

1 SENATE BILL 421

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Carlos R. Cisneros

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9  
10 AN ACT

11 RELATING TO TAXATION; AMENDING PERSONAL INCOME TAX BRACKETS;  
12 LIMITING THE CAPITAL GAINS DEDUCTION FROM NET INCOME; REQUIRING  
13 COMBINED REPORTING FOR A UNITARY GROUP; CHANGING REQUIREMENTS  
14 FOR CORPORATIONS TO FILE A CONSOLIDATED RETURN; AMENDING AND  
15 ADDING DEFINITIONS PURSUANT TO THE CORPORATE INCOME AND  
16 FRANCHISE TAX ACT; AMENDING THE UNIFORM DIVISION OF INCOME FOR  
17 TAX PURPOSES ACT TO DETERMINE IN-STATE SALES OF INTANGIBLES AND  
18 SERVICES BASED ON MARKET SOURCING RATHER THAN COST OF  
19 PERFORMANCE; REDUCING THE GROSS RECEIPTS TAX RATE; PROVIDING  
20 THAT THE COMPENSATING TAX RATE SHALL BE IMPOSED AT THE SAME  
21 RATE AS THE GROSS RECEIPTS TAX RATE; PROVIDING FOR TAXATION OF  
22 CERTAIN INTERNET SELLERS PURSUANT TO THE GROSS RECEIPTS AND  
23 COMPENSATING TAX ACT; AMENDING SOURCING RULES FROM THE PLACE OF  
24 BUSINESS OF THE SELLER TO DESTINATION-BASED SOURCING; PROVIDING  
25 FOR THE TAXATION OF FOR-PROFIT, NONPROFIT AND GOVERNMENT

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1 HOSPITALS PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX  
2 ACT; AMENDING AN ADMINISTRATIVE FEE ON CERTAIN TRANSFERS TO  
3 MUNICIPALITIES AND COUNTIES; IMPOSING A MUNICIPAL COMPENSATING  
4 TAX AND A COUNTY COMPENSATING TAX; LIMITING THE HOLD HARMLESS  
5 DISTRIBUTIONS TO LOCAL GOVERNMENTS; INCREASING THE RATE OF THE  
6 MOTOR VEHICLE EXCISE TAX TO EQUAL THE GROSS RECEIPTS TAX RATE;  
7 INCREASING THE GASOLINE TAX AND THE SPECIAL FUEL EXCISE TAX  
8 RATES AND DISTRIBUTING THE REVENUE FROM THOSE INCREASES TO NEW  
9 STATE AND LOCAL TRANSPORTATION INFRASTRUCTURE MAINTENANCE  
10 FUNDS; INCREASING MOTOR VEHICLE REGISTRATION FEES; IMPOSING AN  
11 ADDITIONAL REGISTRATION FEE ON ELECTRIC AND HYBRID VEHICLES;  
12 PROVIDING A DELAYED REPEAL OF A GROSS RECEIPTS TAX DEDUCTION  
13 FOR THE SALE OF FOOD; AMENDING, REPEALING AND ENACTING SECTIONS  
14 OF THE NMSA 1978; MAKING AN APPROPRIATION.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

19 "7-1-2. APPLICABILITY.--The Tax Administration Act  
20 applies to and governs:

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

- 24 (1) Income Tax Act;
- 25 (2) Withholding Tax Act;

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1 (3) [~~Venture Capital Investment~~] Oil and Gas  
2 Proceeds and Pass-Through Entity Withholding Tax Act;

3 (4) Gross Receipts and Compensating Tax Act,  
4 Interstate Telecommunications Gross Receipts Tax Act and [~~any~~  
5 ~~state gross receipts tax~~] Leased Vehicle Gross Receipts Tax  
6 Act;

7 (5) Liquor Excise Tax Act;

8 (6) Local Liquor Excise Tax Act;

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

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

13 (9) Special Fuels Supplier Tax Act;

14 (10) Gasoline Tax Act;

15 (11) petroleum products loading fee, which fee  
16 shall be considered a tax for the purpose of the Tax  
17 Administration Act;

18 (12) Alternative Fuel Tax Act;

19 (13) Cigarette Tax Act;

20 (14) Estate Tax Act;

21 (15) Railroad Car Company Tax Act;

22 (16) Investment Credit Act, rural job tax  
23 credit, Laboratory Partnership with Small Business Tax Credit  
24 Act, Technology Jobs and Research and Development Tax Credit  
25 Act, Film Production Tax Credit Act, Affordable Housing Tax

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- 1 Credit Act and high-wage jobs tax credit;
- 2 (17) Corporate Income and Franchise Tax Act;
- 3 (18) Uniform Division of Income for Tax
- 4 Purposes Act;
- 5 (19) Multistate Tax Compact;
- 6 (20) Tobacco Products Tax Act; and
- 7 (21) the telecommunications relay service
- 8 surcharge imposed by Section 63-9F-11 NMSA 1978, which
- 9 surcharge shall be considered a tax for the purposes of the Tax
- 10 Administration Act;
- 11 B. the administration and enforcement of the
- 12 following taxes, surtaxes, advanced payments or tax acts as
- 13 they now exist or may hereafter be amended:
- 14 (1) Resources Excise Tax Act;
- 15 (2) Severance Tax Act;
- 16 (3) any severance surtax;
- 17 (4) Oil and Gas Severance Tax Act;
- 18 (5) Oil and Gas Conservation Tax Act;
- 19 (6) Oil and Gas Emergency School Tax Act;
- 20 (7) Oil and Gas Ad Valorem Production Tax Act;
- 21 (8) Natural Gas Processors Tax Act;
- 22 (9) Oil and Gas Production Equipment Ad
- 23 Valorem Tax Act;
- 24 (10) Copper Production Ad Valorem Tax Act;
- 25 (11) any advance payment required to be made

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1 by any act specified in this subsection, which advance payment  
2 shall be considered a tax for the purposes of the Tax  
3 Administration Act;

4 (12) Enhanced Oil Recovery Act;

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

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

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

12 (1) Weight Distance Tax Act;

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

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

17 (4) 911 emergency surcharge and the network  
18 and database surcharge, which surcharges shall be considered  
19 taxes for purposes of the Tax Administration Act;

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

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

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

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

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

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

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

20 B. "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 C. "electronic payment" means a payment made by  
25 automated clearinghouse deposit, any funds wire transfer system

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

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

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

11 F. "hearing officer" means a person who has been  
12 designated by the chief hearing officer to serve as a hearing  
13 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. "Internal Revenue Code" means the Internal  
20 Revenue Code of 1986, as that code may be amended or its  
21 sections renumbered;

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

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1 delinquent taxpayer;

2 I. "local option gross receipts tax" means a tax  
3 authorized to be imposed by a county or municipality upon [the]  
4 a taxpayer's gross receipts, as that term is defined in the  
5 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. "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. "net receipts" means the total amount of money  
24 paid by taxpayers to the department in a month pursuant to a  
25 tax or tax act less any refunds disbursed in that month with

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1 respect to that tax or tax act;

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

8 M. "paid" includes the term "paid over";

9 N. "pay" includes the term "pay over";

10 O. "payment" includes the term "payment over";

11 P. "person" means any individual, estate, trust,  
12 receiver, cooperative association, club, corporation, company,  
13 firm, partnership, limited liability company, limited liability  
14 partnership, joint venture, syndicate, other association or  
15 gas, water or electric utility owned or operated by a county or  
16 municipality; "person" also means, to the extent permitted by  
17 law, a federal, state or other governmental unit or  
18 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. "property" means property or rights to property;

25 R. "property or rights to property" means any

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1 tangible property, real or personal, or any intangible property  
2 of a taxpayer;

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

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

25 U. "secretary" means the secretary of taxation and

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1 revenue and, except for purposes of Subsection B of Section  
2 7-1-4 NMSA 1978, also includes the deputy secretary or a  
3 division director or deputy division director delegated by the  
4 secretary;

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

8 W. "security" means money, property or rights to  
9 property or a surety bond;

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

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

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

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

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

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

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

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

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

3           "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS  
4 TAX.--

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

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

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

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

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

21 C. A distribution pursuant to this section may be  
22 adjusted for a distribution made to a tax increment development  
23 district with respect to a portion of a gross receipts tax  
24 increment dedicated by a municipality pursuant to the Tax  
25 Increment for Development Act.

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

6           SECTION 4. Section 7-1-6.7 NMSA 1978 (being Laws 1994,  
7 Chapter 5, Section 2, as amended) is amended to read:

8           "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

9           A. A distribution pursuant to Section 7-1-6.1 NMSA  
10 1978 shall be made to the state aviation fund in an amount  
11 equal to four and seventy-nine hundredths percent of the  
12 taxable gross receipts attributable to the sale of fuel  
13 specially prepared and sold for use in turboprop or jet-type  
14 engines as determined by the department.

15           B. A distribution pursuant to Section 7-1-6.1 NMSA  
16 1978 shall be made to the state aviation fund in an amount  
17 equal to [~~twenty-six hundredths~~] nineteen-hundredths percent of  
18 gasoline taxes, exclusive of penalties and interest, collected  
19 pursuant to the Gasoline Tax Act.

20           C. From July 1, 2013 through June 30, 2021, a  
21 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
22 made to the state aviation fund in an amount equal to forty-six  
23 thousandths percent of the net receipts attributable to the  
24 gross receipts tax distributable to the general fund.

25           D. A distribution pursuant to Section 7-1-6.1 NMSA

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1 1978 shall be made to the state aviation fund from the net  
2 receipts attributable to the gross receipts tax distributable  
3 to the general fund in an amount equal to  
4 [~~(1) eighty thousand dollars (\$80,000) monthly~~  
5 ~~from July 1, 2007 through June 30, 2008;~~  
6 ~~(2) one hundred sixty-seven thousand dollars~~  
7 ~~(\$167,000) monthly from July 1, 2008 through June 30, 2009; and~~  
8 ~~(3)] two hundred fifty thousand dollars  
9 (\$250,000) [monthly after July 1, 2009]."~~

10 SECTION 5. Section 7-1-6.8 NMSA 1978 (being Laws 1983,  
11 Chapter 211, Section 13, as amended) is amended to read:

12 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A  
13 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
14 made to the motorboat fuel tax fund in an amount equal to  
15 [~~thirteen-hundredths of one] nine-hundredths percent of the net  
16 receipts attributable to the gasoline tax."~~

17 SECTION 6. Section 7-1-6.9 NMSA 1978 (being Laws 1991,  
18 Chapter 9, Section 11, as amended) is amended to read:

19 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO  
20 MUNICIPALITIES AND COUNTIES.--

21 A. A distribution pursuant to Section 7-1-6.1 NMSA  
22 1978 shall be made in an amount equal to [~~ten and thirty-eight~~  
23 six and fifty-four hundredths percent of the net receipts  
24 attributable to the taxes, exclusive of penalties and interest,  
25 imposed by the Gasoline Tax Act.

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1           B. The amount determined in Subsection A of this  
2 section shall be distributed as follows:

3                   (1) ninety percent of the amount shall be paid  
4 to the treasurers of municipalities and H class counties in the  
5 proportion that the taxable motor fuel sales in each of the  
6 municipalities and H class counties bears to the aggregate  
7 taxable motor fuel sales in all of these municipalities and H  
8 class counties; and

9                   (2) ten percent of the amount shall be paid to  
10 the treasurers of the counties, including H class counties, in  
11 the proportion that the taxable motor fuel sales outside of  
12 incorporated municipalities in each of the counties bears to  
13 the aggregate taxable motor fuel sales outside of incorporated  
14 municipalities in all of the counties.

15           C. Except as provided in Subsection D of this  
16 section, this distribution shall be paid into a separate road  
17 fund in the municipal treasury or county road fund for  
18 expenditure only for construction, reconstruction, resurfacing  
19 or other improvement or maintenance of public roads, streets,  
20 alleys or bridges, including right-of-way and materials  
21 acquisition. Money distributed pursuant to this section may be  
22 used by a municipality or county to provide matching funds for  
23 projects subject to cooperative agreements entered into with  
24 the department of transportation pursuant to Section 67-3-28  
25 NMSA 1978. Any municipality or H class county that has created

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1 or that creates a "street improvement fund" to which gasoline  
2 tax revenues or distributions are irrevocably pledged under  
3 Sections 3-34-1 through 3-34-4 NMSA 1978 or that has pledged  
4 all or a portion of gasoline tax revenues or distributions to  
5 the payment of bonds shall receive its proportion of the  
6 distribution of revenues under this section impressed with and  
7 subject to these pledges.

8 D. This distribution may be paid into a separate  
9 road fund or the general fund of the municipality or county if  
10 the municipality has a population less than three thousand or  
11 the county has a population less than four thousand."

