

HOUSE BILL 326

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; AMENDING THE TAX ADMINISTRATION ACT TO
DIRECT THE CREATION OF BUSINESS LOCATION CODES, PROVIDE
BUSINESS LOCATION INSTRUCTIONS AND ALLOW OFFSETTING OF CERTAIN
ERRONEOUSLY PAID COMPENSATING TAXES AGAINST GROSS RECEIPTS TAX
DUE; CLARIFYING THE DEFINITION OF "MANUFACTURING" IN THE
UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT; AMENDING
DEFINITIONS RELATED TO CONSTRUCTION SERVICES IN THE GROSS
RECEIPTS AND COMPENSATING TAX ACT; REPEALING A CERTAIN
DEDUCTION AND A CERTAIN CREDIT PURSUANT TO THAT ACT; PROVIDING
THAT INCREMENTS OF THE MUNICIPAL GROSS RECEIPTS TAX AND THE
COUNTY GROSS RECEIPTS TAX SHALL BE IMPOSED IN INCREMENTS OF
ONE-HUNDREDTHS PERCENT AND THAT ORDINANCES IMPOSING INCREMENTS
OF CERTAIN LOCAL OPTION GROSS RECEIPTS TAXES REPEALED BY LAWS
2019, CHAPTER 274, SECTION 16 ARE IMPOSING INCREMENTS OF THE
MUNICIPAL GROSS RECEIPTS TAX AND THE COUNTY GROSS RECEIPTS TAX.

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

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 Section 7-1-14 NMSA 1978 (being Laws 1969, Chapter 145, Section 1, as amended) is repealed and a new Section 7-1-14 NMSA 1978 is enacted to read:

"7-1-14. [NEW MATERIAL] BUSINESS LOCATION INSTRUCTIONS FOR PURPOSES OF REPORTING GROSS RECEIPTS AND USE--LOCATION-CODE DATABASE AND LOCATION-RATE DATABASE.--

A. For purposes of the Gross Receipts and Compensating Tax Act, Interstate Telecommunications Gross Receipts Tax Act, Leased Vehicle Gross Receipts Tax Act and any act authorizing the imposition of a local option gross receipts or compensating tax, a person that has gross receipts and a person using property or services in New Mexico in a taxable manner shall report the gross receipts to the proper business location as provided in this section.

B. The business location for gross receipts from the sale, lease or granting of a license to use real property located in New Mexico, and any related deductions, shall be the location of the property.

C. The business location for gross receipts from the sale or license of tangible personal property, and any related deductions, shall be at the following locations:

(1) if the property is received by the purchaser at the New Mexico business location of the seller,

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1 the location of the seller;

2 (2) if the property is not received by the
3 purchaser at a business location of the seller, the location
4 indicated by instructions for delivery to the purchaser, or the
5 purchaser's donee, when known to the seller;

6 (3) if Paragraphs (1) and (2) of this
7 subsection do not apply, the location indicated by an address
8 for the purchaser available from the business records of the
9 seller that are maintained in the ordinary course of business;
10 provided that use of the address does not constitute bad faith;

11 (4) if Paragraphs (1) through (3) of this
12 subsection do not apply, the location for the purchaser
13 obtained during consummation of the sale, including the address
14 of a purchaser's payment instrument, if no other address is
15 available; provided that use of this address does not
16 constitute bad faith; or

17 (5) if Paragraphs (1) through (4) of this
18 subsection do not apply, including a circumstance in which the
19 seller is without sufficient information to apply those
20 standards, the location from which the property was shipped or
21 transmitted.

22 D. The business location for gross receipts from
23 the lease of tangible personal property, including vehicles,
24 other transportation equipment and other mobile tangible
25 personal property, and any related deductions, shall be the

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1 location of primary use of the property, as indicated by the
2 address for the property provided by the lessee that is
3 available to the lessor from the lessor's records maintained in
4 the ordinary course of business; provided that use of this
5 address does not constitute bad faith. The primary business
6 location shall not be altered by intermittent use at different
7 locations, such as use of business property that accompanies
8 employees on business trips and service calls.

