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HOUSE BILL 163

**55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

INTRODUCED BY

Christine Chandler and Javier Martínez and Peter Wirth and  
Micaela Lara Cadena and Michael Padilla

AN ACT

RELATING TO TAXATION; CREATING A 2021 INCOME TAX REBATE;  
DEFINING "DISCLOSED AGENCY" IN THE GROSS RECEIPTS AND  
COMPENSATING TAX ACT; REDUCING THE RATES OF THE GROSS RECEIPTS  
TAX AND THE COMPENSATING TAX; PROVIDING FOR AN INCREASE IN THE  
GROSS RECEIPTS TAX IF GROSS RECEIPTS TAX REVENUES DECREASE;  
PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR THE SALE OF  
SERVICES TO A MANUFACTURER; PROVIDING A TEMPORARY GROSS  
RECEIPTS TAX DEDUCTION FOR FOOD AND BEVERAGE ESTABLISHMENTS;  
PROVIDING A FIVE-YEAR MORATORIUM ON NEW INCREMENTS OF MUNICIPAL  
AND COUNTY GROSS RECEIPTS TAXES; DECLARING AN EMERGENCY.

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

SECTION 1. A new section of the Income Tax Act is enacted  
to read:

"NEW MATERIAL] 2021 INCOME TAX REBATE.--

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1           A. A resident who is not a dependent of another  
2 individual and who claimed and was eligible to receive the  
3 exemption pursuant to Section 7-2-5.8 NMSA 1978 from net income  
4 for taxable year 2021 may be eligible for a tax rebate of:

5                   (1) three hundred dollars (\$300) for single  
6 individuals, heads of household, surviving spouses and married  
7 individuals filing joint returns; and

8                   (2) one hundred fifty dollars (\$150) for  
9 married individuals filing separate returns.

10           B. The rebate provided by this section may be  
11 deducted from the taxpayer's New Mexico income tax liability  
12 for taxable year 2021.

13           C. If the amount of rebate exceeds the taxpayer's  
14 income tax liability, the excess shall be refunded to the  
15 taxpayer.

16           D. The department may require a taxpayer to claim  
17 the rebate provided by this section on forms and in a manner  
18 required by the department.

19           E. The rebate provided by this section shall not be  
20 allowed after June 30, 2023."

21           SECTION 2. Section 7-9-3 NMSA 1978 (being Laws 1978,  
22 Chapter 46, Section 1, as amended by Laws 2021, Chapter 65,  
23 Section 11 and by Laws 2021, Chapter 66, Section 1) is amended  
24 to read:

25           "7-9-3. DEFINITIONS.--As used in the Gross Receipts and  
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1 Compensating Tax Act:

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

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

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

12 D. "disclosed agency" means an agent receiving  
13 money on behalf of a principal if the agent or the agent's  
14 principal disclosed the agency relationship to a third party  
15 from which the agent receives money, or if the third party  
16 otherwise has actual knowledge that the agent receives money on  
17 behalf of the principal;

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

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

25 (1) observation of tests conducted by the

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1 performer of services;

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

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

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

9 (5) similar activities;

10 ~~[F.]~~ G. "lease" or "leasing" means an arrangement  
11 whereby, for a consideration, the owner of property grants  
12 another person the exclusive right to possess and use the  
13 property for a definite term;

14 ~~[G.]~~ H. "licensing" or "license" means an  
15 arrangement whereby, for a consideration, the owner of property  
16 grants another person a revocable, non-exclusive right to use  
17 the property;

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

23 ~~[I.]~~ J. "manufactured home" means a movable or  
24 portable housing structure for human occupancy that exceeds  
25 either a width of eight feet or a length of forty feet

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

3 ~~[J-]~~ K. "manufacturing" means combining or  
4 processing components or materials to increase their value for  
5 sale in the ordinary course of business, but does not include  
6 construction services; farming; electric power generation;  
7 processing of natural resources, including hydrocarbons; or the  
8 processing or preparation of meals for immediate consumption;

9 ~~[K-]~~ L. "manufacturing service" means the service  
10 of combining or processing components or materials owned by  
11 another, but does not include construction services; farming;  
12 electric power generation; processing of natural resources,  
13 including hydrocarbons; or the processing or preparation of  
14 meals for immediate consumption;

15 ~~[L-]~~ M. "marketplace provider" means a person who  
16 facilitates the sale, lease or license of tangible personal  
17 property or services or licenses for use of real property on a  
18 marketplace seller's behalf, or on the marketplace provider's  
19 own behalf, by:

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

24 (2) either directly or indirectly, through  
25 agreements or arrangements with third parties collecting

