

HOUSE BILL 323

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

Jason C. Harper and Derrick J. Lente and Micaela Lara Cadena  
and Javier Martínez and Antonio Maestas

AN ACT

RELATING TO TAXATION; CHANGING THE NAME OF THE GROSS RECEIPTS  
TAX TO THE SALES TAX; CHANGING THE NAME OF THE COMPENSATING TAX  
TO THE USE TAX; CHANGING THE NAME OF THE GOVERNMENTAL GROSS  
RECEIPTS TAX TO THE GOVERNMENTAL SALES TAX; CHANGING THE NAME  
OF THE INTERSTATE TELECOMMUNICATIONS GROSS RECEIPTS TAX TO THE  
INTERSTATE TELECOMMUNICATIONS SALES TAX; CHANGING THE NAME OF  
THE LEASED VEHICLE GROSS RECEIPTS TAX TO THE LEASED VEHICLE  
SALES TAX; CHANGING THE NAMES OF MUNICIPAL LOCAL OPTION GROSS  
RECEIPTS TAXES TO MUNICIPAL LOCAL OPTION SALES TAXES; CHANGING  
THE NAME OF THE MUNICIPAL COMPENSATING TAX TO THE MUNICIPAL USE  
TAX; CHANGING THE NAME OF COUNTY LOCAL OPTION GROSS RECEIPTS  
TAXES TO COUNTY LOCAL OPTION SALES TAXES; CHANGING THE NAME OF  
THE COUNTY COMPENSATING TAX TO THE COUNTY USE TAX; CHANGING THE  
NAMES OF THE ACTS AND REVENUE BONDS RELATED TO THOSE TAXES TO  
CONFORM TO THE NEW TAX NAMES; RECONCILING CONFLICTING

.223540.1

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

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

1 AMENDMENTS TO THE SAME SECTIONS OF LAW; AMENDING AND REPEALING  
2 SECTIONS OF THE NMSA 1978.

3  
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 SECTION 1. Section 3-31-1 NMSA 1978 (being Laws 1973,  
6 Chapter 395, Section 3, as amended) is amended to read:

7 "3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF  
8 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

9 A. In addition to any other law and constitutional  
10 home rule powers authorizing a municipality to issue revenue  
11 bonds, a municipality may issue revenue bonds pursuant to  
12 Chapter 3, Article 31 NMSA 1978 for the purposes specified in  
13 this section.

14 B. Utility revenue bonds may be issued for  
15 acquiring, extending, enlarging, bettering, repairing or  
16 otherwise improving a municipal utility or for any combination  
17 of the foregoing purposes. The municipality may pledge  
18 irrevocably any or all of the net revenues from the operation  
19 of the municipal utility or of any one or more of other such  
20 municipal utilities for payment of the interest on and  
21 principal of the revenue bonds.

22 C. Joint utility revenue bonds may be issued for  
23 acquiring, extending, enlarging, bettering, repairing or  
24 otherwise improving joint water facilities, sewer facilities,  
25 gas facilities or electric facilities or for any combination of

.223540.1

underscored material = new  
[bracketed material] = delete

1 the foregoing purposes. The municipality may pledge  
2 irrevocably any or all of the net revenues from the operation  
3 of these municipal utilities for the payment of the interest on  
4 and principal of the bonds.

5 D. [~~Gross receipts~~] Sales tax revenue bonds may be  
6 issued for any municipal purpose. A municipality may pledge  
7 irrevocably any or all of the [~~gross receipts~~] sales tax  
8 revenue received by the municipality pursuant to Section  
9 7-1-6.4 or 7-1-6.12 NMSA 1978 to the payment of the interest on  
10 and principal of the [~~gross receipts~~] sales tax revenue bonds  
11 or for any area of municipal government services. A law that  
12 imposes or authorizes the imposition of a tax authorized by the  
13 Municipal Local Option [~~Gross Receipts~~] Sales and Use Taxes Act  
14 or that affects the tax, or a law supplemental thereto or  
15 otherwise appertaining thereto, shall not be repealed or  
16 amended or otherwise directly or indirectly modified in such a  
17 manner as to impair adversely any outstanding revenue bonds  
18 that may be secured by a pledge of such tax unless the  
19 outstanding revenue bonds have been discharged in full or  
20 provision has been fully made therefor. Revenues in excess of  
21 the annual principal and interest due on [~~gross receipts~~] sales  
22 tax revenue bonds secured by a pledge of [~~gross receipts~~] sales  
23 tax revenue may be accumulated in a debt service reserve  
24 account. The governing body of the municipality may appoint a  
25 commercial bank trust department to act as trustee of the

.223540.1

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

1 ~~[gross receipts]~~ sales tax revenue and to administer the  
2 payment of principal of and interest on the bonds.