9 E. The business location for gross receipts from
10 the sale, lease or license of franchises, and any related
11 deductions, shall be where the franchise is used.

12 F. The business location for gross receipts from
13 the performance or sale of the following services, and any
14 related deductions, shall be at the following locations:

15 (1) for professional services performed in New
16 Mexico, other than construction-related services, or performed
17 outside New Mexico when the product of the service is initially
18 used in New Mexico, the location of the performer of the
19 service or seller of the product of the service, as
20 appropriate;

21 (2) for construction services and
22 construction-related services performed for a construction
23 project in New Mexico, the location of the construction site;

24 (3) for services with respect to the selling
25 of real estate located in New Mexico, the location of the real

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1 estate;

2 (4) for transportation of persons or property
3 in, into or from New Mexico, the location where the person or
4 property enters the vehicle; and

5 (5) for services other than those described in
6 Paragraphs (1) through (4) of this subsection, the location
7 where the product of the service is delivered.

8 G. Except as provided in Subsection H of this
9 section, uses of property or services subject to the
10 compensating tax shall be reported at the business location at
11 which gross receipts would have been required to be reported
12 had the transaction been subject to the gross receipts tax.

13 H. If a person subject to the compensating tax can
14 demonstrate that the first use upon which compensating tax is
15 imposed occurred at a time and place different from the time
16 and place of the purchase, then compensating tax shall be
17 reported at the business location of the first use.

18 I. The secretary shall designate codes to identify
19 the business locations for a person's gross receipts, or use
20 for purchases subject to the compensating tax, and deductions
21 related to those receipts or that use shall be reported.

22 J. The secretary shall develop a location-code
23 database that provides the business location codes designated
24 pursuant to Subsection I of this section. The secretary shall
25 also develop and provide to taxpayers a location-rate database

1 that sets out the tax rates applicable to business locations
2 within the state, by address, and sellers who properly rely on
3 this database shall not be liable for any additional tax due to
4 the use of an incorrect rate.

5 K. As used in this section:

6 (1) "business location" means the code
7 designated by the department to identify business locations and
8 required to be used to report the gross receipts, or use for
9 purchases subject to the compensating tax, and deductions
10 related to those receipts or that use;

11 (2) "gross receipts" means, as applicable,
12 "gross receipts" as used in the Gross Receipts and Compensating
13 Tax Act and the Leased Vehicle Gross Receipts Tax Act and
14 "interstate telecommunications gross receipts" in the
15 Interstate Telecommunications Gross Receipts Tax Act;

16 (3) "in-person service" means a service
17 physically provided in person by the service provider, where
18 the customer or the customer's real or tangible personal
19 property upon which the service is performed is in the same
20 location as the service provider at the time the service is
21 performed; and

22 (4) "professional service" means a service,
23 other than an in-person service, that requires either an
24 advanced degree from an accredited post-secondary educational
25 institution or a license from the state to perform."

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1 SECTION 2. Section 7-1-29 NMSA 1978 (being Laws 1965,
2 Chapter 248, Section 31, as amended) is amended to read:

3 "7-1-29. AUTHORITY TO MAKE REFUNDS OR CREDITS.--

4 A. In response to a claim for refund, credit or
5 rebate made as provided in Section 7-1-26 NMSA 1978, but before
6 a court acquires jurisdiction of the matter, the secretary or
7 the secretary's delegate may authorize payment to a person in
8 the amount of the credit or rebate claimed or refund an
9 overpayment of tax determined by the secretary or the
10 secretary's delegate to have been erroneously made by the
11 person, together with allowable interest. A payment of a
12 credit rebate claimed or a refund of tax and interest
13 erroneously paid amounting to twenty thousand dollars (\$20,000)
14 or more shall be made with the prior approval of the attorney
15 general, except that the secretary or the secretary's delegate
16 may make refunds with respect to the Oil and Gas Severance Tax
17 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
18 Emergency School Tax Act, the Oil and Gas Ad Valorem Production
19 Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas
20 Production Equipment Ad Valorem Tax Act, Section 7-13-17 NMSA
21 1978 and the Cigarette Tax Act without the prior approval of
22 the attorney general regardless of the amount.