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1 payment from the customer and transmitting that payment to the  
2 seller, regardless of whether the marketplace provider receives  
3 compensation or other consideration in exchange for the  
4 marketplace provider's services;

5 ~~[M.]~~ N. "marketplace seller" means a person who  
6 sells, leases or licenses tangible personal property or  
7 services or who licenses the use of real property through a  
8 marketplace provider;

9 ~~[N.]~~ O. "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 ~~[O.]~~ P. "property" means:

21 (1) real property;  
22 (2) tangible personal property, including  
23 electricity and manufactured homes;

24 (3) licenses, including licenses of digital  
25 goods, but not including the licenses of copyrights, trademarks

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1 or patents; and

2 (4) franchises;

3 [P-] Q. "research and development services" means  
4 an activity engaged in for other persons for consideration, for  
5 one or more of the following purposes:

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

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

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

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

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

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

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1 subsection;

2 [Q-] R. "secretary" means the secretary of taxation  
3 and revenue or the secretary's delegate;

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

21 [S-] T. "use" or "using" includes use, consumption  
22 or storage other than storage for subsequent sale in the  
23 ordinary course of business or for use solely outside this  
24 state."

25 SECTION 3. Section 7-9-4 NMSA 1978 (being Laws 1966,

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1 Chapter 47, Section 4, as amended) is amended to read:

2 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
3 "GROSS RECEIPTS TAX".--

4 A. For the privilege of engaging in business, an  
5 excise tax equal to [~~five and one-eighth~~] four and seven-  
6 eighths percent, except as provided in Subsection C of this  
7 section, of gross receipts is imposed on any person engaging in  
8 business in New Mexico.

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

11 C. If, for a fiscal year occurring prior to fiscal  
12 year 2033, gross receipts tax revenues are less than ninety-  
13 five percent of the gross receipts tax revenues for the  
14 previous fiscal year, as determined by the secretary of finance  
15 and administration, the rate of the gross receipts tax shall be  
16 five and one-eighth percent beginning on the July 1 following  
17 the determination made by the secretary of finance and  
18 administration.

19 D. On or before February 1 of each year, the  
20 secretary of finance and administration shall make a  
21 determination for the purposes of Subsection C of this section.  
22 If the rate of tax is adjusted pursuant to that subsection, the  
23 secretary shall certify to the secretary of taxation and  
24 revenue that the rate of the gross receipts tax shall be five  
25 and one-eighth percent, effective on the following July 1.

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1                   E. As used in this section, "gross receipts tax  
2 revenues" means the net receipts attributable to the gross  
3 receipts tax and distributed to the general fund."

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

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

8                   A. For the privilege of making taxable use of  
9 tangible personal property in New Mexico, there is imposed on  
10 the person using the property an excise tax equal to [~~five and~~  
11 ~~one-eighth~~] four and seven-eighths percent, except as provided  
12 in Subsection G of this section, of the value of tangible  
13 property that was:

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

16                                 (2) acquired in a transaction for which the  
17 seller's receipts were not subject to the gross receipts tax.

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

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1           C. For the privilege of making taxable use of a  
2 license or franchise in New Mexico, there is imposed on the  
3 person using the license or franchise an excise tax equal to  
4 the rate provided in Subsection A or G of this section, as  
5 applicable, against the value of the license or franchise in  
6 its use in this state. The department by rule, ruling or  
7 instruction shall fairly apportion, where appropriate, the  
8 value of a license or franchise to its value in use in New  
9 Mexico. The tax shall apply only to the value of a license or  
10 franchise used in New Mexico where the license or franchise was  
11 acquired in a transaction the receipts from which were not  
12 subject to the gross receipts tax.

13           D. For the privilege of making taxable use of  
14 services in New Mexico, there is imposed on the person using  
15 the services an excise tax equal to the rate provided in  
16 Subsection A or G of this section, as applicable, against the  
17 value of the services at the time the services were performed  
18 or the product of the service was acquired. For use of  
19 services to be a taxable use pursuant to this subsection, the  
20 services shall have been acquired in a transaction the receipts  
21 from which were not subject to the gross receipts tax.

22           E. For purposes of this section, receipts are not  
23 subject to the gross receipts tax if the person responsible for  
24 the gross receipts tax on those receipts lacked nexus in New  
25 Mexico or the receipts were exempt or allowed to be deducted

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1 pursuant to the Gross Receipts and Compensating Tax Act.

2 F. The tax imposed by this section shall be  
3 referred to as the "compensating tax".

4 G. If the gross receipts tax is increased to five  
5 and one-eighth percent pursuant to Section 7-9-4 NMSA 1978, the  
6 rate of the compensating tax shall be five and one-eighth  
7 percent.