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

14 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

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

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

25 (2) the amount distributed to the motorboat

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1 fuel tax fund pursuant to Section 7-1-6.8 NMSA 1978;

2 (3) the amount distributed to municipalities  
3 and counties pursuant to [~~Subsection A of~~] Section 7-1-6.9 NMSA  
4 1978 and Section 19 of this 2019 act;

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

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

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

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

14 (8) the amount distributed to a qualified  
15 tribe pursuant to [~~a gasoline tax sharing agreement entered  
16 into between the secretary of transportation and the qualified  
17 tribe pursuant to the provisions~~] Subsection A of Section  
18 [~~67-3-8.1~~] 7-1-6.44 NMSA 1978; [~~and~~]

19 (9) the amount distributed to the general fund  
20 pursuant to Subsection B of Section 7-1-6.44 NMSA 1978; and

21 (10) the amount distributed to the state road  
22 maintenance fund pursuant to Section 20 of this 2019 act.

23 B. A distribution pursuant to Section 7-1-6.1 NMSA  
24 1978 shall be made to the state road fund in an amount equal to  
25 the net receipts attributable to the taxes, interest and

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1 penalties from the Weight Distance Tax Act."

2 SECTION 8. Section 7-1-6.12 NMSA 1978 (being Laws 1983,  
3 Chapter 211, Section 17, as amended) is amended to read:

4 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION  
5 GROSS RECEIPTS AND MUNICIPAL COMPENSATING TAXES.--

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

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

25 SECTION 9. Section 7-1-6.13 NMSA 1978 (being Laws 1983,

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1 Chapter 211, Section 18, as amended) is amended to read:

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

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

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

23 SECTION 10. Section 7-1-6.15 NMSA 1978 (being Laws 1983,  
24 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,  
25 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended

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1 to read:

2 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO  
3 MUNICIPALITIES OR COUNTIES.--

4 A. The provisions of this section apply to:

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

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

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

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

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

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

20 (7) any distribution to a county from the  
21 county government road fund pursuant to Section 7-1-6.26 NMSA  
22 1978;

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

25 (9) any distribution to a municipality of

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1 compensating taxes pursuant to Section 7-1-6.55 NMSA 1978; and  
2 (10) any distribution to a municipality or  
3 county of gasoline and special fuel excise taxes pursuant to  
4 Section 19 of this 2019 act.

5 B. Before making a distribution or transfer  
6 specified in Subsection A of this section to a municipality or  
7 county for the month, amounts comprising the net receipts shall  
8 be segregated into two mutually exclusive categories. One  
9 category shall be for amounts relating to the current month,  
10 and the other category shall be for amounts relating to prior  
11 periods. The total of each category for a municipality or  
12 county shall be reported each month to that municipality or  
13 county. If the total of the amounts relating to prior periods  
14 is less than zero and its absolute value exceeds the greater of  
15 one hundred dollars (\$100) or an amount equal to twenty percent  
16 of the average distribution or transfer amount for that  
17 municipality or county, then the following procedures shall be  
18 carried out:

19 (1) all negative amounts relating to any  
20 period prior to the three calendar years preceding the year of  
21 the current month, net of any positive amounts in that same  
22 time period for the same taxpayers to which the negative  
23 amounts pertain, shall be excluded from the total relating to  
24 prior periods. Except as provided in Paragraph (2) of this  
25 subsection, the net receipts to be distributed or transferred

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1 to the municipality or county shall be adjusted to equal the  
2 amount for the current month plus the revised total for prior  
3 periods; and

4 (2) if the revised total for prior periods  
5 determined pursuant to Paragraph (1) of this subsection is  
6 negative and its absolute value exceeds the greater of one  
7 hundred dollars (\$100) or an amount equal to twenty percent of  
8 the average distribution or transfer amount for that  
9 municipality or county, the revised total for prior periods  
10 shall be excluded from the distribution or transfers and the  
11 net receipts to be distributed or transferred to the  
12 municipality or county shall be equal to the amount for the  
13 current month.

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

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

23 (1) that the department has made such an  
24 adjustment, that the department has determined that a specified  
25 amount is recoverable from the municipality or county and that

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1 the department intends to recover that amount from future  
2 distributions or transfers to the municipality or county;

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

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

10 (4) that the municipality or county may  
11 inspect, pursuant to Section 7-1-8.9 NMSA 1978, an application  
12 for a claim for refund that gave rise to the recoverable  
13 amount, exclusive of any amended returns that may be attached  
14 to the application.

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

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

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

25 (b) except as provided in Paragraphs (2)

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

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

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

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

18 (3) if, after application of a refund claim,  
19 audit adjustment, correction of a mistake by the department or  
20 other adjustment of a prior period, but prior to any recovery  
21 of the department pursuant to this section, the total net  
22 receipts of a municipality or county for the twelve-month  
23 period beginning with the current month are reduced or are  
24 projected to be reduced to less than fifty percent of the  
25 average distribution or transfer of net receipts, the secretary

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1 may waive recovery of any portion of the recoverable amount,  
2 subject to approval by the state board of finance.

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

10 G. On or before September 1 of each year beginning  
11 in 2016, the secretary shall report to the state board of  
12 finance and the legislative finance committee the total  
13 recoverable amount waived pursuant to Subparagraph (b) of  
14 Paragraph (2) and Paragraph (3) of Subsection E of this section  
15 for each municipality and county in the prior fiscal year.

16 H. The secretary is authorized to decrease a  
17 distribution or transfer to a municipality or county upon being  
18 directed to do so by the secretary of finance and  
19 administration pursuant to the State Aid Intercept Act or to  
20 redirect a distribution or transfer to the New Mexico finance  
21 authority pursuant to an ordinance or a resolution passed by  
22 the county or municipality and a written agreement of the  
23 municipality or county and the New Mexico finance authority.  
24 Upon direction to decrease a distribution or transfer or notice  
25 to redirect a distribution or transfer to a municipality or

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

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

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

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

25                   J. As used in this section:

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

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

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

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

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

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1 or

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

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

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

19 SECTION 11. Section 7-1-6.19 NMSA 1978 (being Laws 1991,  
20 Chapter 9, Section 15, as amended) is amended to read:

21 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND  
22 CREATED.--

23 A. There is created in the state treasury the  
24 "county government road fund".

25 B. A distribution pursuant to Section 7-1-6.1 NMSA

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1 1978 shall be made to the county government road fund in an  
2 amount equal to [~~five and seventy-six~~] three and sixty-three  
3 hundredths percent of the net receipts attributable to the  
4 gasoline tax."

5 SECTION 12. Section 7-1-6.27 NMSA 1978 (being Laws 1991,  
6 Chapter 9, Section 20, as amended) is amended to read:

7 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

8 A. A distribution pursuant to Section 7-1-6.1 NMSA  
9 1978 shall be made to municipalities for the purposes and  
10 amounts specified in this section in an aggregate amount equal  
11 to [~~five and seventy-six~~] three and sixty-three hundredths  
12 percent of the net receipts attributable to the gasoline tax.

13 B. The distribution authorized in this section  
14 shall be used for the following purposes:

15 (1) reconstructing, resurfacing, maintaining,  
16 repairing or otherwise improving existing alleys, streets,  
17 roads or bridges, or any combination of the foregoing; or  
18 laying off, opening, constructing or otherwise acquiring new  
19 alleys, streets, roads or bridges, or any combination of the  
20 foregoing; provided that any of the foregoing improvements may  
21 include [~~but are not limited to~~] the acquisition of rights of  
22 way;

23 (2) to provide matching funds for projects  
24 subject to cooperative agreements with the [~~state highway and~~]  
25 department of transportation [~~department~~] pursuant to Section

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1 67-3-28 NMSA 1978; and

2 (3) for expenses of purchasing, maintaining  
3 and operating transit operations and facilities, for the  
4 operation of a transit authority established by the Municipal  
5 Transit Law and for the operation of a vehicle emission  
6 inspection program. A municipality may engage in the business  
7 of the transportation of passengers and property within the  
8 political subdivision by whatever means the municipality may  
9 decide and may acquire cars, trucks, motor buses and other  
10 equipment necessary for operating the business. A municipality  
11 may acquire land, erect buildings and equip the buildings with  
12 all the necessary machinery and facilities for the operation,  
13 maintenance, modification, repair and storage of the cars,  
14 trucks, motor buses and other equipment needed. A municipality  
15 may do all things necessary for the acquisition and the conduct  
16 of the business of public transportation.

17 C. For the purposes of this section:

18 (1) "computed distribution amount" means the  
19 distribution amount calculated for a municipality for a month  
20 pursuant to Paragraph (2) of Subsection D of this section prior  
21 to any adjustments to the amount due to the provisions of  
22 Subsections E and F of this section;

23 (2) "floor amount" means four hundred  
24 seventeen dollars (\$417);

25 (3) "floor municipality" means a municipality

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1 whose computed distribution amount is less than the floor  
2 amount; and

3 (4) "full distribution municipality" means a  
4 municipality whose population at the last federal decennial  
5 census was at least two hundred thousand.

6 D. Subject to the provisions of Subsections E and F  
7 of this section, each municipality shall be distributed a  
8 portion of the aggregate amount distributable under this  
9 section in an amount equal to the greater of:

10 (1) the floor amount; or

11 (2) eighty-five percent of the aggregate  
12 amount distributable under this section times a fraction, the  
13 numerator of which is the municipality's reported taxable  
14 gallons of gasoline for the immediately preceding state fiscal  
15 year and the denominator of which is the reported total taxable  
16 gallons for all municipalities for the same period.

17 E. Fifteen percent of the aggregate amount  
18 distributable under this section shall be referred to as the  
19 "redistribution amount". Beginning in August 1990, and each  
20 month thereafter, from the redistribution amount there shall be  
21 taken an amount sufficient to increase the computed  
22 distribution amount of every floor municipality to the floor  
23 amount. In the event that the redistribution amount is  
24 insufficient for this purpose, the computed distribution amount  
25 for each floor municipality shall be increased by an amount

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1 equal to the redistribution amount times a fraction, the  
2 numerator of which is the difference between the floor amount  
3 and the municipality's computed distribution amount and the  
4 denominator of which is the difference between the product of  
5 the floor amount multiplied by the number of floor  
6 municipalities and the total of the computed distribution  
7 amounts for all floor municipalities.

8 F. If a balance remains after the redistribution  
9 amount has been reduced pursuant to Subsection E of this  
10 section, there shall be added to the computed distribution  
11 amount of each municipality that is neither a full distribution  
12 municipality nor a floor municipality an amount that equals the  
13 balance of the redistribution amount times a fraction, the  
14 numerator of which is the computed distribution amount of the  
15 municipality and the denominator of which is the sum of the  
16 computed distribution amounts of all municipalities that are  
17 neither full distribution municipalities nor floor  
18 municipalities."

19 SECTION 13. Section 7-1-6.28 NMSA 1978 (being Laws 1991,  
20 Chapter 9, Section 22, as amended) is amended to read:

21 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF  
22 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to  
23 Section 7-1-6.1 NMSA 1978 shall be made to the municipal  
24 arterial program of the local governments road fund created in  
25 Section 67-3-28.2 NMSA 1978 in an amount equal to [~~one and~~

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1 ~~forty-four~~] ninety-one hundredths percent of the net receipts  
2 attributable to the gasoline tax."

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

5 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL GROSS RECEIPTS  
6 TAX.--

7 A. A distribution pursuant to Section 7-1-6.1 NMSA  
8 1978 shall be made in amounts equal to the following  
9 percentages of the net receipts attributable to the  
10 governmental gross receipts tax, less the net receipts  
11 attributable to a hospital licensed by the department of  
12 health:

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

18 ~~B. A distribution pursuant to Section 7-1-6.1 NMSA~~  
19 ~~1978 shall be made]~~

20 (2) twenty-four percent to the energy,  
21 minerals and natural resources department [~~in an amount equal~~  
22 ~~to twenty-four percent of the net receipts attributable to the~~  
23 ~~governmental gross receipts tax]; provided that forty-one and  
24 two-thirds percent of the distribution is appropriated to the  
25 energy, minerals and natural resources department to implement~~

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1 the provisions of the New Mexico Youth Conservation Corps Act  
2 and fifty-eight and one-third percent of the distribution is  
3 appropriated to the energy, minerals and natural resources  
4 department for state park and recreation area capital  
5 improvements, including the costs of planning, engineering,  
6 design, construction, renovation, repair, equipment and  
7 furnishings;

8 ~~[C. A distribution pursuant to Section 7-1-6.1 NMSA~~  
9 ~~1978 shall be made]~~ and

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

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

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

7 SECTION 15. Section 7-1-6.39 NMSA 1978 (being Laws 1995,  
8 Chapter 6, Section 9, as amended) is amended to read:

9 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO  
10 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to  
11 Section 7-1-6.1 NMSA 1978 shall be made to the local  
12 governments road fund in an amount equal to [~~nine and fifty-~~  
13 ~~two~~] seven and sixty-nine hundredths percent of the net  
14 receipts attributable to the taxes, exclusive of penalties and  
15 interest, from the special fuel excise tax imposed by the  
16 Special Fuels Supplier Tax Act."