23 B. Pursuant to the final order of the district
24 court, the court of appeals, the supreme court of New Mexico or
25 a federal court, from which order, appeal or review is not

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1 successfully taken, adjudging that a person has properly
2 claimed a credit or rebate or made an overpayment of tax, the
3 secretary shall authorize the payment to the person of the
4 amount thereof.

5 C. In the discretion of the secretary, any amount
6 of credit or rebate to be paid or tax to be refunded may be
7 offset against any amount of tax for which the person due to
8 receive the credit, rebate payment or refund is liable. The
9 secretary or the secretary's delegate shall give notice to the
10 taxpayer that the credit, rebate payment or refund will be made
11 in this manner, and the taxpayer shall be entitled to interest
12 pursuant to Section 7-1-68 NMSA 1978 until the tax liability is
13 credited with the credit, rebate or refund amount.

14 D. In an audit by the department or a managed audit
15 covering multiple reporting periods in which both underpayments
16 and overpayments of a tax have been made in different reporting
17 periods, the department shall credit the tax overpayments
18 against the underpayments; provided that the taxpayer files a
19 claim for refund of the overpayments. An overpayment shall be
20 applied as a credit first to the earliest underpayment and then
21 to succeeding underpayments. An underpayment of tax to which
22 an overpayment is credited pursuant to this section shall be
23 deemed paid in the period in which the overpayment was made or
24 the period to which the overpayment was credited against an
25 underpayment, whichever is later. If the overpayments credited

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1 pursuant to this section exceed the underpayments of a tax, the
2 amount of the net overpayment for the periods covered in the
3 audit shall be refunded to the taxpayer.

4 E. When a taxpayer makes a payment identified to a
5 particular return or assessment, and the department determines
6 that the payment exceeds the amount due pursuant to that return
7 or assessment, the secretary may apply the excess to the
8 taxpayer's other liabilities pursuant to the tax acts to which
9 the return or assessment applies, without requiring the
10 taxpayer to file a claim for a refund. The liability to which
11 an overpayment is applied pursuant to this section shall be
12 deemed paid in the period in which the overpayment was made or
13 the period to which the overpayment was applied, whichever is
14 later.

15 F. If the department determines, upon review of an
16 original or amended income tax return, corporate income and
17 franchise tax return, estate tax return, special fuels excise
18 tax return or oil and gas tax return, that there has been an
19 overpayment of tax for the taxable period to which the return
20 or amended return relates in excess of the amount due to be
21 refunded to the taxpayer pursuant to the provisions of
22 Subsection K of Section 7-1-26 NMSA 1978, the department may
23 refund that excess amount to the taxpayer without requiring the
24 taxpayer to file a refund claim.

25 G. Records of refunds and credits made in excess of

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1 ten thousand dollars (\$10,000) shall be available for
2 inspection by the public. The department shall keep such
3 records for a minimum of three years from the date of the
4 refund or credit.

5 H. In response to a timely refund claim pursuant to
6 Section 7-1-26 NMSA 1978 and notwithstanding any other
7 provision of the Tax Administration Act, the secretary or the
8 secretary's delegate may refund or credit a portion of an
9 assessment of tax paid, including applicable penalties and
10 interest representing the amount of tax previously paid by
11 another person on behalf of the taxpayer on the same
12 transaction; provided that the requirements of equitable
13 recoupment are met. For purposes of this subsection, the
14 refund claim may be filed by the taxpayer to whom the
15 assessment was issued or by another person who claims to have
16 previously paid the tax on behalf of the taxpayer. Prior to
17 granting the refund or credit, the secretary may require a
18 waiver of all rights to claim a refund or credit of the tax
19 previously paid by another person paying a tax on behalf of the
20 taxpayer.

21 I. If, as a result of an audit by the department or
22 a managed audit, a person is determined to owe gross receipts
23 tax on receipts from the sale of property or services, the
24 department may credit against the amount owed an amount of
25 compensating tax paid by the purchaser if the person can

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1 demonstrate that the purchaser timely paid the compensating tax
2 on the same property or services. The credit provided by this
3 subsection shall not be denied solely because the purchaser
4 cannot timely file for a refund of the compensating tax paid
5 and, if the credit is to be granted, the department shall
6 require, for the purpose of granting the credit, that the
7 purchaser give up any right to claim a refund of that tax."