8 [~~G.~~] H. As used in this section, "taxable use"  
9 means use by a person who acquires tangible personal property,  
10 a license, a franchise or a service, and the use of which would  
11 not have qualified for an exemption or deduction pursuant to  
12 the Gross Receipts and Compensating Tax Act."

13 SECTION 5. A new Section 7-9-46.1 NMSA 1978 is enacted to  
14 read:

15 "7-9-46.1. [NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--  
16 GOVERNMENTAL GROSS RECEIPTS--SALES OF SERVICES TO  
17 MANUFACTURERS.--

18 A. Receipts from selling professional services may  
19 be deducted from gross receipts or from governmental gross  
20 receipts if the sale is made to a person engaged in the  
21 business of manufacturing who delivers a nontaxable transaction  
22 certificate to the seller or provides alternative evidence  
23 pursuant to Section 7-9-43 NMSA 1978. The professional  
24 services shall be related to the product that the buyer is in  
25 the business of manufacturing.

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1           B. The purpose of the deductions provided in this  
2 section is to encourage manufacturing businesses to locate in  
3 New Mexico and to reduce the tax burden, including reducing  
4 pyramiding, on the professional services that are purchased by  
5 manufacturing businesses in New Mexico.

6           C. A taxpayer allowed a deduction pursuant to this  
7 section shall report the amount of the deduction separately in  
8 a manner required by the department.

9           D. The department shall compile an annual report on  
10 the deduction provided by this section that shall include the  
11 number of taxpayers that claimed the deduction, the aggregate  
12 amount of deductions claimed and any other information  
13 necessary to evaluate the effectiveness of the deduction. The  
14 department shall compile and present the report to the revenue  
15 stabilization and tax policy committee and the legislative  
16 finance committee with an analysis of the cost of the deduction  
17 and whether the deduction is performing the purpose for which  
18 it was created.

19           E. As used in this section:

20                   (1) "accounting services" means the systematic  
21 and comprehensive recording of financial transactions  
22 pertaining to a business entity and the process of summarizing,  
23 analyzing and reporting these transactions to oversight  
24 agencies or tax collection entities, including certified public  
25 auditing, attest services and preparing financial statements,

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1 bookkeeping, tax return preparation, advice and consulting and,  
2 where applicable, representing taxpayers before tax collection  
3 agencies. "Accounting services" does not include, except as  
4 provided with respect to financial management services,  
5 investment advice, wealth management advice or consulting or  
6 any tax return preparation, advice, counseling or  
7 representation for individuals, regardless of whether those  
8 individuals are owners of pass-through entities, such as  
9 partnerships, limited liability companies or S corporations;

10 (2) "architectural services" means services  
11 related to the art and science of designing and building  
12 structures for human habitation or use and includes planning,  
13 providing preliminary studies, designs, specifications and  
14 working drawings and providing for general administration of  
15 construction contracts;

16 (3) "engineering services" means consultation,  
17 the production of a creative work, investigation, evaluation,  
18 planning and design, the performance of studies and reviewing  
19 planning documents when performed by, or under the supervision  
20 of, a licensed engineer, including the design, development and  
21 testing of mechanical, electrical, hydraulic, chemical,  
22 pneumatic or thermal machinery or equipment, industrial or  
23 commercial work systems or processes and military equipment.  
24 "Engineering services" does not include medical or medical  
25 laboratory services, any engineering performed in connection

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1 with a construction service or the design and installation of  
2 computer or computer network infrastructure;

3 (4) "information technology services" means  
4 separately stated services for installing and maintaining a  
5 business's computers and computer network, including performing  
6 computer network design; installing, repairing, maintaining or  
7 restoring computer networks, hardware or software; and  
8 performing custom software programming or making custom  
9 modifications to existing software programming. "Information  
10 technology services" does not include:

11 (a) software maintenance and update  
12 agreements, unless made in conjunction with custom programming;

13 (b) computers, servers, chilling  
14 equipment and pre-programmed software;

15 (c) data processing services or the  
16 processing or storage of information to compile and produce  
17 records of transactions for retrieval or use, including data  
18 entry, data retrieval, data searches and information  
19 compilation; or

20 (d) access to telecommunications or  
21 internet;

22 (5) "legal services" means services performed  
23 by a licensed attorney or under the supervision of a licensed  
24 attorney for a client, regardless of the attorney's form of  
25 business entity or whether the services are prepaid, including

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1 legal representation before courts or administrative agencies;  
2 drafting legal documents, such as contracts or patent  
3 applications; legal research; advising and counseling;  
4 arbitration; mediation; and notary public and other ancillary  
5 legal services performed for a client in conjunction with and  
6 under the supervision of a licensed attorney. "Legal services"  
7 does not include lobbying or government relations services,  
8 title insurance agent services, licensing or selling legal  
9 software or legal document templates, insurance investigation  
10 services or any legal representation involving financial crimes  
11 or tax evasion in New Mexico; and

12 (6) "professional services" means accounting  
13 services, architectural services, engineering services,  
14 information technology services and legal services."