17 SECTION 16. Section 7-1-6.41 NMSA 1978 (being Laws 1997,  
18 Chapter 125, Section 1) is amended to read:

19 "7-1-6.41. ADMINISTRATIVE FEE IMPOSED [APPROPRIATION].--  
20 [A. ~~The taxation and revenue department is directed~~  
21 ~~to withhold an administrative fee of three percent of the net~~  
22 ~~amount to be distributed under the provisions of:~~

- 23 (1) ~~Section 7-1-6.32 NMSA 1978;~~  
24 (2) ~~Section 66-12-20 NMSA 1978; and~~  
25 (3) ~~Section 74-1-13 NMSA 1978.~~

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1           ~~B. The administrative fee to be withheld pursuant~~  
2 ~~to Subsection A of this section shall be withheld on~~  
3 ~~distributions made on or after July 1, 1997 and shall continue~~  
4 ~~until the earlier of December 31, 2006 or the date on which the~~  
5 ~~New Mexico finance authority certifies to the taxation and~~  
6 ~~revenue department that all obligations for bonds issued~~  
7 ~~pursuant to Section 12 of this 1997 act have been fully~~  
8 ~~discharged and directs the department to cease distributing~~  
9 ~~money to the authority pursuant to this section.~~

10           G.] The [~~taxation and revenue~~] department is  
11 directed to withhold an [additional] administrative fee at the  
12 following percentage of the net amount to be distributed  
13 pursuant to the following provisions of law:

14           [~~(1) two~~] A. three percent of the net amount to be  
15 [~~distributed~~] transferred pursuant to Section 7-1-6.12 NMSA  
16 1978; provided that the fee shall be imposed only on that  
17 portion of the municipal gross receipts tax arising from a  
18 municipal gross receipts tax rate in excess of one-half  
19 percent; and

20           [~~(2) six-tenths of one~~] B. three percent of the  
21 net amount to be [~~distributed~~] transferred pursuant to Section  
22 7-1-6.13 NMSA 1978.

23           ~~[D. The administrative fee to be withheld under~~  
24 ~~Subsection C of this section shall be withheld on distributions~~  
25 ~~made on or after July 1, 1997 and shall continue until the~~

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1 ~~earlier of July 1, 2000 or the date on which the New Mexico~~  
2 ~~finance authority certifies to the taxation and revenue~~  
3 ~~department that all obligations for bonds issued pursuant to~~  
4 ~~Section 12 of this 1997 act have been fully discharged and~~  
5 ~~directs the department to cease distributing money to the~~  
6 ~~authority pursuant to this section.~~

7 ~~E. The administrative fee to be withheld by the~~  
8 ~~taxation and revenue department under Section 7-1-6.12 and~~  
9 ~~7-1-6.13 NMSA 1978 shall be set at three percent of the net~~  
10 ~~amount to be distributed pursuant to the provisions of those~~  
11 ~~sections.~~

12 ~~F. The administrative fee to be withheld under~~  
13 ~~Subsection E of this section shall be withheld on distributions~~  
14 ~~made on or after July 1, 2000 and shall continue until the~~  
15 ~~earlier of December 31, 2006 or the date on which the New~~  
16 ~~Mexico finance authority certifies to the taxation and revenue~~  
17 ~~department that all obligations for bonds issued pursuant to~~  
18 ~~Section 12 of this 1997 act have been fully discharged and~~  
19 ~~directs the department to cease distributing money to the~~  
20 ~~authority pursuant to this section. After the department has~~  
21 ~~been directed by the authority to cease distributing money to~~  
22 ~~the authority pursuant to this section, the administrative fee~~  
23 ~~shall be remitted to the state treasurer for deposit in the~~  
24 ~~state general fund each month.~~

25 ~~G. The administrative fee shall be distributed~~

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1 ~~monthly to the New Mexico finance authority to be pledged~~  
2 ~~irrevocably for the payment of principal, interest and any~~  
3 ~~expenses or obligations related to the bonds issued by the~~  
4 ~~authority to finance the taxation and revenue information~~  
5 ~~management systems project.]"~~

6 SECTION 17. Section 7-1-6.46 NMSA 1978 (being Laws 2004,  
7 Chapter 116, Section 1, as amended) is amended to read:

8 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR  
9 FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES  
10 DEDUCTION.--

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

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

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1                   ~~(2) the total deductions claimed pursuant to~~  
2                   ~~Section 7-9-93 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 for the~~  
6                   ~~month plus one and two hundred twenty-five thousandths percent]~~  
7                   applicable maximum distribution for the municipality.

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

13                         ~~(1) the total deductions claimed pursuant to~~  
14                         ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~  
15                         ~~business locations 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 the following percentages:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 ~~(2) the total deductions claimed pursuant to~~

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1 ~~Section 7-9-93 NMSA 1978 for the month by taxpayers from~~  
2 ~~business locations attributable to the municipality multiplied~~  
3 ~~by the sum of the combined rate of all municipal local option~~  
4 ~~gross receipts taxes in effect in the municipality on January~~  
5 ~~1, 2007 plus one and two hundred twenty-five thousandths~~  
6 ~~percent in] applicable maximum distribution for the~~  
7 ~~municipality multiplied by 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)] (1) on or after July 1, 2019 and prior to~~  
19 ~~July 1, 2020, seventy percent;~~

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

22 ~~[(h)] (3) 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] 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 municipality but for the deductions  
16 provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The  
17 distribution shall be considered gross receipts tax revenue and  
18 shall be used by the municipality in the same manner as gross  
19 receipts tax revenue, including payment of gross receipts tax  
20 revenue bonds. [~~A distribution pursuant to this section to a~~  
21 ~~municipality not described in Subsection A of this section or~~  
22 ~~to a municipality that has imposed a gross receipts tax through~~  
23 ~~an ordinance that does not provide a deduction contained in the~~  
24 ~~Gross Receipts and Compensating Tax Act shall not be made on or~~  
25 ~~after July 1, 2029.]~~

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

15           E. For the purposes of this section:

16                 (1) "business locations attributable to the  
17 municipality" means business locations:

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

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

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

24                         [~~(4)~~] (d) on an Indian reservation or  
25 pueblo grant in an area that is contiguous to the municipality

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1 and in which the municipality performs services pursuant to a  
2 contract between the municipality and the Indian tribe or  
3 Indian pueblo if: [~~(a)~~] 1) the contract describes an area in  
4 which the municipality is required to perform services and  
5 requires the municipality to perform services that are  
6 substantially the same as the services the municipality  
7 performs for itself; and [~~(b)~~] 2) the governing body of the  
8 municipality has submitted a copy of the contract to the  
9 secretary; and

10 (2) "maximum distribution" means:

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

20 (b) for a municipality that has a  
21 population of ten thousand or more according to the most recent  
22 federal decennial census, the total deductions claimed pursuant  
23 to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by  
24 taxpayers from business locations attributable to the  
25 municipality multiplied by the sum of the combined rate of all

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1 municipal local option gross receipts taxes in effect in the  
2 municipality on January 1, 2007 plus one and two hundred  
3 twenty-five thousandths percent.

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

9 SECTION 18. Section 7-1-6.47 NMSA 1978 (being Laws 2004,  
10 Chapter 116, Section 2, as amended) is amended to read:

11 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD  
12 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

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

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

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1 ~~throughout the county;~~

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

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

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

21 B. For a county not described in Subsection A of  
22 this section, a distribution pursuant to Section 7-1-6.1 NMSA  
23 1978 shall be made to the county in an amount, subject to any  
24 increase or decrease made pursuant to Section 7-1-6.15 NMSA  
25 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 within a municipality in the county~~  
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 throughout the county in the following 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) on or after July 1, 2019 and prior~~  
18                   ~~to July 1, 2020, seventy percent;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 ~~(3) 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 within a municipality in the county~~  
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 throughout the county in the following percentages:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (4) the total deductions claimed pursuant to  
11 Section 7-9-93 NMSA 1978 for the month by taxpayers from  
12 business locations in the county but not within a municipality  
13 multiplied by the combined rate of all county local option  
14 gross receipts taxes in effect on January 1, 2007 that are  
15 imposed in the county area not within a municipality in]  
16 applicable maximum distribution multiplied by the following  
17 percentages:

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

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

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

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

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underscoring material = new  
[bracketed material] = delete

1 ~~(e) on or after July 1, 2018 and prior~~  
2 ~~to July 1, 2019, seventy-six percent;~~  
3 ~~(f)] (1) on or after July 1, 2019 and prior to~~  
4 ~~July 1, 2020, seventy percent;~~  
5 ~~[(g)] (2) on or after July 1, 2020 and prior~~  
6 ~~to July 1, 2021, sixty-three percent; and~~  
7 ~~[(h)] (3) on or after July 1, 2021, [and prior~~  
8 ~~to July 1, 2022, fifty-six percent;~~  
9 ~~(i) on or after July 1, 2022 and prior~~  
10 ~~to July 1, 2023, forty-nine percent;~~  
11 ~~(j) on or after July 1, 2023 and prior~~  
12 ~~to July 1, 2024, forty-two percent;~~  
13 ~~(k) on or after July 1, 2024 and prior~~  
14 ~~to July 1, 2025, thirty-five percent;~~  
15 ~~(l) on or after July 1, 2025 and prior~~  
16 ~~to July 1, 2026, twenty-eight percent;~~  
17 ~~(m) on or after July 1, 2026 and prior~~  
18 ~~to July 1, 2027, twenty-one percent;~~  
19 ~~(n) on or after July 1, 2027 and prior~~  
20 ~~to July 1, 2028, fourteen percent; and~~  
21 ~~(o) on or after July 1, 2028 and prior~~  
22 ~~to July 1, 2029, seven] zero percent.~~

23 C. [The] A distribution pursuant to [Subsections A  
24 and B of] this section is in lieu of revenue that would have  
25 been received by the county but for the deductions provided by

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underscored material = new  
[bracketed material] = delete

1 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall  
2 be considered gross receipts tax revenue and shall be used by  
3 the county in the same manner as gross receipts tax revenue,  
4 including payment of gross receipts tax revenue bonds. [A  
5 ~~distribution pursuant to this section to a county not described~~  
6 ~~in Subsection A of this section or to a county that has imposed~~  
7 ~~a gross receipts tax through an ordinance that does not provide~~  
8 ~~a deduction contained in the Gross Receipts and Compensating~~  
9 ~~Tax Act shall not be made on or after July 1, 2029.~~]

10 D. If the [~~reductions~~] changes made by this [2013]  
11 2019 act to the distributions made pursuant to [~~Subsections A~~  
12 ~~and B of~~] this section impair the ability of a county to meet  
13 its principal or interest payment obligations for revenue bonds  
14 that are outstanding prior to July 1, [2013] 2019 and that are  
15 secured by the pledge of all or part of the county's revenue  
16 from the distribution made pursuant to this section, then the  
17 amount distributed pursuant to this section to that county  
18 shall be increased by an amount sufficient to meet the required  
19 payment; provided that the total amount distributed to that  
20 county pursuant to this section does not exceed the amount that  
21 would have been due that county pursuant to this section as it  
22 was in effect on June 30, [2013] 2019.

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

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underscored material = new  
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1 increment dedicated by a county pursuant to the Tax Increment  
2 for Development Act.

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

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

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

14 (b) 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 in the county but not  
17 within a municipality multiplied by the combined rate of all  
18 county local option gross receipts taxes in effect for the  
19 month that are imposed in the county area not within a  
20 municipality; and

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

24 (a) the total deductions claimed  
25 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month

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underscored material = new  
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1 by taxpayers from business locations within a municipality in  
2 the county multiplied by the combined rate of all county local  
3 option gross receipts taxes in effect on January 1, 2007 that  
4 are imposed throughout the county; and

5 (b) the total deductions claimed  
6 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month  
7 by taxpayers from business locations in the county but not  
8 within a municipality multiplied by the combined rate of all  
9 county local option gross receipts taxes in effect on January  
10 1, 2007 that are imposed in the county area not within a  
11 municipality."

12 SECTION 19. A new section of the Tax Administration Act  
13 is enacted to read:

14 "[NEW MATERIAL] ADDITIONAL DISTRIBUTION OF GASOLINE TAX  
15 AND SPECIAL FUEL EXCISE TAX TO MUNICIPALITIES AND COUNTIES.--

16 A. A distribution pursuant to Section 7-1-6.1 NMSA  
17 1978 shall be made in an amount equal to nine and twenty-six  
18 hundredths percent of the net receipts attributable to the  
19 gasoline tax and four and eighty-one hundredths percent of the  
20 net receipts attributable to the special fuel excise tax.  
21 Except as provided in Subsection C of this section, this  
22 distribution shall be paid into a maintenance and repair road  
23 fund in the municipal treasury and county road fund for  
24 expenditure only for reconstruction, resurfacing or other  
25 improvement or maintenance of existing public roads, streets,

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1 alleys or bridges, including right-of-way and materials  
2 acquisition.