8 SECTION 3. Section 7-4-10 NMSA 1978 (being Laws 1993,
9 Chapter 153, Section 1, as amended) is amended to read:

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

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

16 B. If eighty percent or more of the New Mexico
17 numerators of the property and payroll factors for a filing
18 group, or for a taxpayer that is not a member of a filing
19 group, are employed in manufacturing or operating a computer
20 processing facility, the filing group or the taxpayer may elect
21 to have business income apportioned to this state by
22 multiplying the income by the sales factor for the taxable
23 year.

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

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

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

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

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

25 (3) if the election is made by a qualifying

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1 filing group, the election shall apply to the members of the
2 filing group properly included pursuant to Section 7-2A-8.3
3 NMSA 1978.

4 E. For purposes of this section:

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

8 (2) "headquarters operation" means:

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

24 (b) the center of operations of a
25 business: 1) the function and purpose of which is to manage

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1 and direct most aspects of one or more centralized functions;
2 and 2) from which final authority over one or more centralized
3 functions is issued;

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

8 (a) construction;

9 (b) farming;

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

15 (d) processing natural resources,
16 including hydrocarbons; or

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

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

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1 SECTION 4. Section 7-9-3.4 NMSA 1978 (being Laws 2003,
2 Chapter 272, Section 5) is amended to read:

3 "7-9-3.4. DEFINITIONS--CONSTRUCTION, [~~AND~~] CONSTRUCTION
4 MATERIALS AND CONSTRUCTION-RELATED SERVICES.--As used in the
5 Gross Receipts and Compensating Tax Act:

6 A. "construction" means:

7 (1) the building, altering, repairing or
8 demolishing in the ordinary course of business any:

9 (a) road, highway, bridge, parking area
10 or related project;

11 (b) building, stadium or other
12 structure;

13 (c) airport, subway or similar facility;

14 (d) park, trail, athletic field, golf
15 course or similar facility;

16 (e) dam, reservoir, canal, ditch or
17 similar facility;

18 (f) sewerage or water treatment
19 facility, power generating plant, pump station, natural gas
20 compressing station, gas processing plant, coal gasification
21 plant, refinery, distillery or similar facility;

22 (g) sewerage, water, gas or other
23 pipeline;

24 (h) transmission line;

25 (i) radio, television or other tower;

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- 1 (j) water, oil or other storage tank;
2 (k) shaft, tunnel or other mining
3 appurtenance;
4 (l) microwave station or similar
5 facility;
6 (m) retaining wall, wall, fence, gate or
7 similar structure; or
8 (n) similar work;
9 (2) the leveling or clearing of land;
10 (3) the excavating of earth;
11 (4) the drilling of wells of any type,
12 including seismograph shot holes or core drilling; or
13 (5) similar work; [~~and~~]

14 B. "construction material" means tangible personal
15 property that becomes or is intended to become an ingredient or
16 component part of a construction project, but "construction
17 material" does not include a replacement fixture when the
18 replacement is not construction or a replacement part for a
19 fixture; and

20 C. "construction-related service" means a service
21 directly contracted for or billed to a specific construction
22 project, including design, architecture, drafting, surveying,
23 engineering, environmental and structural testing, security,
24 sanitation and services required to comply with governmental
25 construction-related rules. "Construction-related service"

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1 does not include general business services, such as legal or
2 accounting services, equipment maintenance or real estate sales
3 commissions."

4 SECTION 5. Section 7-9-52 NMSA 1978 (being Laws 1969,
5 Chapter 144, Section 42, as amended) is amended to read:

6 "7-9-52. DEDUCTION--GROSS RECEIPTS TAX--SALE OF
7 CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICES TO
8 PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

9 A. Receipts from selling a construction service or
10 a construction-related service may be deducted from gross
11 receipts if the sale is made to a person engaged in the
12 construction business who delivers a nontaxable transaction
13 certificate to the person performing the construction service
14 or a construction-related service.

