, dissolved, inhaled, snorted, sniffed or ingested by

1 any other means, including cigars, chewing tobacco, e-
2 cigarettes, pipe tobacco or snuff; and

3 (2) any component, part or accessory used to
4 consume tobacco or nicotine but does not include any product
5 that has been approved by the United States food and drug
6 administration for sale as a tobacco cessation product or for
7 other therapeutic purposes where such product is marketed and
8 sold solely for such an approved use."

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

11 "7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
12 "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

13 A. For the privilege of engaging in business to
14 manufacture [or acquisition of], acquire or distribute tobacco
15 products [in New Mexico to be distributed] in the ordinary
16 course of business and for the [~~consumption of~~] privilege of
17 consuming tobacco products in New Mexico, there is imposed an
18 excise tax at the rate of [~~twenty-five~~] forty-five percent of
19 the product value of the tobacco products.

20 B. The tax imposed by Subsection A of this section
21 may be referred to as the "tobacco products tax".

22 C. The tobacco products tax shall be paid by the
23 first purchaser on or before the twenty-fifth day of the month
24 following the month in which the taxable event occurs."

25 SECTION 44. Section 7-14-4 NMSA 1978 (being Laws 1988,

1 Chapter 73, Section 14) is amended to read:

2 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE
3 TAX.--The rate of the motor vehicle excise tax is [~~three~~] four
4 and two-tenths percent and is applied to the price paid for the
5 vehicle. If the price paid does not represent the value of the
6 vehicle in the condition that existed at the time it was
7 acquired, the tax rate shall be applied to the reasonable value
8 of the vehicle in such condition at such time. However,
9 allowances granted for vehicle trade-ins may be deducted from
10 the price paid or the reasonable value of the vehicle
11 purchased."

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

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

20 A. [~~four and fifteen-hundredths~~] two and ninety-six
21 hundredths percent to the state road fund; and

22 B. the remainder to the general fund."

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

25 "7-19-14. SPECIFIC EXEMPTIONS.--No supplemental municipal

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1 gross receipts tax shall be imposed on the gross receipts
2 arising from:

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

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

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

13 "7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA 1978
14 may be cited as the "Municipal Local Option Gross Receipts and
15 Compensating Taxes Act"."

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

18 "7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the
19 provisions of the Municipal Local Option Gross Receipts and
20 Compensating Taxes Act shall be imposed on the gross receipts
21 arising from:

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

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

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

7 "7-19D-7. COLLECTION BY DEPARTMENT [~~TRANSFER OF~~
8 ~~PROCEEDS—DEDUCTIONS~~].--[A.] The department shall collect each
9 tax imposed pursuant to the provisions of the Municipal Local
10 Option Gross Receipts and Compensating Taxes Act in the same
11 manner and at the same time it collects the state gross
12 receipts [~~tax~~] and compensating taxes.

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

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

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

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

7 "7-19D-9.1. [NEW MATERIAL] MUNICIPAL COMPENSATING TAX.--

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

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

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

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

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

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

21 D. For the privilege of using services in a
22 municipality, there is imposed on the person using the services
23 an excise tax at the rate provided in Subsection A of this
24 section of the value of the services at the time the product of
25 the service was acquired. For use of services to be taxable

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1 under this subsection, the services shall have been performed
2 by a person outside this state and the product of which was
3 acquired inside or outside this state as the result of a
4 transaction with a person located outside this state that would
5 have been subject to the gross receipts tax had the service or
6 product of the service been acquired from a person with nexus
7 with this state.

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

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

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

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

3 "7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA 1978
4 may be cited as the "County Local Option Gross Receipts and
5 Compensating Taxes Act"."

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

8 "7-20E-7. COLLECTION BY DEPARTMENT [~~TRANSFER OF~~
9 ~~PROCEEDS--DEDUCTIONS~~].--[A.] The department shall collect each
10 tax imposed pursuant to the provisions of the County Local
11 Option Gross Receipts and Compensating Taxes Act in the same
12 manner and at the same time it collects the state gross
13 receipts [~~tax~~] and compensating taxes.