3 E. Gasoline tax revenue bonds may be issued for  
4 laying off, opening, constructing, reconstructing, resurfacing,  
5 maintaining, acquiring rights of way, repairing and otherwise  
6 improving municipal buildings, alleys, streets, public roads  
7 and bridges or any combination of the foregoing purposes. The  
8 municipality may pledge irrevocably any or all of the gasoline  
9 tax revenue received by the municipality to the payment of the  
10 interest on and principal of the gasoline tax revenue bonds.

11 F. Project revenue bonds may be issued for  
12 acquiring, extending, enlarging, bettering, repairing,  
13 improving, constructing, purchasing, furnishing, equipping and  
14 rehabilitating any revenue-producing project, including, where  
15 applicable, purchasing, otherwise acquiring or improving the  
16 ground therefor, including acquiring and improving parking  
17 lots, or for any combination of the foregoing purposes. The  
18 municipality may pledge irrevocably any or all of the net  
19 revenues from the operation of the revenue-producing project  
20 for which the particular project revenue bonds are issued to  
21 the payment of the interest on and principal of the project  
22 revenue bonds. The net revenues of any revenue-producing  
23 project may not be pledged to the project revenue bonds issued  
24 for a revenue-producing project that clearly is unrelated in  
25 nature; but nothing in this subsection shall prevent the pledge

.223540.1

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

1 to such project revenue bonds of any revenues received from  
2 existing, future or disconnected facilities and equipment that  
3 are related to and that may constitute a part of the particular  
4 revenue-producing project. A general determination by the  
5 governing body that any facilities or equipment is reasonably  
6 related to and constitutes a part of a specified revenue-  
7 producing project shall be conclusive if set forth in the  
8 proceedings authorizing the project revenue bonds.

9 G. Fire district revenue bonds may be issued for  
10 acquiring, extending, enlarging, bettering, repairing,  
11 improving, constructing, purchasing, furnishing, equipping and  
12 rehabilitating any fire district project, including, where  
13 applicable, purchasing, otherwise acquiring or improving the  
14 ground therefor, or for any combination of the foregoing  
15 purposes. The municipality may pledge irrevocably any or all  
16 of the revenues received by the fire district from the fire  
17 protection fund as provided in the Fire Protection Fund Law and  
18 any or all of the revenues provided for the operation of the  
19 fire district project for which the particular bonds are issued  
20 to the payment of the interest on and principal of the bonds.  
21 The revenues of any fire district project shall not be pledged  
22 to the bonds issued for a fire district project that clearly is  
23 unrelated in its purpose; but nothing in this section prevents  
24 the pledge to such bonds of any revenues received from  
25 existing, future or disconnected facilities and equipment that

.223540.1

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

1 are related to and that may constitute a part of the particular  
2 fire district project. A general determination by the  
3 governing body of the municipality that any facilities or  
4 equipment is reasonably related to and constitutes a part of a  
5 specified fire district project shall be conclusive if set  
6 forth in the proceedings authorizing the fire district bonds.

7 H. Law enforcement protection revenue bonds may be  
8 issued for the repair and purchase of law enforcement apparatus  
9 and equipment that meet nationally recognized standards. The  
10 municipality may pledge irrevocably any or all of the revenues  
11 received by the municipality from the law enforcement  
12 protection fund distributions pursuant to the Law Enforcement  
13 Protection Fund Act to the payment of the interest on and  
14 principal of the law enforcement protection revenue bonds.