15 B. The buyer delivering the nontaxable transaction
16 certificate shall have the construction services or
17 construction-related services directly contracted for or billed
18 to:

19 (1) a construction project that is subject to
20 the gross receipts tax upon its completion or upon the
21 completion of the overall construction project of which it is a
22 part;

23 (2) a construction project that is subject to
24 the gross receipts tax upon the sale in the ordinary course of
25 business of the real property upon which it was constructed; or

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1 (3) a construction project that is located on
2 the tribal territory of an Indian nation, tribe or pueblo.

3 [~~G. As used in this section, "construction-related~~
4 ~~service" means a service directly contracted for or billed to a~~
5 ~~specific construction project, including design, architecture,~~
6 ~~drafting, surveying, engineering, environmental and structural~~
7 ~~testing, security, sanitation and services required to comply~~
8 ~~with governmental construction-related regulations; but~~
9 ~~"construction-related service" excludes general business~~
10 ~~services such as legal or accounting services, equipment~~
11 ~~maintenance and real estate sales commissions.]"~~

12 SECTION 6. Section 7-19D-9 NMSA 1978 (being Laws 1978,
13 Chapter 151, Section 1, as amended) is amended to read:

14 "7-19D-9. MUNICIPAL GROSS RECEIPTS TAX--AUTHORITY TO
15 IMPOSE RATE.--

16 A. The majority of the members of the governing
17 body of any municipality may impose by ordinance an excise tax
18 on the gross receipts of any person engaging in business in the
19 municipality for the privilege of engaging in business in the
20 municipality. A tax imposed pursuant to this section shall be
21 imposed by the enactment of one or more ordinances enacting any
22 number of increments of one-hundredth percent; provided that
23 the total increments do not exceed the maximum rate provided in
24 Subsection C of this section; and provided further that, if at
25 the time of enacting the ordinance the total municipal gross

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1 receipts tax rate is not an even multiple of one-hundredth
2 percent, the municipality may impose an increment in an amount
3 sufficient to bring the total rate to an even multiple of one-
4 hundredth percent. The governing body of a municipality may,
5 at the time of enacting the ordinance, dedicate the revenue for
6 any municipal purpose. If the governing body proposes to
7 dedicate such revenue, the ordinance and, if any election is
8 held, the ballot shall clearly state the purpose to which the
9 revenue will be dedicated, and any revenue so dedicated shall
10 be used by the municipality for that purpose unless a
11 subsequent ordinance is adopted to change the purpose to which
12 dedicated or to place the revenue in the general fund of the
13 municipality.

14 B. The tax imposed pursuant to Subsection A of this
15 section may be referred to as the "municipal gross receipts
16 tax".

17 C. The maximum rate of the municipal gross receipts
18 tax on the gross receipts of any person engaging in business in
19 the municipality shall not exceed two and one-half percent. Of
20 that two and one-half percent:

21 (1) a governing body may choose to require an
22 election to impose increments ~~[that]~~ up to a total of two and
23 five-hundredths percent; and

24 (2) the remaining increments, ~~[totaling]~~ up to
25 a total of forty-five hundredths percent, shall not go into

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1 effect until after an election is held and a majority of the
2 voters in the municipality voting in the election votes in
3 favor of the tax. Increments approved by voters prior to [~~the~~
4 ~~effective date of this 2019 act~~] July 1, 2019 shall be included
5 in the increments approved by the voters, as provided in this
6 paragraph.

7 D. An election shall be called on the questions of
8 disapproval or approval of any ordinance enacted pursuant to
9 Subsection C of this section or any ordinance amending such
10 ordinance:

11 (1) if the governing body chooses to provide
12 in the ordinance that it shall not be effective until the
13 ordinance is approved by the majority of the registered voters
14 voting on the question at an election to be held pursuant to
15 the provisions of the Local Election Act; or

16 (2) if the ordinance does not contain a
17 mandatory election provision as provided in Paragraph (1) of
18 this subsection, upon the filing of a petition requesting such
19 an election if the petition is filed:

20 (a) pursuant to the requirements of a
21 referendum provision contained in a municipal home-rule charter
22 and signed by the number of registered voters in the
23 municipality equal to the number of registered voters required
24 in its charter to seek a referendum; or

25 (b) in all other municipalities, with

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1 the municipal clerk within thirty days after the adoption of
2 such ordinance and the petition has been signed by a number of
3 registered voters in the municipality equal to at least five
4 percent of the number of the voters in the municipality who
5 were registered to vote in the most recent regular municipal
6 election.