3 B. The amount determined in Subsection A of this  
4 section shall be distributed as follows:

5 (1) sixty-six and seven-tenths percent of the  
6 amount shall be paid to the treasurers of municipalities and H  
7 class counties in the proportion that the taxable motor fuel  
8 sales in each of the municipalities and H class counties bears  
9 to the aggregate taxable motor fuel sales in all of these  
10 municipalities and H class counties; and

11 (2) thirty-three and three-tenths percent of  
12 the amount shall be paid to the treasurers of the counties,  
13 including H class counties, in the proportion that the taxable  
14 motor fuel sales outside of incorporated municipalities in each  
15 of the counties bears to the aggregate taxable motor fuel sales  
16 outside of incorporated municipalities in all of the counties.

17 C. The distributions made pursuant to this section  
18 may be paid into a separate road fund or the general fund of  
19 the municipality or county if the municipality has a population  
20 less than three thousand or the county has a population less  
21 than four thousand according to the most recent federal  
22 decennial census.

23 D. Money from the distribution made pursuant to  
24 this section shall not be pledged for the payment of bonds or  
25 debentures or expended to pay the principal or interest of

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1 outstanding bonds or debentures."

2 SECTION 20. A new section of the Tax Administration Act  
3 is enacted to read:

4 "[NEW MATERIAL] DISTRIBUTION OF GASOLINE TAX AND SPECIAL  
5 FUEL EXCISE TAX--STATE ROAD MAINTENANCE FUND.--

6 A. The "state road maintenance fund" is created as  
7 a nonreverting fund in the state treasury. No income earned on  
8 the fund shall be transferred to another fund.

9 B. A distribution pursuant to Section 7-1-6.1 NMSA  
10 1978 shall be made to the state road maintenance fund in an  
11 amount equal to nine and twenty-six hundredths percent of the  
12 net receipts attributable to the gasoline tax and four and  
13 eighty-one hundredths percent of the net receipts attributable  
14 to the special fuel excise tax.

15 C. The department of transportation shall  
16 administer the fund, and money in the fund is subject to  
17 appropriation by the legislature to the department of  
18 transportation only for expenditure for reconstruction,  
19 resurfacing or other improvement or maintenance of existing  
20 public roads, streets, alleys or bridges, including right-of-  
21 way and materials acquisition.

22 D. Money in the fund shall not be pledged for the  
23 payment of bonds or debentures or expended to pay the principal  
24 or interest of outstanding bonds or debentures.

25 E. Money in the fund shall be disbursed on warrants

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1 signed by the secretary of finance and administration pursuant  
2 to vouchers signed by the secretary of transportation or the  
3 secretary's authorized representative."

4 SECTION 21. A new section of the Tax Administration Act  
5 is enacted to read:

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

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

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

25 SECTION 22. Section 7-1-10 NMSA 1978 (being Laws 1965,  
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1 Chapter 248, Section 15, as amended) is amended to read:

2 "7-1-10. RECORDS REQUIRED BY STATUTE--TAXPAYER  
3 RECORDS--ACCOUNTING METHODS--REPORTING METHODS--INFORMATION  
4 RETURNS.--

5 A. Every person required by the provisions of any  
6 statute administered by the department to keep records and  
7 documents and every taxpayer shall maintain books of account or  
8 other records in a manner that will permit the accurate  
9 computation of state taxes or provide information required by  
10 the statute under which the person is required to keep records.

11 B. Methods of accounting shall be consistent for  
12 the same business. A taxpayer engaged in more than one  
13 business may use a different method of accounting for each  
14 business.

15 C. Prior to changing the method of accounting in  
16 keeping books and records for tax purposes, a taxpayer shall  
17 first secure the consent of the secretary or the secretary's  
18 delegate. If consent is not secured, the department upon audit  
19 may require the taxpayer to compute the amount of tax due on  
20 the basis of the accounting method earlier used.

21 D. Prior to changing the method of reporting taxes,  
22 other than for changes required by law, a taxpayer shall first  
23 secure the consent of the secretary or the secretary's  
24 delegate. Consent shall be granted or withheld pursuant to the  
25 provisions of Section 7-4-19 NMSA 1978. If consent is not

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1 secured, the secretary or the secretary's delegate upon audit  
2 may require the taxpayer to compute the amount of tax due on  
3 the basis of the reporting method earlier used.

4 E. Upon the written application of a taxpayer and  
5 at the sole discretion of the secretary or the secretary's  
6 delegate, the secretary or the secretary's delegate may enter  
7 into an agreement with a taxpayer allowing the taxpayer to  
8 report values, gross receipts, deductions or the value of  
9 property on an estimated basis for gross receipts and  
10 compensating tax, oil and gas severance tax, oil and gas  
11 conservation tax, oil and gas emergency school tax and oil and  
12 gas ad valorem production tax purposes for a limited period of  
13 time not to exceed four years. As used in this section,  
14 "estimated basis" means a methodology that is reasonably  
15 expected to approximate the tax that will be due over the  
16 period of the agreement using summary rather than detail data  
17 or alternate valuation applications or methods, provided that:

18 (1) nothing in this section shall be construed  
19 to require the secretary or the secretary's delegate to enter  
20 into such an agreement; and

21 (2) the agreement must:

22 (a) specify the receipts, deductions or  
23 values to be reported on an estimated basis and the methodology  
24 to be followed by the taxpayer in making the estimates;

25 (b) state the term of the agreement and

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1 the procedures for terminating the agreement prior to its  
2 expiration;

3 (c) be signed by the taxpayer or the  
4 taxpayer's representative and the secretary or the secretary's  
5 delegate; and

6 (d) contain a declaration by the  
7 taxpayer or the taxpayer's representative that all statements  
8 of fact made by the taxpayer or the taxpayer's representative  
9 in the taxpayer's application and the agreement are true and  
10 correct as to every material matter.

11 F. The secretary may, by regulation, require any  
12 person doing business in the state to submit to the department  
13 information reports that are considered reasonable and  
14 necessary for the administration of any provision of law to  
15 which the Tax Administration Act applies.

16 G. The secretary shall, by rule, require a seller  
17 or marketplace provider, as that term is used in the Gross  
18 Receipts and Compensating Tax Act, to provide information  
19 reports regarding sales, leases or licenses made by the seller  
20 or facilitated by the marketplace provider to this state if the  
21 seller or marketplace provider is not subject to taxation in  
22 this state."

23 SECTION 23. Section 7-1-13.1 NMSA 1978 (being Laws 1988,  
24 Chapter 99, Section 3, as amended) is amended to read:

25 "7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

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1           A. Payment of the taxes, including any applicable  
2 penalties and interest, described in Paragraph (1), (2), (3) or  
3 (4) of this subsection shall be made on or before the date due  
4 in accordance with Subsection B of this section if the  
5 taxpayer's average tax payment for the group of taxes during  
6 the preceding calendar year equaled or exceeded twenty-five  
7 thousand dollars (\$25,000):

8                   (1) Group 1: all taxes due under the  
9 Withholding Tax Act, the Gross Receipts and Compensating Tax  
10 Act, local option gross receipts and compensating tax acts, the  
11 Interstate Telecommunications Gross Receipts Tax Act and the  
12 Leased Vehicle Gross Receipts Tax Act;

13                   (2) Group 2: all taxes due under the Oil and  
14 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,  
15 the Oil and Gas Emergency School Tax Act and the Oil and Gas Ad  
16 Valorem Production Tax Act;

17                   (3) Group 3: the tax due under the Natural  
18 Gas Processors Tax Act; or

19                   (4) Group 4: all taxes and fees due under the  
20 Gasoline Tax Act, the Special Fuels Supplier Tax Act and the  
21 Petroleum Products Loading Fee Act.

22           For taxpayers who have more than one identification number  
23 issued by the department, the average tax payment shall be  
24 computed by combining the amounts paid under the several  
25 identification numbers.

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1           B. Taxpayers who are required to make payment in  
2 accordance with the provisions of this section shall make  
3 payment by one or more of the following means on or before the  
4 due date so that funds are immediately available to the state  
5 on or before the due date:

6                   (1) electronic payment; provided that a result  
7 of the payment is that funds are immediately available to the  
8 state of New Mexico on or before the due date;

9                   (2) currency of the United States;

10                   (3) check drawn on and payable at any New  
11 Mexico financial institution; provided that the check is  
12 received by the department at the place and time required by  
13 the department at least one banking day prior to the due date;  
14 or

15                   (4) check drawn on and payable at any domestic  
16 non-New Mexico financial institution; provided that the check  
17 is received by the department at the time and place required by  
18 the department at least two banking days prior to the due date.

19           C. If the taxes required to be paid under this  
20 section are not paid in accordance with Subsection B of this  
21 section, the payment is not timely and is subject to the  
22 provisions of Sections 7-1-67 and 7-1-69 NMSA 1978.

23           D. For the purposes of this section, "average tax  
24 payment" means the total amount of taxes paid with respect to a  
25 group of taxes listed under Subsection A of this section during

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1 a calendar year divided by the number of months in that  
2 calendar year containing a due date on which the taxpayer was  
3 required to pay one or more taxes in the group."

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

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

9 A. Gross receipts and deductions required to be  
10 reported pursuant to the Gross Receipts and Compensating Tax  
11 Act, Interstate Telecommunications Gross Receipts Tax Act,  
12 Leased Vehicle Gross Receipts Tax Act, Supplemental Municipal  
13 Gross Receipts Tax Act, Municipal Local Option Gross Receipts  
14 and Compensating Tax Act, Local Hospital Gross Receipts Tax  
15 Act, County Local Option Gross Receipts and Compensating Tax  
16 Act and County Correctional Facility Gross Receipts Tax Act  
17 shall be reported as follows:

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

24 (2) gross receipts and deductions from the  
25 sale of construction services and materials delivered to the

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1 site of the construction project shall be reported to the  
2 location of the construction project;

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

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

11 B. The secretary may, by rule, provide for the  
12 reporting of gross receipts and deductions from transactions  
13 consistent with this section and for reporting the tax imposed  
14 by taxing jurisdictions at that location, including the  
15 reporting of receipts from locations outside a municipal  
16 boundary but within property owned by the municipality."

17 SECTION 25. Section 7-2-7 NMSA 1978 (being Laws 2005,  
18 Chapter 104, Section 4) is amended to read:

19 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by  
20 Section 7-2-3 NMSA 1978 shall be at the following rates for any  
21 taxable year beginning on or after January 1, [2008] 2020:

22 A. For married individuals filing separate returns:

23 If the taxable income is:	The tax shall be:
24 [ <del>Not over \$4,000</del>	<del>1.7% of taxable income</del>
25 <del>Over \$4,000 but not over \$8,000</del>	<del>\$68.00 plus 3.2% of</del>

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1 ~~excess over \$4,000~~  
2 ~~Over \$8,000 but not over \$12,000 \$196 plus 4.7% of excess~~  
3 ~~over \$8,000~~  
4 ~~Over \$12,000 \$384 plus 4.9% of excess~~  
5 ~~over \$12,000.~~

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

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

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

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

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1	<u>Not over \$7,500</u>	<u>1.7% of taxable income</u>
2	<u>Over \$7,500 but not over \$15,000</u>	<u>\$127.50 plus 4.7% of</u>
3		<u>excess over \$7,500</u>
4	<u>Over \$15,000 but not over \$22,500</u>	<u>\$480 plus 4.9% of excess</u>
5		<u>over \$15,000</u>
6	<u>Over \$22,500 but not over \$50,000</u>	<u>\$847.50 plus 5.3% of</u>
7		<u>excess over \$22,500</u>
8	<u>Over \$50,000 but not over \$75,000</u>	<u>\$2,305 plus 5.5% of</u>
9		<u>excess over \$50,000</u>
10	<u>Over \$75,000 but not over \$250,000</u>	<u>\$3,680 plus 5.8% of</u>
11		<u>excess over \$75,000</u>
12	<u>Over \$250,000</u>	<u>\$13,830 plus 6.0% of</u>
13		<u>excess over \$250,000.</u>

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

16	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
17	<u>Not over \$15,000</u>	<u>1.7% of taxable income</u>
18	<u>Over \$15,000 but not over \$30,000</u>	<u>\$255 plus 4.7% of</u>
19		<u>excess over \$15,000</u>
20	<u>Over \$30,000 but not over \$45,000</u>	<u>\$960 plus 4.9% of excess</u>
21		<u>over \$30,000</u>
22	<u>Over \$45,000 but not over \$100,000</u>	<u>\$1,695 plus 5.3% of</u>
23		<u>excess over \$45,000</u>
24	<u>Over \$100,000 but not over \$150,000</u>	<u>\$4,610 plus 5.5% of</u>
25		<u>excess over \$100,000</u>

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1 Over \$150,000 but not over \$500,000 \$7,360 plus 5.8% of  
2 excess over \$150,000  
3 Over \$500,000 \$27,660 plus 6.0% of  
4 excess over \$500,000.