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

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

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underscored material = new
[bracketed material] = delete

1 "7-20E-9.1. [NEW MATERIAL] COUNTY COMPENSATING TAX.--

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

10 (1) manufactured by the person using the
11 property in the state; or

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

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

25 C. For the privilege of using a license or

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

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

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

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

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

19 **SECTION 54.** Section 66-6-2 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 337, as amended) is amended to read:

21 "66-6-2. PASSENGER VEHICLES--REGISTRATION FEES.--For the
22 registration of motor vehicles other than motorcycles, trucks,
23 buses and tractors, the division shall collect the following
24 fees for each twelve-month registration period:

25 A. for a vehicle whose gross factory shipping

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1 weight is not more than two thousand pounds, [~~twenty-seven~~
 2 ~~dollars (\$27.00); provided, however, that after five years of~~
 3 ~~registration, calculated from the date when the vehicle was~~
 4 ~~first registered in this or another state, the fee is twenty-~~
 5 ~~one dollars (\$21.00)] thirty-three dollars seventy-five cents
 6 (\$33.75);~~

7 B. for a vehicle whose gross factory shipping
 8 weight is more than two thousand but not more than three
 9 thousand pounds, [~~thirty-nine dollars (\$39.00); provided,~~
 10 ~~however, that after five years of registration, calculated from~~
 11 ~~the date when the vehicle was first registered in this or~~
 12 ~~another state, the fee is thirty-one dollars (\$31.00)] forty-
 13 eight dollars seventy-five cents (\$48.75);~~

14 C. for a vehicle whose gross factory shipping
 15 weight is more than three thousand pounds, [~~fifty-six dollars~~
 16 ~~(\$56.00); provided, however, that after five years of~~
 17 ~~registration, calculated from the date when the vehicle was~~
 18 ~~first registered in this or another state, the fee is forty-~~
 19 ~~five dollars (\$45.00)] seventy dollars (\$70.00); and~~

20 D. for a vehicle registered pursuant to the
 21 provisions of this section, a tire recycling fee of one dollar
 22 fifty cents (\$1.50)."

23 SECTION 55. Section 66-6-4 NMSA 1978 (being Laws 1978,
 24 Chapter 35, Section 339, as amended) is amended to read:

25 "66-6-4. REGISTRATION FEES--TRUCKS, TRUCK TRACTORS, ROAD

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1 TRACTORS AND BUSES.--

2 A. Within their respective jurisdictions, the motor
3 vehicle division and the [~~motor transportation~~] New Mexico
4 state police division of the department of public safety shall
5 charge registration fees for trucks, truck tractors, road
6 tractors and buses, except as otherwise provided by law,
7 according to the schedule of Subsection B of this section.

8 B. Declared Gross Weight	Fee
9 001 to 4,000	[40] <u>50</u>
10 4,001 to 6,000	[55] <u>65</u>
11 6,001 to 8,000	[69] <u>79</u>
12 8,001 to 10,000	[84] <u>94</u>
13 10,001 to 12,000	[99] <u>109</u>
14 12,001 to 14,000	[113] <u>123</u>
15 14,001 to 16,000	[128] <u>138</u>
16 16,001 to 18,000	[143] <u>153</u>
17 18,001 to 20,000	[157] <u>167</u>
18 20,001 to 22,000	[172] <u>182</u>
19 22,001 to 24,000	[187] <u>197</u>
20 24,001 to 26,000	[201] <u>211</u>
21 26,001 to 48,000	[118] <u>128</u>
22 48,001 and over	[172] <u>182.</u>

23 [~~G. All trucks whose declared gross weight or whose~~
24 ~~gross vehicle weight is less than twenty-six thousand pounds,~~
25 ~~after five years of registration, calculated from the date when~~

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1 ~~the vehicle was first registered in this or another state,~~
2 ~~shall be charged registration fees at eighty percent of the~~
3 ~~rate set out in Subsection B of this section.~~

4 ~~D.]~~ C. All trucks with a gross vehicle weight of
5 more than twenty-six thousand pounds and all truck tractors and
6 road tractors used to tow freight trailers shall be registered
7 on the basis of gross combination vehicle weight.

8 ~~[E.]~~ D. All trucks with a gross vehicle weight of
9 twenty-six thousand pounds or less shall be registered on the
10 basis of gross vehicle weight. A trailer, semitrailer or pole
11 trailer towed by a truck of such gross vehicle weight shall be
12 classified as a utility trailer for registration purposes
13 unless otherwise provided by law.