7 E. The signatures on the petition filed in
8 accordance with Subsection D of this section shall be verified
9 by the municipal clerk. If the petition is verified by the
10 municipal clerk as containing the required number of signatures
11 of registered voters, the governing body shall adopt an
12 election resolution calling for the holding of a special
13 election on the question of approving or disapproving the
14 ordinance unless the ordinance is repealed before the adoption
15 of the election resolution. An election held pursuant to
16 Subparagraph (a) or (b) of Paragraph (2) of Subsection D of
17 this section shall be called, conducted and canvassed as
18 provided in the Local Election Act, and the election shall be
19 held within seventy-five days after the date the petition is
20 verified by the municipal clerk or it may be held in
21 conjunction with a regular local election if such election
22 occurs within seventy-five days after the date of verification
23 by the municipal clerk.

24 F. If at an election called pursuant to Subsection
25 D of this section a majority of the registered voters voting on

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1 the question approves the ordinance imposing the tax, the
2 ordinance shall become effective in accordance with the
3 provisions of the Municipal Local Option Gross Receipts and
4 Compensating Taxes Act. If at such an election a majority of
5 the registered voters voting on the question disapproves the
6 ordinance, the ordinance imposing the tax shall be deemed
7 repealed and the question of imposing any increment of the
8 municipal gross receipts tax authorized in this section shall
9 not be considered again by the governing body for a period of
10 one year from the date of the election.

11 G. Any law that imposes or authorizes the
12 imposition of a municipal gross receipts tax or that affects
13 the municipal gross receipts tax, or any law supplemental
14 thereto or otherwise appertaining thereto, shall not be
15 repealed or amended or otherwise directly or indirectly
16 modified in such a manner as to impair adversely any
17 outstanding revenue bonds that may be secured by a pledge of
18 such municipal gross receipts tax unless such outstanding
19 revenue bonds have been discharged in full or provision has
20 been fully made therefor."

21 SECTION 7. Section 7-20E-9 NMSA 1978 (being Laws 1983,
22 Chapter 213, Section 30, as amended) is amended to read:

23 "7-20E-9. COUNTY GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE
24 RATE--COUNTY HEALTH CARE ASSISTANCE FUND REQUIREMENTS.--

25 A. A majority of the members of the governing body

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1 of a county may impose by ordinance an excise tax on the gross
2 receipts of a person engaging in business in the county or the
3 county area. A tax imposed pursuant to this section shall be
4 imposed by the enactment of one or more ordinances enacting any
5 number of increments of one-hundredth percent; provided that
6 the total increments do not exceed the maximum rate provided in
7 Subsections C and D of this section; and provided further that,
8 if at the time of enacting the ordinance the total county gross
9 receipts tax rate is not an even multiple of one-hundredth
10 percent, the county may impose an increment in an amount
11 sufficient to bring the total rate to an even multiple of one-
12 hundredth percent. The governing body may, at the time of
13 enacting the ordinance, dedicate the revenue for any county
14 purpose.

15 B. The tax authorized by this section is to be
16 referred to as the "county gross receipts tax".

17 C. The maximum rate of the county gross receipts
18 tax that may be imposed on the gross receipts of any person
19 engaging in business in a county shall not exceed one and
20 twenty-five hundredths percent. Of that one and twenty-five
21 hundredths percent:

22 (1) a governing body may choose to require an
23 election to impose increments [~~that~~] up to a total of one
24 percent; and

25 (2) the remaining increments, up to a total of

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1 twenty-five hundredths percent, shall not go into effect until
2 after an election is held and a majority of the voters in the
3 county voting in the election votes in favor of the tax.

4 Increments approved by voters prior to [~~the effective date of~~
5 ~~this 2019 act~~] July 1, 2019 shall be included in the increments
6 approved by the voters, as provided in this paragraph.