5 C. For single individuals and for estates and  
6 trusts:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
7 <u>Not over \$10,000</u>	<u>1.7% of taxable income</u>
8 <u>Over \$10,000 but not over \$20,000</u>	<u>\$170 plus 4.7% of excess</u>
9 <u>Over \$20,000 but not over \$30,000</u>	<u>over \$10,000</u>
10 <u>Over \$30,000 but not over \$65,000</u>	<u>\$640 plus 4.9% of excess</u>
11 <u>Over \$65,000 but not over \$100,000</u>	<u>over \$20,000</u>
12 <u>Over \$100,000 but not over \$335,000</u>	<u>\$1,130 plus 5.3% of</u>
13 <u>Over \$335,000</u>	<u>excess over \$30,000</u>
14 <u>Over \$10,000 but not over \$20,000</u>	<u>\$2,985 plus 5.5% of</u>
15 <u>Over \$20,000 but not over \$30,000</u>	<u>excess over \$65,000</u>
16 <u>Over \$30,000 but not over \$65,000</u>	<u>\$4,910 plus 5.8% of</u>
17 <u>Over \$65,000 but not over \$100,000</u>	<u>excess over \$100,000</u>
18 <u>Over \$100,000 but not over \$335,000</u>	<u>\$18,540 plus 6.0% of</u>
19 <u>Over \$335,000</u>	<u>excess over \$335,000.</u>

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

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

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

5 SECTION 26. Section 7-2-34 NMSA 1978 (being Laws 1999,  
6 Chapter 205, Section 1, as amended) is amended to read:

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

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

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

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

17 ~~(a) for a taxable year beginning in~~  
18 ~~2003, ten percent;~~

19 ~~(b) for a taxable year beginning in~~  
20 ~~2004, twenty percent;~~

21 ~~(c) for a taxable year beginning in~~  
22 ~~2005, thirty percent;~~

23 ~~(d) for a taxable year beginning in~~  
24 ~~2006, forty percent; and~~

25 ~~(e) for taxable years beginning on or~~

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1 ~~after January 1, 2007, fifty percent].~~

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

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

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

13 SECTION 27. Section 7-2A-2 NMSA 1978 (being Laws 1986,  
14 Chapter 20, Section 33, as amended) is amended to read:

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

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

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

22 B. "apportioned net income" or "apportioned net  
23 loss" means net income or loss allocated and apportioned to New  
24 Mexico pursuant to the provisions of the Corporate Income and  
25 Franchise Tax Act or the Uniform Division of Income for Tax

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1 Purposes Act, but excluding from the sales factor any sales  
2 that represent intercompany transactions between members of the  
3 filing group;

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

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

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

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

19 federal net operating loss of a corporation for the taxable  
20 year calculated pursuant to the Internal Revenue Code, after  
21 special deductions but without any deduction for net operating  
22 losses, as if the corporation filed a federal tax return as a  
23 separate domestic entity, modified as follows:

24 (1) adding to that income or loss:

25 (a) interest received on a state or

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1 local bond exempt under the Internal Revenue Code;

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

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

10 (2) subtracting from that income or loss:

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

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

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

21 D. "captive real estate investment trust" means a  
22 corporation, trust or association taxed as a real estate  
23 investment trust pursuant to Section 857 of the Internal  
24 Revenue Code, the shares or beneficial interests of which are  
25 not regularly traded on an established securities market;

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1 provided that more than fifty percent of any class of  
2 beneficial interests or shares of the real estate investment  
3 trust are owned directly, indirectly or constructively by the  
4 taxpayer during all or a part of the taxpayer's taxable year;

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

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

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

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

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

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

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

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

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

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

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

17           K. "grandfathered net operating loss carryover"  
18 means:

19                   (1) the amount of net loss properly reported  
20 to New Mexico in taxable years beginning January 1, 2014 and  
21 prior to January 1, 2020 as part of a timely filed original  
22 return or an amended return filed prior to January 1, 2019, to  
23 the extent such loss can be attributed to one or more  
24 corporations that are properly included in the taxpayer's  
25 return for the first taxable year beginning on or after January

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1     1, 2020;

2                     (2) reduced by:

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

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

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

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

18                     [~~F.~~] M. "net income or loss" means: [~~base income~~  
19    ~~adjusted to exclude:~~

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

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

25                             ~~(3) for taxable years that began prior to~~

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1 ~~January 1, 1991, an amount equal to the sum of:~~

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

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

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

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

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

22 ~~(c) in either case, if the net operating~~  
23 ~~loss carryover exceeds the amount of net income exclusive of~~  
24 ~~the net operating loss carryover for the taxable year to which~~  
25 ~~the exclusion first applies, in the next four succeeding~~

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1 ~~taxable years in turn until the net operating loss carryover is~~  
2 ~~exhausted for any net operating loss carryover from a taxable~~  
3 ~~year prior to January 1, 2013; in no event may a net operating~~  
4 ~~loss carryover from a taxable year beginning prior to January~~  
5 ~~1, 2013 be excluded in any taxable year after the fourth~~  
6 ~~taxable year beginning after the taxable year to which the~~  
7 ~~exclusion first applies; and~~

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

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

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

20 ~~(c) in either case, if the net operating~~  
21 ~~loss carryover exceeds the amount of net income exclusive of~~  
22 ~~the net operating loss carryover for the taxable year to which~~  
23 ~~the exclusion first applies, in the next nineteen succeeding~~  
24 ~~taxable years in turn until the net operating loss carryover is~~  
25 ~~exhausted for any net operating loss carryover from a taxable~~

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1 ~~year beginning on or after January 1, 2013; in no event shall a~~  
2 ~~net operating loss carryover from a taxable year beginning: 1)~~  
3 ~~prior to January 1, 2013 be excluded in any taxable year after~~  
4 ~~the fourth taxable year beginning after the taxable year to~~  
5 ~~which the exclusion first applies; and 2) on or after January~~  
6 ~~1, 2013 be excluded in any taxable year after the nineteenth~~  
7 ~~taxable year beginning after the taxable year to which the~~  
8 ~~exclusion first applies;~~

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

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

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

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

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

5 (1) plus:

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

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

16 (2) minus:

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

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

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

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

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

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

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

20 S. "return" means any tax or information return,  
21 including a water's-edge or worldwide combined return, a  
22 consolidated return, a declaration of estimated tax or a claim  
23 for refund, including any amendments or supplements to the  
24 return, required or permitted pursuant to a law subject to  
25 administration and enforcement pursuant to the Tax

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1 Administration Act and filed with the department by or on  
2 behalf of any person;

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

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

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

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

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

24 [Q-] Y. "taxable year" means the calendar year or  
25 fiscal year upon the basis of which the net income or loss is

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1 computed under the Corporate Income and Franchise Tax Act and  
2 includes, in the case of the return made for a fractional part  
3 of a year under the provisions of that act, the period for  
4 which the return is made;

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

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

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

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

20 ~~(3) the operations of the corporations are~~  
21 ~~dependent upon or contribute property or services to one~~  
22 ~~another individually or as a group] a group of two or more  
23 corporations, including a captive real estate investment trust,  
24 but not including an S corporation, an insurance company  
25 subject to the provisions of the New Mexico Insurance Code, an~~

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1 insurance company that would be subject to the New Mexico  
2 Insurance Code if the insurance company engaged in business in  
3 this state or a real estate investment trust that is not a  
4 captive real estate investment trust, that are:

5 (1) related through common ownership; and

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

8 (a) centralized management;

9 (b) functional integration; and

10 (c) economies of scale;

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

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

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

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

25 **SECTION 28.** Section 7-2A-3 NMSA 1978 (being Laws 1981,

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1 Chapter 37, Section 36, as amended) is amended to read:

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

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

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

21 SECTION 29. Section 7-2A-8.3 NMSA 1978 (being Laws 1983,  
22 Chapter 213, Section 12, as amended) is amended to read:

23 "7-2A-8.3. COMBINED AND CONSOLIDATED RETURNS.--

24 ~~[A. A unitary corporation that is subject to~~  
25 ~~taxation under the Corporate Income and Franchise Tax Act and~~

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

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

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1 ~~corporations to file individually.~~

2 ~~C. For taxable years beginning on or after January~~  
3 ~~1, 1993, no unitary corporation once included in a combined~~  
4 ~~return may elect, or be granted permission by the secretary,~~  
5 ~~for any subsequent taxable year to separately account pursuant~~  
6 ~~to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.~~

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

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

12 ~~(2) employs at least seven hundred fifty~~  
13 ~~employees in New Mexico at such facilities.] Corporations that~~  
14 ~~are part of a unitary group shall file a return properly~~  
15 ~~reporting and paying tax on taxable income as a worldwide~~  
16 ~~combined group unless they properly elect to report and pay tax~~  
17 ~~on taxable income as a water's-edge or consolidated group,~~  
18 ~~pursuant to department rules and instructions, on the first~~  
19 ~~original return required to be filed for taxable years~~  
20 ~~beginning on or after January 1, 2020. Corporations electing~~  
21 ~~to file a consolidated return must file on that same basis for~~  
22 ~~federal income tax purposes. Once a unitary or consolidated~~  
23 ~~group has properly made an election to file as a water's-edge~~  
24 ~~or consolidated group, neither the group nor any of the group's~~  
25 ~~members may file a return on any other basis without permission~~

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1 of the secretary. Corporations that are part of a unitary  
2 group filing a return are jointly and severally liable for the  
3 tax imposed pursuant to the Corporate Income and Franchise Tax  
4 Act on taxable income."

5 SECTION 30. Section 7-4-18 NMSA 1978 (being Laws 1965,  
6 Chapter 203, Section 18) is amended to read:

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

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

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

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

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

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

25 (3) in the case of sale of a service, if and

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1 to the extent the service is delivered to a location in this  
2 state; and

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

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

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

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

17 **SECTION 31.** Section 7-9-3 NMSA 1978 (being Laws 1978,  
18 Chapter 46, Section 1, as amended) is amended to read:

19 "7-9-3. DEFINITIONS.--As used in the Gross Receipts and  
20 Compensating Tax Act:

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

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

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

3 C. "financial corporation" means a savings and loan  
4 association or an incorporated savings and loan company, trust  
5 company, mortgage banking company, consumer finance company or  
6 other financial corporation;

7 D. "initial use" or "initially used" means the  
8 first employment for the intended purpose and does not include  
9 the following activities:

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

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

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

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

19 (5) similar activities;

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

24 F. "local option gross receipts tax" means a tax  
25 authorized to be imposed by a county or municipality upon ~~[the]~~

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

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

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

19 I. "marketplace provider" means a person who  
20 facilitates the sale, lease or license of tangible personal  
21 property, services, digital goods or real property on a  
22 seller's behalf, or on the marketplace provider's own behalf,  
23 by:

24 (1) listing or advertising the sale, lease or  
25 license, by any means, whether physical or electronic,

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1 including by catalog, internet website or television or radio  
2 broadcast; and

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

9 ~~[I.]~~ J. "person" means:

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

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

20 ~~[J.]~~ K. "property" means real property, tangible  
21 personal property, licenses other than the licenses of  
22 copyrights, trademarks or patents and franchises. Tangible  
23 personal property includes electricity and manufactured homes;

24 ~~[K.]~~ L. "research and development services" means  
25 an activity engaged in for other persons for consideration, for

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1 one or more of the following purposes:

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

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

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

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

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

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

23 ~~[E.]~~ M. "secretary" means the secretary of taxation  
24 and revenue or the secretary's delegate;

25 ~~[M.]~~ N. "service" means all activities engaged in

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

17 ~~[N.]~~ O. "use" or "using" includes use, consumption  
18 or storage other than storage for subsequent sale in the  
19 ordinary course of business or for use solely outside this  
20 state."

21 **SECTION 32.** Section 7-9-3.3 NMSA 1978 (being Laws 2003,  
22 Chapter 272, Section 4) is amended to read:

23 "7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in  
24 the Gross Receipts and Compensating Tax Act, "engaging in  
25 business" means carrying on or causing to be carried on any

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1 activity with the purpose of direct or indirect benefit.

2 [~~except that:~~

3 A.] "Engaging in business" [~~does not include:~~  
4 ~~having a worldwide web site as a third-party content provider~~  
5 ~~on a computer physically located in New Mexico but owned by~~  
6 ~~another nonaffiliated person; and~~

7 B. ~~"engaging in business" does not include using a~~  
8 ~~nonaffiliated third-party call center to accept and process~~  
9 ~~telephone or electronic orders of tangible personal property or~~  
10 ~~licenses primarily from non-New Mexico buyers, which orders are~~  
11 ~~forwarded to a location outside New Mexico for filling, or to~~  
12 ~~provide services primarily to non-New Mexico customers]~~  
13 includes receiving receipts from sales, leases or licenses:

14 A. facilitated by a marketplace provider and that  
15 are sourced to this state; provided that, in the previous  
16 calendar year, the marketplace provider facilitated at least  
17 one hundred thousand dollars (\$100,000) in gross receipts from  
18 those sales, leases or licenses; and

19 B. made by a seller that lacks physical presence  
20 and that are sourced to this state; provided that, in the  
21 previous calendar year, the seller had at least one hundred  
22 thousand dollars (\$100,000) in gross receipts from those sales,  
23 leases or licenses."