14 ~~[F.]~~ E. All farm vehicles having a declared gross
15 weight of more than six thousand pounds shall be charged
16 registration fees of two-thirds of the rate of the respective
17 fees provided in this section and shall be issued distinctive
18 registration plates. "Farm vehicle" means a vehicle owned by a
19 person whose principal occupation is farming or ranching and
20 which vehicle is used principally in the transportation of farm
21 and ranch products to market and farm and ranch supplies and
22 livestock from the place of purchase to farms and ranches in
23 this state; provided that the vehicle is not used for hire.

24 ~~[G.]~~ F. In addition to other registration fees
25 imposed by this section, ~~[beginning July 1, 1994]~~ an annual

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1 tire recycling fee of one dollar fifty cents (\$1.50) is imposed
2 at the time of registration on each vehicle subject to a
3 registration fee pursuant to this section, except for vehicles
4 with a declared gross weight of greater than twenty-six
5 thousand pounds upon which registration fees are imposed by
6 Subsection B of this section.

7 ~~[H.]~~ G. Three percent of registration fees of
8 trucks having from twenty-six thousand one pounds to forty-
9 eight thousand pounds declared gross vehicle weight is to be
10 transferred to the recycling and illegal dumping fund pursuant
11 to the provisions of Section 66-6-23 NMSA 1978.

12 ~~[I.]~~ H. Three and seventy-five hundredths percent
13 of registration fees of trucks in excess of forty-eight
14 thousand pounds declared gross vehicle weight is to be
15 transferred to the recycling and illegal dumping fund pursuant
16 to the provisions of Section 66-6-23 NMSA 1978."

17 **SECTION 56. TEMPORARY PROVISION--REFERENCES IN LAW.--**

18 A. References in law to the County Local Option
19 Gross Receipts Taxes Act shall be deemed to be references to
20 the County Local Option Gross Receipts and Compensating Taxes
21 Act.

22 B. References in law to the Municipal Local Option
23 Gross Receipts Taxes Act shall be deemed to be references to
24 the Municipal Local Option Gross Receipts and Compensating
25 Taxes Act.

1 **SECTION 57. TEMPORARY PROVISION--UNDERPAID INCOME TAX DUE**
 2 TO CHANGES MADE TO SECTIONS OF THE INCOME TAX ACT--FORGIVING
 3 PENALTIES AND INTEREST.--A taxpayer who paid income tax for
 4 taxable year 2019 in installments through withholding or
 5 estimated tax payments pursuant to Section 7-2-12.2 NMSA 1978
 6 but underpaid due to the changes made to Sections 7-2-7 and
 7 7-2-34 NMSA 1978 pursuant to this act shall not be subject to
 8 the penalties and interest provisions of the Tax Administration
 9 Act for the underpayment; provided that the underpayment is
 10 solely attributable to the changes made to Sections 7-2-7 and
 11 7-2-34 NMSA 1978 pursuant to this act.

12 **SECTION 58. REPEAL.--Sections 7-1-6.57 and 7-9-96.1 NMSA**
 13 1978 (being Laws 2007, Chapter 361, Sections 1 and 7) are
 14 repealed.

15 **SECTION 59. DELAYED REPEAL.--**

16 A. Section 11 of this act is repealed effective
 17 July 1, 2021.

18 B. Section 7-1-6.55 NMSA 1978 (being Laws 2007,
 19 Chapter 331, Section 4) is repealed effective July 1, 2021.

20 C. Sections 7-20C-5, 7-20E-5 and 7-20F-6 NMSA 1978
 21 (being Laws 1991, Chapter 176, Section 5, Laws 1993, Chapter
 22 354, Section 5 and Laws 1993, Chapter 303, Section 6, as
 23 amended) are repealed effective July 1, 2021.

24 **SECTION 60. APPLICABILITY.--**

25 A. The provisions of Sections 13 through 16 of this

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1 act apply to taxable years beginning on or after January 1,
2 2019.

3 B. The provisions of Sections 17 through 21 of this
4 act apply to taxable years beginning on or after January 1,
5 2020.

6 SECTION 61. EFFECTIVE DATE.--

7 A. The effective date of the provisions of Sections
8 1 through 11, 22 through 28, 30, 32 through 49, 51, 52 and 54
9 through 58 of this act is July 1, 2019.

10 B. The effective date of the provisions of Sections
11 17 through 21 of this act is January 1, 2020.

12 C. The effective date of the provisions of Sections
13 12, 29, 31, 50 and 53 of this act is July 1, 2021.

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