7 D. In addition to the maximum rate that may be
8 imposed on the gross receipts of any person engaging in
9 business in a county, the maximum rate of the county gross
10 receipts tax that may be imposed on the gross receipts of any
11 person engaging in business in a county area shall not exceed
12 one-half percent. Of that one-half percent:

13 (1) a governing body may choose to require an
14 election to impose increments that total twelve hundredths
15 percent; [~~and~~] but

16 (2) the remaining increments, [~~totaling~~] up to
17 a total of thirty-eight hundredths percent, shall not go into
18 effect until after an election is held and a majority of the
19 voters in the county area voting in the election votes in favor
20 of the tax. Increments approved by voters prior to [~~the~~
21 ~~effective date of this 2019 act~~] July 1, 2019 shall be included
22 in the increments approved by the voters, as provided in this
23 paragraph.

24 E. A class A county with a county hospital operated
25 and maintained pursuant to a lease or operating agreement with

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1 a state educational institution named in Article 12, Section 11
2 of the constitution of New Mexico shall provide not less than
3 one million dollars (\$1,000,000) in funds, and that amount
4 shall be dedicated to the support of indigent patients who are
5 residents of that county. Funds for indigent care shall be
6 made available each month of each year the tax is in effect in
7 an amount not less than eighty-three thousand three hundred
8 thirty-three dollars thirty-three cents (\$83,333.33). The
9 interest from the investment of county funds for indigent care
10 may be used for other assistance to indigent persons, not to
11 exceed twenty thousand dollars (\$20,000) for all other
12 assistance in any year.

13 F. A county, except a class A county with a county
14 hospital operated and maintained pursuant to a lease or
15 operating agreement with a state educational institution named
16 in Article 12, Section 11 of the constitution of New Mexico,
17 shall be required to dedicate revenue produced by the
18 imposition of a one-eighth percent gross receipts tax increment
19 for the support of indigent patients who are residents of that
20 county. A county that imposed up to two one-eighth percent
21 increments on January 1, 1996 for support of indigent patients
22 in the county or, after January 1, 1996, imposes a one-eighth
23 percent increment and dedicates one-half of that increment for
24 county indigent patient purposes shall deposit the revenue
25 dedicated for county indigent purposes that is transferred to

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1 the county in the county health care assistance fund, and such
2 revenues shall be expended pursuant to the Indigent Hospital
3 and County Health Care Act."

4 SECTION 8. TEMPORARY PROVISION--ORDINANCES IMPOSING
5 CERTAIN REPEALED LOCAL OPTION GROSS RECEIPTS TAXES DEEMED TO BE
6 IMPOSING AN EQUAL RATE OF THE MUNICIPAL OR COUNTY GROSS
7 RECEIPTS TAX.--An ordinance imposing a local option gross
8 receipts tax authorized by those sections of law that were
9 repealed and consolidated with the municipal gross receipts tax
10 or the county gross receipts tax by Laws 2019, Chapter 274 is
11 deemed to be imposing an equal rate of the municipal gross
12 receipts tax or county gross receipts tax, as appropriate, as
13 was imposed by the ordinance when the ordinance was enacted;
14 provided that the ordinance was in effect on the date of repeal
15 and the ordinance has not been repealed by the governing body.
16 Any dedication of revenue pursuant to the ordinance remains in
17 effect until changed by the governing body; provided that, if
18 the dedication were approved by the electorate, any change to
19 the dedication must also be approved by the electorate.

20 SECTION 9. REPEAL.--Sections 7-9-57.1 and 7-9-96 NMSA
21 1978 (being Laws 1998, Chapter 92, Section 3 and Laws 2005,
22 Chapter 104, Section 26) are repealed effective July 1, 2020.

23 SECTION 10. REPEAL.--Laws 2019, Chapter 270, Section 11
24 is repealed.

25 SECTION 11. APPLICABILITY.--The provisions of Section 3

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1 of this act apply to taxable years beginning on and after
2 January 1, 2020.

3 SECTION 12. EFFECTIVE DATE.--The effective date of the
4 provisions of Sections 1, 2, 4 through 7 and 10 of this act is
5 July 1, 2021.

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