24 SECTION 33. Section 7-9-3.5 NMSA 1978 (being Laws 2003,  
25 Chapter 272, Section 3, as amended) is amended to read:

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1 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

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

4 (1) "gross receipts" means the total amount of  
5 money or the value of other consideration received from selling  
6 property in New Mexico, from leasing or licensing property  
7 employed in New Mexico, from granting a right to use a  
8 franchise employed in New Mexico, from selling services  
9 performed outside New Mexico, the product of which is initially  
10 used in New Mexico, or from performing services in New Mexico.

11 In an exchange in which the money or other consideration  
12 received does not represent the value of the property or  
13 service exchanged, "gross receipts" means the reasonable value  
14 of the property or service exchanged;

15 (2) "gross receipts" includes:

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

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

23 (c) amounts paid by members of any  
24 cooperative association or similar organization for sales or  
25 leases of personal property or performance of services by such

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1 organization;

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

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

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

23 (g) receipts collected by a marketplace  
24 provider deemed to be engaging in business in the state from  
25 sales, leases or licenses facilitated by the marketplace

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1 provider and sourced to this state; and

2 (3) "gross receipts" excludes:

3 (a) cash discounts allowed and taken;

4 (b) New Mexico gross receipts tax,  
5 governmental gross receipts tax and leased vehicle gross  
6 receipts tax payable on transactions for the reporting period;

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

10 (d) any gross receipts or sales taxes  
11 imposed by an Indian nation, tribe or pueblo; provided that the  
12 tax is approved, if approval is required by federal law or  
13 regulation, by the secretary of the interior of the United  
14 States; and provided further that the gross receipts or sales  
15 tax imposed by the Indian nation, tribe or pueblo provides a  
16 reciprocal exclusion for gross receipts, sales or gross  
17 receipts-based excise taxes imposed by the state or its  
18 political subdivisions;

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

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

22 (g) amounts received by a New Mexico  
23 florist from the sale of flowers, plants or other products that  
24 are customarily sold by florists where the sale is made  
25 pursuant to orders placed with an out-of-state florist for

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1 filling and delivery in New Mexico by a New Mexico florist.

2 B. When the sale of property or service is made  
3 under any type of charge, conditional or time-sales contract or  
4 the leasing of property is made under a leasing contract, the  
5 seller or lessor may elect to treat all receipts, excluding any  
6 type of time-price differential, under such contracts as gross  
7 receipts as and when the payments are actually received. If  
8 the seller or lessor transfers the seller's or lessor's  
9 interest in any such contract to a third person, the seller or  
10 lessor shall pay the gross receipts tax upon the full sale or  
11 leasing contract amount, excluding any type of time-price  
12 differential."

13 SECTION 34. Section 7-9-4 NMSA 1978 (being Laws 1966,  
14 Chapter 47, Section 4, as amended) is amended to read:

15 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
16 "GROSS RECEIPTS TAX".--

17 A. For the privilege of engaging in business, an  
18 excise tax equal to [~~five and one-eighth~~] four and one-half  
19 percent of gross receipts is imposed on any person engaging in  
20 business in New Mexico.

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

23 SECTION 35. 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

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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 36. 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 seller obligated to remit the taxes imposed  
10 pursuant to the Gross Receipts and Compensating Tax Act is not  
11 required to remit such taxes on receipts collected by a  
12 marketplace provider on the seller's behalf if the seller has  
13 obtained documentation from the marketplace provider indicating  
14 that the marketplace provider is registered with the department  
15 and will remit the taxes due on those receipts. The  
16 documentation shall be provided in a form and manner prescribed  
17 by the department. Marketplace providers deemed to be engaging  
18 in business in this state are relieved of gross receipts tax  
19 liability for having charged and collected the incorrect amount  
20 of tax resulting from a marketplace provider reasonably relying  
21 on erroneous information provided by the seller."

22 SECTION 37. Section 7-9-7 NMSA 1978 (being Laws 1966,  
23 Chapter 47, Section 7, as amended) is amended to read:

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

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1           A. For the privilege of using tangible property in  
2 New Mexico, there is imposed on the person using the property  
3 an excise tax [~~equal to five and one-eighth percent~~] at the  
4 rate in effect and imposed pursuant to Section 7-9-4 NMSA 1978  
5 of the value of tangible property that was:

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

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

13                   ~~(3) acquired as the result of a transaction~~  
14 ~~that was not initially subject to the compensating tax imposed~~  
15 ~~by Paragraph (2) of this subsection or the gross receipts tax~~  
16 ~~but which transaction, because of the buyer's subsequent use of~~  
17 ~~the property, should have been subject to the compensating tax~~  
18 ~~imposed by Paragraph (2) of this subsection or the gross~~  
19 ~~receipts tax].~~

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

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1 property, a reasonable value of the property shall be used.

2 C. For the privilege of using a license or  
3 franchise in New Mexico, there is imposed on the person using  
4 the license or franchise an excise tax at the rate in effect  
5 and imposed pursuant to Section 7-9-4 NMSA 1978 against the  
6 value of the license or franchise in its use in this state.  
7 For use of a license or franchise to be taxable under this  
8 subsection, the value of the license or franchise shall be  
9 acquired inside or outside this state as the result of a  
10 transaction with a person located outside this state that would  
11 have been subject to the gross receipts tax had the license or  
12 franchise been acquired from a person with nexus with this  
13 state.

14 [~~G.~~] D. For the privilege of using services  
15 [~~rendered~~] in New Mexico, there is imposed on the person using  
16 [~~such~~] the services an excise tax [~~equal to five percent~~] at  
17 the rate in effect and imposed pursuant to Section 7-9-4 NMSA  
18 1978 of the value of the services at the time [~~they were~~  
19 rendered] the product of the service was acquired. For use of  
20 services to be taxable under this subsection, [~~must~~] the  
21 services shall have been [~~rendered as the result of a~~  
22 transaction that was not initially subject to the gross  
23 receipts tax but which transaction, because of the buyer's  
24 subsequent use of the services, should have been subject to the  
25 gross receipts tax] performed by a person outside this state

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

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

8 SECTION 38. Section 7-9-7.1 NMSA 1978 (being Laws 1993,  
9 Chapter 45, Section 1, as amended) is amended to read:

10 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION  
11 ACTIONS WITH RESPECT TO CERTAIN COMPENSATING AND GROSS RECEIPTS  
12 TAX LIABILITIES.--

13 A. The department shall take no action to enforce  
14 collection of compensating tax due on purchases made by an  
15 individual if:

16 (1) the property is used only for nonbusiness  
17 purposes;

18 (2) the property is not a manufactured home;  
19 and

20 (3) the individual is not an agent for  
21 collection of compensating tax pursuant to Section 7-9-10 NMSA  
22 1978.

23 B. The department shall take no action to enforce  
24 collection of gross receipts tax for a tax period prior to July  
25 1, 2019 on persons engaging in business if, for those tax

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1 periods, those persons:

2 (1) lacked physical presence in the state; and

3 (2) did not report taxable gross receipts  
4 prior to July 1, 2019.

5 ~~[B.]~~ C. The prohibition in Subsection A of this  
6 section does not prevent the department from enforcing  
7 collection of compensating tax on purchases from persons who  
8 are not individuals, who are agents for collection pursuant to  
9 Section 7-9-10 NMSA 1978 or who use the property in the course  
10 of engaging in business in New Mexico or from enforcing  
11 collection of compensating tax due on purchase of manufactured  
12 homes."

13 SECTION 39. Section 7-9-29 NMSA 1978 (being Laws 1970,  
14 Chapter 12, Section 3, as amended) is amended to read:

15 "7-9-29. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN  
16 ORGANIZATIONS.--

17 A. Exempted from the gross receipts tax are the  
18 receipts of organizations that demonstrate to the department  
19 that they have been granted exemption from the federal income  
20 tax by the United States commissioner of internal revenue as  
21 organizations described in Section 501(c)(3) of the United  
22 States Internal Revenue Code of [~~1954~~] 1986, as that section  
23 may be amended or renumbered, except as provided in Subsection  
24 B of this section.

25 B. Exempted from any local option gross receipts

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1 tax, but not the state gross receipts tax, are receipts of an  
2 organization that is a hospital licensed by the department of  
3 health that demonstrates to the department that it has been  
4 granted exemption from the federal income tax by the United  
5 States commissioner of internal revenue as an organization  
6 described in Section 501(c)(3) of the United States Internal  
7 Revenue Code of 1986, as that section may be amended or  
8 renumbered.

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

17           ~~[G-]~~ D. This section does not apply to receipts  
18 derived from an unrelated trade or business as defined in  
19 Section 513 of the United States Internal Revenue Code of  
20 [~~1954~~] 1986, as that section may be amended or renumbered."

21           **SECTION 40.** Section 7-9-73.1 NMSA 1978 (being Laws 1991,  
22 Chapter 8, Section 3, as amended) is amended to read:

23           "7-9-73.1. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS  
24 RECEIPTS--HOSPITALS.--

25           A. Fifty percent of the receipts of hospitals

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1 licensed by the department of health may be deducted from gross  
2 receipts; provided that this deduction may be applied only to  
3 the taxable gross receipts remaining after all other  
4 appropriate deductions have been taken.

5 B. Fifty percent of the receipts of a hospital  
6 licensed by the department of health may be deducted from  
7 governmental gross receipts."

8 SECTION 41. Section 7-9F-3 NMSA 1978 (being Laws 2000  
9 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to  
10 read:

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

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

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

24 C. "base payroll expense" means the wages paid or  
25 payable by the taxpayer in the taxable year prior to the

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

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

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

24 F. "local option gross receipts tax" means a tax  
25 authorized to be imposed by a county or municipality upon ~~[the]~~

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

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

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1 bond project, property for which the taxpayer has received any  
2 credit pursuant to the Investment Credit Act, property that was  
3 owned by the taxpayer or an affiliate before July 3, 2000 or  
4 research and development expenditures reimbursed by a person  
5 who is not an affiliate of the taxpayer. If a "qualified  
6 expenditure" is an allocation of an expenditure, the cost  
7 accounting methodology used for the allocation of the  
8 expenditure shall be the same cost accounting methodology used  
9 by the taxpayer in its other business activities;

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

14 I. "qualified research" means research:

15 (1) that is undertaken for the purpose of  
16 discovering information:

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

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

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underscoring material = new  
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1 J. "qualified research and development small  
2 business" means a taxpayer that:

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

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

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

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

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

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

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

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

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

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

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

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

19 **SECTION 42.** Section 7-13-3 NMSA 1978 (being Laws 1971,  
20 Chapter 207, Section 3, as amended) is amended to read:

21 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
22 "GASOLINE TAX".--

23 A. For the privilege of receiving gasoline in this  
24 state, there is imposed an excise tax at a rate provided in  
25 Subsection B of this section on each gallon of gasoline

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1 received in New Mexico.

2 B. The tax imposed by Subsection A of this section  
3 shall be [~~seventeen cents (\$.17)~~] twenty-seven cents (\$.27) per  
4 gallon received in New Mexico.

5 C. The tax imposed by this section may be called  
6 the "gasoline tax".

7 **SECTION 43.** Section 7-14-4 NMSA 1978 (being Laws 1988,  
8 Chapter 73, Section 14) is amended to read:

9 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE  
10 TAX.--The rate of the motor vehicle excise tax is [~~three~~  
11 ~~percent~~] equal to the rate in effect and imposed pursuant to  
12 Section 7-9-4 NMSA 1978 and is applied to the price paid for  
13 the vehicle. If the price paid does not represent the value of  
14 the vehicle in the condition that existed at the time it was  
15 acquired, the tax rate shall be applied to the reasonable value  
16 of the vehicle in such condition at such time. However,  
17 allowances granted for vehicle trade-ins may be deducted from  
18 the price paid or the reasonable value of the vehicle  
19 purchased."

20 **SECTION 44.** Section 7-14-10 NMSA 1978 (being Laws 1988,  
21 Chapter 73, Section 20, as amended) is amended to read:

22 "7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from  
23 the tax and any associated interest and penalties shall be  
24 deposited in the "motor vehicle suspense fund", hereby created  
25 in the state treasury. As of the end of each month, the net

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1 receipts attributable to the tax and associated penalties and  
2 interest shall be distributed as follows:

3 A. [~~four and fifteen~~] two and seventy-seven  
4 hundredths percent to the state road fund; and

5 B. the remainder to the general fund."

6 SECTION 45. Section 7-16A-3 NMSA 1978 (being Laws 1992,  
7 Chapter 51, Section 3, as amended) is amended to read:

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

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

14 B. The tax imposed by Subsection A of this section  
15 shall be [~~twenty-one cents (\$.21)~~] twenty-six cents (\$.26) per  
16 gallon of special fuel received or used in New Mexico.