15 SECTION 6. Section 7-9-118 NMSA 1978 (being Laws 2021,  
16 Chapter 4, Section 3) is amended to read:

17 "7-9-118. DEDUCTION--GROSS RECEIPTS--FOOD OR BEVERAGE  
18 ESTABLISHMENTS.--

19 A. Beginning March 1, [~~2021~~] 2022 and prior to July  
20 1, [~~2021~~] 2022, receipts of a food or beverage establishment  
21 from the sale of prepared food or non-packaged beverages that  
22 are served or picked up at the food or beverage establishment  
23 by or delivered to customers for immediate consumption may be  
24 deducted from gross receipts.

25 B. The deduction provided by this section shall be

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1 applied only to gross receipts remaining after all other  
2 allowable deductions available under the Gross Receipts and  
3 Compensating Tax Act have been taken and shall be separately  
4 stated by the taxpayer.

5 C. As used in this section:

6 (1) "craft distiller" means an establishment  
7 owned or managed by person issued a craft distiller's license  
8 pursuant to Section 60-6A-6.1 NMSA 1978 that is in good  
9 standing;

10 (2) "dispenser" means an establishment that is  
11 held out to the public as a place where alcoholic beverages are  
12 prepared and served for on-premises consumption to the general  
13 public in consideration of payment and that has the facilities  
14 and employees necessary for preparing and serving alcoholic  
15 beverages; provided that the dispenser has been issued a  
16 license pursuant to the Liquor Control Act as a dispenser;

17 (3) "food or beverage establishment" means a  
18 craft distiller; dispenser; mobile food service establishment;  
19 restaurant; small brewer; or winegrower;

20 (4) "mobile food service establishment" means  
21 a mobile establishment where meals are prepared for sale to or  
22 consumption by the general public either on or off the premises  
23 and has been issued a permit pursuant to Section 25-1-7 NMSA  
24 1978 that is in good standing;

25 (5) "restaurant" means an establishment that

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1 is held out to the public as a place where meals and beverages  
2 are prepared and primarily intended to be served for on-  
3 premises consumption to the general public in consideration of  
4 payment and that has a dining room, a kitchen and the employees  
5 necessary for preparing, cooking and serving meals; provided  
6 the restaurant has been issued a permit pursuant to Section  
7 25-1-7 NMSA 1978 that is in good standing and, if the  
8 restaurant serves alcoholic beverages, has been issued a  
9 license pursuant to Section 60-6A-4 NMSA 1978. "Restaurant"  
10 does not include an establishment commonly known as a fast food  
11 restaurant that dispenses food intended to be ordered, prepared  
12 and served quickly, with minimal or no table service, and  
13 prepared in quantity by a standardized method for consumption  
14 on and off premises, and that tends to have any of the  
15 following characteristics:

- 16 (a) a menu consisting primarily of pre-  
17 cooked items or items prepared in advance and heated quickly;
- 18 (b) placement of orders at a fast serve  
19 drive-through or walk-up window;
- 20 (c) service of food solely in disposable  
21 wrapping or containers; or
- 22 (d) a menu that exclusively sells  
23 hamburgers, sandwiches, salads and other fast foods;
- 24 (6) "small brewer" means an establishment  
25 owned or managed by a person issued a small brewer's license

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1 pursuant to Section 60-6A-26.1 NMSA 1978 that is in good  
2 standing; and

3 (7) "winegrower" means an establishment owned  
4 or managed by a person issued a winegrower's license pursuant  
5 to Section 60-6A-11 NMSA 1978 that is in good standing."