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

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

21 "7-19-14. SPECIFIC EXEMPTIONS.--No supplemental  
22 municipal gross receipts tax shall be imposed on the gross  
23 receipts arising from:

24 A. prior to July 1, 2021, transporting persons or  
25 property for hire by railroad, motor vehicle, air

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1 transportation or any other means from one point within the  
2 municipality to another point outside the municipality; or

3 B. a business located outside the boundaries of a  
4 municipality on land owned by that municipality for which a  
5 gross receipts tax distribution is made pursuant to Section  
6 7-1-6.4 NMSA 1978."

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

9 "7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA 1978  
10 may be cited as the "Municipal Local Option Gross Receipts  
11 [~~Taxes~~] and Compensating Tax Act"."

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

14 "7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the  
15 provisions of the Municipal Local Option Gross Receipts [~~Taxes~~]  
16 and Compensating Tax Act shall be imposed on the gross receipts  
17 arising from:

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

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

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

3           "7-19D-7. COLLECTION BY DEPARTMENT [~~TRANSFER OF~~  
4 ~~PROCEEDS--DEDUCTIONS~~].--[A.] The department shall collect each  
5 tax imposed pursuant to the provisions of the Municipal Local  
6 Option Gross Receipts [~~Taxes~~] and Compensating Tax Act in the  
7 same manner and at the same time it collects the state gross  
8 receipts [~~tax~~] and compensating taxes.

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

20           ~~G. With respect to the municipal gross receipts tax~~  
21 ~~imposed by a municipality pursuant to Section 7-19D-9 NMSA~~  
22 ~~1978, the department shall withhold the administrative fee~~  
23 ~~pursuant to Section 1 of this 1997 act only on that portion of~~  
24 ~~the municipal gross receipts tax arising from a municipal gross~~  
25 ~~receipts tax rate in excess of one-half of one percent.]"~~

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

3           "7-19D-9.1. [NEW MATERIAL] MUNICIPAL COMPENSATING TAX.--

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

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

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

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

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1 used.

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

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

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

9           F. Any law that affects the municipal 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 municipal 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 "municipal compensating tax".

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

21           "7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA 1978  
22 may be cited as the "County Local Option Gross Receipts [~~Taxes~~]  
23 and Compensating Tax Act"."

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

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1 "7-20E-7. COLLECTION BY DEPARTMENT [~~TRANSFER OF~~  
2 ~~PROCEEDS--DEDUCTIONS~~].--[A.] The department shall collect each  
3 tax imposed pursuant to the provisions of the County Local  
4 Option Gross Receipts [~~Taxes~~] and Compensating Tax Act in the  
5 same manner and at the same time it collects the state gross  
6 receipts [~~tax~~] and compensating taxes.

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

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

19 "7-20E-9.1. [NEW MATERIAL] COUNTY COMPENSATING TAX.--

20 A. Beginning July 1, 2021, for the privilege of  
21 using tangible personal property in a county, there is imposed  
22 on the person using the property an excise tax at a rate equal  
23 to the combined gross receipts tax rates imposed and in effect  
24 pursuant to the Local Hospital Gross Receipts Tax Act, the  
25 County Local Option Gross Receipts and Compensating Tax Act and

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1 the County Correctional Facility Gross Receipts Tax Act of the  
2 value of tangible personal property that was:

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

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

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

18 C. For the privilege of using a license or  
19 franchise in a county, there is imposed on the person using the  
20 license or franchise an excise tax equal to the tax rate  
21 provided in Subsection A of this section against the value of  
22 the license or franchise as determined pursuant to Section  
23 7-9-7 NMSA 1978. For use of a license or franchise to be  
24 taxable under this subsection, the value of the license or  
25 franchise shall be acquired inside or outside this state as the

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1 result of a transaction with a person located outside this  
2 state that would have been subject to the gross receipts tax  
3 had the license or franchise been acquired from a person with  
4 nexus with this state.

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

16 E. The governing body of a county may dedicate the  
17 revenue from the tax imposed pursuant to this section for any  
18 county purpose. If the governing body proposes to dedicate  
19 revenue for a specific purpose, the dedicated revenue shall be  
20 used by the county for that purpose unless a subsequent  
21 ordinance is adopted to change the purpose to which the revenue  
22 is dedicated or to place the revenue in the general fund of the  
23 county.

24 F. Any law that affects the county compensating  
25 tax, or any law supplemental or otherwise appertaining thereto,

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1 shall not be repealed or amended or otherwise directly or  
2 indirectly modified in such a manner as to impair adversely any  
3 outstanding revenue bonds that may be secured by a pledge of  
4 such county compensating tax unless such outstanding revenue  
5 bonds have been discharged in full or provision has been fully  
6 made therefor.

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

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

11 "66-6-2. PASSENGER VEHICLES--REGISTRATION FEES.--For the  
12 registration of motor vehicles other than motorcycles, trucks,  
13 buses and tractors, the division shall collect the following  
14 fees for each twelve-month registration period:

15 A. for a vehicle whose gross factory shipping  
16 weight is not more than two thousand pounds, [~~twenty-seven~~  
17 ~~dollars (\$27.00); provided, however, that after five years of~~  
18 ~~registration, calculated from the date when the vehicle was~~  
19 ~~first registered in this or another state, the fee is twenty-~~  
20 ~~one dollars (\$21.00)] thirty-three dollars seventy-five cents  
21 (\$33.75);~~

22 B. for a vehicle whose gross factory shipping  
23 weight is more than two thousand but not more than three  
24 thousand pounds, [~~thirty-nine dollars (\$39.00); provided,~~  
25 ~~however, that after five years of registration, calculated from~~

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1 ~~the date when the vehicle was first registered in this or~~  
2 ~~another state, the fee is thirty-one dollars (\$31.00)] forty-  
3 eight dollars seventy-five cents (\$48.75);~~

4 C. for a vehicle whose gross factory shipping  
5 weight is more than three thousand pounds, [~~fifty-six dollars~~  
6 ~~(\$56.00); provided, however, that after five years of~~  
7 ~~registration, calculated from the date when the vehicle was~~  
8 ~~first registered in this or another state, the fee is forty-~~  
9 ~~five dollars (\$45.00)] seventy dollars (\$70.00); and~~

10 D. for a vehicle registered pursuant to the  
11 provisions of this section, a tire recycling fee of one dollar  
12 fifty cents (\$1.50)."

13 SECTION 55. Section 66-6-4 NMSA 1978 (being Laws 1978,  
14 Chapter 35, Section 339, as amended) is amended to read:

15 "66-6-4. REGISTRATION FEES--TRUCKS, TRUCK TRACTORS, ROAD  
16 TRACTORS AND BUSES.--

17 A. Within their respective jurisdictions, the motor  
18 vehicle division and the [~~motor transportation~~] New Mexico  
19 state police division of the department of public safety shall  
20 charge registration fees for trucks, truck tractors, road  
21 tractors and buses, except as otherwise provided by law,  
22 according to the schedule of Subsection B of this section.

23	B. Declared Gross Weight	Fee
24	001 to 4,000	[ <del>\$40</del> ] <u>\$50</u>
25	4,001 to 6,000	[ <del>55</del> ] <u>65</u>

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1	6,001 to 8,000	[69] <u>79</u>
2	8,001 to 10,000	[84] <u>94</u>
3	10,001 to 12,000	[99] <u>109</u>
4	12,001 to 14,000	[113] <u>123</u>
5	14,001 to 16,000	[128] <u>138</u>
6	16,001 to 18,000	[143] <u>153</u>
7	18,001 to 20,000	[157] <u>167</u>
8	20,001 to 22,000	[172] <u>182</u>
9	22,001 to 24,000	[187] <u>197</u>
10	24,001 to 26,000	[201] <u>211</u>
11	26,001 to 48,000	[118] <u>128</u>
12	48,001 and over	[172] <u>182.</u>

13           ~~[G. All trucks whose declared gross weight or whose~~  
14 ~~gross vehicle weight is less than twenty-six thousand pounds,~~  
15 ~~after five years of registration, calculated from the date when~~  
16 ~~the vehicle was first registered in this or another state,~~  
17 ~~shall be charged registration fees at eighty percent of the~~  
18 ~~rate set out in Subsection B of this section.~~

19           ~~D.]~~ C. All trucks with a gross vehicle weight of  
20 more than twenty-six thousand pounds and all truck tractors and  
21 road tractors used to tow freight trailers shall be registered  
22 on the basis of gross combination vehicle weight.

23           ~~[E.]~~ D. All trucks with a gross vehicle weight of  
24 twenty-six thousand pounds or less shall be registered on the  
25 basis of gross vehicle weight. A trailer, semitrailer or pole

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1 trailer towed by a truck of such gross vehicle weight shall be  
2 classified as a utility trailer for registration purposes  
3 unless otherwise provided by law.

4 ~~[F.]~~ E. All farm vehicles having a declared gross  
5 weight of more than six thousand pounds shall be charged  
6 registration fees of two-thirds of the rate of the respective  
7 fees provided in this section and shall be issued distinctive  
8 registration plates. "Farm vehicle" means a vehicle owned by a  
9 person whose principal occupation is farming or ranching and  
10 which vehicle is used principally in the transportation of farm  
11 and ranch products to market and farm and ranch supplies and  
12 livestock from the place of purchase to farms and ranches in  
13 this state; provided that the vehicle is not used for hire.

14 ~~[G.]~~ F. In addition to other registration fees  
15 imposed by this section, [~~beginning July 1, 1994~~] an annual  
16 tire recycling fee of one dollar fifty cents (\$1.50) is imposed  
17 at the time of registration on each vehicle subject to a  
18 registration fee pursuant to this section, except for vehicles  
19 with a declared gross weight of greater than twenty-six  
20 thousand pounds upon which registration fees are imposed by  
21 Subsection B of this section.

22 ~~[H.]~~ G. Three percent of registration fees of  
23 trucks having from twenty-six thousand one pounds to forty-  
24 eight thousand pounds declared gross vehicle weight is to be  
25 transferred to the recycling and illegal dumping fund pursuant

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1 to the provisions of Section 66-6-23 NMSA 1978.

2 [~~F.~~] H. Three and seventy-five hundredths percent  
3 of registration fees of trucks in excess of forty-eight  
4 thousand pounds declared gross vehicle weight is to be  
5 transferred to the recycling and illegal dumping fund pursuant  
6 to the provisions of Section 66-6-23 NMSA 1978."

7 SECTION 56. A new section of the Motor Vehicle Code is  
8 enacted to read:

9 "[NEW MATERIAL] ADDITIONAL REGISTRATION FEE--ELECTRIC AND  
10 HYBRID VEHICLES.--

11 A. For registration of vehicles subject to the  
12 registration fees imposed by Sections 66-6-2 and 66-6-4 NMSA  
13 1978, there is imposed an additional fee of fifty dollars  
14 (\$50.00) for electric vehicles and thirty dollars (\$30.00) for  
15 hybrid vehicles for each twelve-month period for which a  
16 vehicle with a gross vehicle weight under twenty-six thousand  
17 pounds is registered.

18 B. As used in this section:

19 (1) "electric vehicle" means a motor vehicle  
20 with four wheels that:

21 (a) is made by a manufacturer;

22 (b) has not been modified from the  
23 original manufacturer specifications;

24 (c) is purchased or leased by a consumer  
25 from a dealer for the first time after delivery from the

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1 manufacturer to the dealer;

2 (d) has a maximum speed capability of at  
3 least sixty-five miles per hour; and

4 (e) is propelled to a significant extent  
5 by an electric motor that draws electricity from a battery  
6 that: 1) has a capacity of not less than four kilowatt-hours;  
7 and 2) is capable of being recharged from an external source of  
8 electricity; and

9 (2) "hybrid vehicle" means a motor vehicle  
10 that uses both an internal combustion engine and an electric  
11 motor, has a battery pack that has a capacity of not less than  
12 four kilowatt-hours and is capable of operation without the use  
13 of the internal combustion engine for an all-electric range of  
14 at least ten miles."