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

8 "7-19D-9. MUNICIPAL GROSS RECEIPTS TAX--AUTHORITY TO  
9 IMPOSE RATE.--

10 A. Except as provided in Subsection H of this  
11 section, the majority of the members of the governing body of  
12 any municipality may impose by ordinance an excise tax on the  
13 gross receipts of any person engaging in business in the  
14 municipality for the privilege of engaging in business in the  
15 municipality. A tax imposed pursuant to this section shall be  
16 imposed by the enactment of one or more ordinances enacting any  
17 number of increments of one-hundredth percent; provided that  
18 the total increments do not exceed the maximum rate provided in  
19 Subsection C of this section; and provided further that, if at  
20 the time of enacting the ordinance the total municipal gross  
21 receipts tax rate is not an even multiple of one-hundredth  
22 percent, the municipality may impose an increment in an amount  
23 sufficient to bring the total rate to an even multiple of one-  
24 hundredth percent. The governing body of a municipality may,  
25 at the time of enacting the ordinance, dedicate the revenue for

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1 any municipal purpose. If the governing body proposes to  
2 dedicate such revenue, the ordinance and, if any election is  
3 held, the ballot shall clearly state the purpose to which the  
4 revenue will be dedicated, and any revenue so dedicated shall  
5 be used by the municipality for that purpose unless a  
6 subsequent ordinance is adopted to change the purpose to which  
7 dedicated or to place the revenue in the general fund of the  
8 municipality.

9 B. The tax imposed pursuant to Subsection A of this  
10 section may be referred to as the "municipal gross receipts  
11 tax".

12 C. The maximum rate of the municipal gross receipts  
13 tax on the gross receipts of any person engaging in business in  
14 the municipality shall not exceed two and one-half percent. Of  
15 that two and one-half percent:

16 (1) a governing body may choose to require an  
17 election to impose increments up to a total of two and five-  
18 hundredths percent; and

19 (2) the remaining increments, up to a total of  
20 forty-five hundredths percent, shall not go into effect until  
21 after an election is held and a majority of the voters in the  
22 municipality voting in the election votes in favor of the tax.  
23 Increments approved by voters prior to July 1, 2019 shall be  
24 included in the increments approved by the voters, as provided  
25 in this paragraph.

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1           D. An election shall be called on the questions of  
2 disapproval or approval of any ordinance enacted pursuant to  
3 Subsection C of this section or any ordinance amending such  
4 ordinance:

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

10                   (2) if the ordinance does not contain a  
11 mandatory election provision as provided in Paragraph (1) of  
12 this subsection, upon the filing of a petition requesting such  
13 an election if the petition is filed:

14                           (a) pursuant to the requirements of a  
15 referendum provision contained in a municipal home-rule charter  
16 and signed by the number of registered voters in the  
17 municipality equal to the number of registered voters required  
18 in its charter to seek a referendum; or

19                           (b) in all other municipalities, with  
20 the municipal clerk within thirty days after the adoption of  
21 such ordinance and the petition has been signed by a number of  
22 registered voters in the municipality equal to at least five  
23 percent of the number of the voters in the municipality who  
24 were registered to vote in the most recent regular municipal  
25 election.

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

18           F. If at an election called pursuant to Subsection  
19 D of this section a majority of the registered voters voting on  
20 the question approves the ordinance imposing the tax, the  
21 ordinance shall become effective in accordance with the  
22 provisions of the Municipal Local Option Gross Receipts and  
23 Compensating Taxes Act. If at such an election a majority of  
24 the registered voters voting on the question disapproves the  
25 ordinance, the ordinance imposing the tax shall be deemed

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1 repealed and the question of imposing any increment of the  
2 municipal gross receipts tax authorized in this section shall  
3 not be considered again by the governing body for a period of  
4 one year from the date of the election.

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

15 H. Beginning July 1, 2022, a municipality shall not  
16 enact an ordinance imposing a new increment of the municipal  
17 gross receipts tax that will go in effect prior to July 1,  
18 2027. Nothing in this subsection shall prohibit a municipality  
19 from enacting an ordinance reimposing an increment that will  
20 expire prior to July 1, 2027."

21 SECTION 8. 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. Except as provided in Subsection G of this

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

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

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

23 (1) a governing body may choose to require an  
24 election to impose increments up to a total of one 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 July 1, 2019 shall be  
5 included in the increments approved by the voters, as provided  
6 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; but

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

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

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

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1 revenues shall be expended pursuant to the Indigent Hospital  
2 and County Health Care Act.

3 G. Beginning July 1, 2022, a county shall not enact  
4 an ordinance imposing a new increment of the county gross  
5 receipts tax that will go in effect prior to July 1, 2027.  
6 Nothing in this subsection shall prohibit a county from  
7 enacting an ordinance reimposing an increment that will expire  
8 prior to July 1, 2027."

9 SECTION 9. EFFECTIVE DATE.--

10 A. The effective date of the provisions of Sections  
11 1 through 5, 7 and 8 of this act is July 1, 2022.

12 B. The effective date of the provisions of Section  
13 6 of this act is March 1, 2022.

14 SECTION 10. EMERGENCY.--It is necessary for the public  
15 peace, health and safety that this act take effect immediately.