15 SECTION 57. Section 66-6-23 NMSA 1978 (being Laws 1978,  
16 Chapter 35, Section 358, as amended) is amended to read:

17 "66-6-23. DISPOSITION OF FEES.--

18 A. After the necessary disbursements for refunds  
19 and other purposes have been made, the money remaining in the  
20 motor vehicle suspense fund, except for remittances received  
21 within the previous two months that are unidentified as to  
22 source or disposition, shall be distributed as follows:

23 (1) to each municipality, county or fee agent  
24 operating a motor vehicle field office:

25 (a) an amount equal to six dollars

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1 (\$6.00) per driver's license and five dollars (\$5.00) per  
2 identification card or motor vehicle or motorboat registration  
3 or title transaction performed;

4 (b) for each such agent determined by  
5 the secretary pursuant to Section 66-2-16 NMSA 1978 to have  
6 performed ten thousand or more transactions in the preceding  
7 fiscal year, other than a class A county with a population  
8 exceeding three hundred thousand or a municipality with a  
9 population exceeding three hundred thousand that has been  
10 designated as an agent pursuant to Section 66-2-14.1 NMSA 1978,  
11 an amount equal to one dollar (\$1.00) in addition to the amount  
12 distributed pursuant to Subparagraph (a) of this paragraph for  
13 each driver's license, identification card, motor vehicle  
14 registration, motorboat registration or title transaction  
15 performed; and

16 (c) to each military installation  
17 designated as a fee agent pursuant to Section 66-2-14.1 NMSA  
18 1978, an amount equal to one dollar fifty cents (\$1.50) in  
19 addition to the amount distributed pursuant to Subparagraph (a)  
20 of this paragraph for each administrative service fee remitted  
21 by the military installation to the department pursuant to  
22 Subsection A of Section 66-2-16 NMSA 1978;

23 (2) to each municipality or county, other than  
24 a class A county with a population exceeding three hundred  
25 thousand or a municipality with a population exceeding three

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1 hundred thousand that has been designated as an agent pursuant  
2 to Section 66-2-14.1 NMSA 1978, operating a motor vehicle field  
3 office, an amount equal to one dollar fifty cents (\$1.50) for  
4 each administrative service fee remitted by that county or  
5 municipality to the department pursuant to the provisions of  
6 Subsection A of Section 66-2-16 NMSA 1978;

7 (3) to the state road fund:

8 (a) an amount equal to the fees  
9 collected pursuant to Sections 66-7-413 and 66-7-413.4 NMSA  
10 1978;

11 (b) an amount equal to the fee collected  
12 pursuant to Section 66-3-417 NMSA 1978;

13 (c) the remainder of each driver's  
14 license fee collected by the department employees from an  
15 applicant to whom a license is granted after deducting from the  
16 driver's license fee the amount of the distribution authorized  
17 in Paragraph (1) of this subsection with respect to that  
18 collected driver's license fee; ~~and~~

19 (d) an amount equal to fifty percent of  
20 the fees collected pursuant to Section 66-6-19 NMSA 1978; and

21 (e) an amount equal to the fee collected  
22 pursuant to Section 56 of this 2019 act;

23 (4) to the local governments road fund, the  
24 amount of the fees collected pursuant to Subsection B of  
25 Section 66-5-33.1 NMSA 1978 and the remainder of the fees

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1 collected pursuant to Subsection A of Section 66-5-408 NMSA  
2 1978;

3 (5) to the department:

4 (a) any amounts reimbursed to the  
5 department pursuant to Subsection D of Section 66-2-14.1 NMSA  
6 1978;

7 (b) an amount equal to two dollars  
8 (\$2.00) of each motorcycle registration fee collected pursuant  
9 to Section 66-6-1 NMSA 1978;

10 (c) an amount equal to the fees provided  
11 for in Subsection D of Section 66-2-7 NMSA 1978, Subsection E  
12 of Section 66-2-16 NMSA 1978, Subsections K and L of Section  
13 66-3-6 NMSA 1978 other than the administrative fee, Subsection  
14 C of Section 66-5-44 NMSA 1978 and Subsection B of Section  
15 66-5-408 NMSA 1978;

16 (d) the amounts due to the department  
17 for the manufacture and issuance of a special registration  
18 plate collected pursuant to the section of law authorizing the  
19 issuance of the specialty plate;

20 (e) an amount equal to the registration  
21 fees collected pursuant to Section 66-6-6.1 NMSA 1978 for the  
22 purposes of enforcing the provisions of the Mandatory Financial  
23 Responsibility Act and for creating and maintaining a  
24 multilanguage noncommercial driver's license testing program;  
25 and after those purposes are met, the balance of the

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1 registration fees shall be distributed to the department to  
2 defray the costs of operating the [~~motor vehicle~~] division;

3 (f) an amount equal to fifty cents  
4 (\$.50) for each administrative fee remitted to the department  
5 by a county or municipality operating a motor vehicle field  
6 office pursuant to Subsection A of Section 66-2-16 NMSA 1978;

7 (g) an amount equal to one dollar  
8 twenty-five cents (\$.25) for each administrative fee collected  
9 by the department or any of its agents other than a county or  
10 municipality operating a motor vehicle field office pursuant to  
11 Subsection A of Section 66-2-16 NMSA 1978; and

12 (h) an amount equal to the royalties or  
13 other consideration paid by commercial users of databases of  
14 motor vehicle-related records of the department pursuant to  
15 Subsection C of Section 14-3-15.1 NMSA 1978 for the purpose of  
16 defraying the costs of maintaining databases of motor vehicle-  
17 related records of the department; and after that purpose is  
18 met, the balance of the royalties and other consideration shall  
19 be distributed to the department to defray the costs of  
20 operating the [~~motor vehicle~~] division or for use pursuant to  
21 Subsection F of Section 66-6-13 NMSA 1978;

22 (6) to each New Mexico institution of higher  
23 education, an amount equal to that part of the fees distributed  
24 pursuant to Paragraph (2) of Subsection D of Section 66-3-416  
25 NMSA 1978 proportionate to the number of special registration

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1 plates issued in the name of the institution to all such  
2 special registration plates issued in the name of all  
3 institutions;

4 (7) to the armed forces veterans license fund,  
5 the amount to be distributed pursuant to Paragraph (2) of  
6 Subsection E of Section 66-3-419 NMSA 1978;

7 (8) to the children's trust fund, the amount  
8 to be distributed pursuant to Paragraph (2) of Subsection D of  
9 Section 66-3-420 NMSA 1978;

10 (9) to the department of transportation, an  
11 amount equal to the fees collected pursuant to Section 66-5-35  
12 NMSA 1978;

13 (10) to the state equalization guarantee  
14 distribution made annually pursuant to the general  
15 appropriation act, an amount equal to one hundred percent of  
16 the driver safety fee collected pursuant to Subsection D of  
17 Section 66-5-44 NMSA 1978;

18 (11) to the motorcycle training fund, two  
19 dollars (\$2.00) of each motorcycle registration fee collected  
20 pursuant to Section 66-6-1 NMSA 1978;

21 (12) to the recycling and illegal dumping  
22 fund:

23 (a) fifty cents (\$.50) of the tire  
24 recycling fee collected pursuant to the provisions of Section  
25 66-6-1 NMSA 1978;

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1 (b) fifty cents (\$.50) of each of the  
2 tire recycling fees collected pursuant to the provisions of  
3 Sections 66-6-2 and 66-6-4 NMSA 1978; and

4 (c) twenty-five cents (\$.25) of each of  
5 the tire recycling fees collected pursuant to Sections 66-6-5  
6 and 66-6-8 NMSA 1978;

7 (13) to the highway infrastructure fund:

8 (a) fifty cents (\$.50) of the tire  
9 recycling fee collected pursuant to the provisions of Section  
10 66-6-1 NMSA 1978;

11 (b) one dollar (\$1.00) of each of the  
12 tire recycling fees collected pursuant to the provisions of  
13 Sections 66-6-2 and 66-6-4 NMSA 1978; and

14 (c) twenty-five cents (\$.25) of each of  
15 the tire recycling fees collected pursuant to Sections 66-6-5  
16 and 66-6-8 NMSA 1978;

17 (14) to each county, an amount equal to fifty  
18 percent of the fees collected pursuant to Section 66-6-19 NMSA  
19 1978 multiplied by a fraction, the numerator of which is the  
20 total mileage of public roads maintained by the county and the  
21 denominator of which is the total mileage of public roads  
22 maintained by all counties in the state;

23 (15) to the litter control and beautification  
24 fund, an amount equal to the fees collected pursuant to Section  
25 66-6-6.2 NMSA 1978;

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1 (16) to the local government division of the  
2 department of finance and administration, an amount equal to  
3 the fees collected pursuant to Section 66-3-424.3 NMSA 1978 for  
4 distribution to each county to support animal control spaying  
5 and neutering programs in an amount proportionate to the number  
6 of residents of that county who have purchased pet care special  
7 registration plates pursuant to Section 66-3-424.3 NMSA 1978;  
8 and

9 (17) to the Cumbres and Toltec scenic railroad  
10 commission, twenty-five dollars (\$25.00) collected pursuant to  
11 the Cumbres and Toltec scenic railroad special registration  
12 plate.

13 B. The balance, exclusive of unidentified  
14 remittances, shall be distributed in accordance with Section  
15 66-6-23.1 NMSA 1978.

16 C. If any of the paragraphs, subsections or  
17 sections referred to in Subsection A of this section are  
18 recompiled or otherwise redesignated without a corresponding  
19 change to Subsection A of this section, the reference in  
20 Subsection A of this section shall be construed to be the  
21 recompiled or redesignated paragraph, subsection or section."

22 SECTION 58. TEMPORARY PROVISION--REFERENCES IN LAW.--

23 A. References in law to the County Local Option  
24 Gross Receipts Taxes Act shall be deemed to be references to  
25 the County Local Option Gross Receipts and Compensating Tax

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1 Act.

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

6 **SECTION 59. REPEAL.--**

7 A. Sections 7-1-6.57 and 7-9-96.1 NMSA 1978 (being  
8 Laws 2007, Chapter 361, Sections 1 and 7) are repealed.

9 B. Sections 7-9-13.4, 7-9-26.1, 7-9-54.1, 7-9-56.2,  
10 7-9-60, 7-9-73.3, 7-9-76, 7-9-76.1, 7-9-83, 7-9-84, 7-9-94,  
11 7-9-97, 7-9-102 through 7-9-103.2 and 7-9-105 NMSA 1978 (being  
12 Laws 2002, Chapter 20, Section 1, Laws 2003, Chapter 62,  
13 Section 1, Laws 1992, Chapter 40, Section 1, Laws 1998, Chapter  
14 92, Section 2, Laws 1970, Chapter 12, Section 4, Laws 2014,  
15 Chapter 26, Section 1, Laws 1977, Chapter 288, Section 2, Laws  
16 1979, Chapter 338, Section 7, Laws 1993, Chapter 364, Sections  
17 1 and 2, Laws 2005, Chapter 104, Section 23, Laws 2005, Chapter  
18 169, Section 1, Laws 2007, Chapter 3, Sections 17 and 18, Laws  
19 2012, Chapter 12, Sections 2 and 3 and Laws 2007, Chapter 45,  
20 Section 6, as amended) are repealed.

21 **SECTION 60. ADDITIONAL REPEAL.--**

22 A. Sections 7-2-18.4, 7-2-18.5, 7-2-18.8, 7-2-18.21  
23 and 7-2-18.27 NMSA 1978 (being Laws 1994, Chapter 115, Section  
24 1, Laws 1998, Chapter 97, Section 2, Laws 2001, Chapter 73,  
25 Section 1, Laws 2007, Chapter 204, Section 7 and Laws 2011,

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1 Chapter 89, Section 1) are repealed.

2 B. Sections 7-2A-8, 7-2A-8.4, 7-2A-8.8, 7-2A-15,  
3 7-2A-18 and 7-2A-23 NMSA 1978 (being Laws 1981, Chapter 37,  
4 Section 41, Laws 1983, Chapter 213, Section 13, Laws 1998,  
5 Chapter 97, Section 3, Laws 1994, Chapter 115, Section 2, Laws  
6 2001, Chapter 73, Section 2 and Laws 2007, Chapter 204, Section  
7 8) are repealed.

8 C. Section 7-2D-8.1 NMSA 1978 (being Laws 1995,  
9 Chapter 89, Section 8) is repealed.

10 SECTION 61. ADDITIONAL REPEAL.--That version of Section  
11 7-2-7 NMSA 1978 (being Laws 2005 (1st S.S.), Chapter 3, Section  
12 2) and Section 7-2-7.3 NMSA 1978 (being Laws 2005 (1st S.S.)  
13 Chapter 3, Section 4) are repealed.

14 SECTION 62. DELAYED REPEAL.--Effective July 1, 2021:

15 A. Section 21 of this act is repealed;

16 B. Section 7-1-6.55 NMSA 1978 (being Laws 2007,  
17 Chapter 331, Section 4) is repealed;

18 C. Section 7-9-92 NMSA 1978 (being Laws 2004,  
19 Chapter 116, Section 5) is repealed; and

20 D. 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.

24 SECTION 63. APPLICABILITY.--The provisions of Sections  
25 25 through 30 and 60 of this act apply to taxable years

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1 beginning on or after January 1, 2020.

2 SECTION 64. EFFECTIVE DATE.--

3 A. The effective date of the provisions of Sections  
4 1 through 23 and 31 through 59 of this act is July 1, 2019.

5 B. The effective date of the provisions of Sections  
6 25 through 30 and 60 of this act is January 1, 2020.

7 C. The effective date of the provisions of Section  
8 24 of this act is July 1, 2021.

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