15 I. Except for the purpose of refunding previous  
16 revenue bond issues, no municipality may sell revenue bonds  
17 payable from pledged revenues after the expiration of two years  
18 from the date of the ordinance authorizing the issuance of the  
19 bonds or, for bonds to be issued and sold to the New Mexico  
20 finance authority as authorized in Subsection C of Section  
21 3-31-4 NMSA 1978, after the expiration of two years from the  
22 date of the resolution authorizing the issuance of the bonds.  
23 However, any period of time during which a particular revenue  
24 bond issue is in litigation shall not be counted in determining  
25 the expiration date of that issue."

.223540.1

underscored material = new  
[bracketed material] = delete

1           SECTION 2. Section 3-31-1.1 NMSA 1978 (being Laws 2019,  
2 Chapter 274, Section 2) is amended to read:

3           "3-31-1.1. DEFINITIONS.--As used in Chapter 3, Article 31  
4 NMSA 1978:

5           A. "bond" means any obligation of a municipality  
6 issued under Chapter 3, Article 31 NMSA 1978, whether  
7 designated as a bond, note, loan, warrant, debenture, lease-  
8 purchase agreement or other instrument evidencing an obligation  
9 of a municipality to make payments;

10           B. "gasoline tax revenue" means all or portions of  
11 the amounts of tax revenues distributed to municipalities  
12 pursuant to Sections 7-1-6.9 and 7-1-6.27 NMSA 1978;

13           C. "gasoline tax revenue bonds" means the bonds  
14 authorized by Subsection E of Section 3-31-1 NMSA 1978;

15           ~~D. "gross receipts tax revenue" means the amount~~  
16 ~~of money distributed to a municipality pursuant to Section~~  
17 ~~7-1-6.4 NMSA and transferred to a municipality pursuant to~~  
18 ~~Section 7-1-6.12 NMSA 1978 for any municipal gross receipts tax~~  
19 ~~imposed pursuant to the Municipal Local Option Gross Receipts~~  
20 ~~Taxes Act;~~

21           ~~E. "gross receipts tax revenue bonds" means the~~  
22 ~~bonds authorized by Subsection D of Section 3-31-1 NMSA 1978;~~

23           F.] D. "joint utility revenue bonds" or "joint  
24 utility bonds" means the bonds authorized by Subsection C of  
25 Section 3-31-1 NMSA 1978;

.223540.1

underscored material = new  
[bracketed material] = delete

1           [~~G.~~] E. "pledged revenues" means the revenues, net  
2 income or net revenues authorized to be pledged to the payment  
3 of revenue bonds as specifically provided in Chapter 3, Article  
4 31 NMSA 1978;

5           [~~H.~~] F. "project revenue bonds" means the bonds  
6 authorized by Subsection F of Section 3-31-1 NMSA 1978; [~~and~~]

7           G. "sales tax revenue" means the amount of money  
8 distributed to a municipality pursuant to Section 7-1-6.4 NMSA  
9 1978 and transferred to a municipality pursuant to Section  
10 7-1-6.12 NMSA 1978 for any municipal sales tax imposed pursuant  
11 to the Municipal Local Option Sales and Use Taxes Act;

12           H. "sales tax revenue bonds" means the bonds  
13 authorized by Subsection D of Section 3-31-1 NMSA 1978; and

14           I. "utility revenue bonds" or "utility bonds" means  
15 the bonds authorized by Subsection B of Section 3-31-1 NMSA  
16 1978."

17           SECTION 3. Section 3-31-4 NMSA 1978 (being Laws 1965,  
18 Chapter 300, Section 14-30-4, as amended) is amended to read:

19           "3-31-4. ORDINANCE AUTHORIZING REVENUE BONDS--~~[THREE-~~  
20 ~~FOURTHS]~~ THREE-FOURTHS' MAJORITY REQUIRED--RESOLUTION  
21 AUTHORIZING REVENUE BONDS TO BE ISSUED AND SOLD TO THE NEW  
22 MEXICO FINANCE AUTHORITY.--

23           A. At a regular or special meeting called for the  
24 purpose of issuing revenue bonds as authorized in Section  
25 3-31-1 NMSA 1978, the governing body may adopt an ordinance  
    .223540.1



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

1 that:

2 (1) declares the necessity for issuing revenue  
3 bonds;

4 (2) authorizes the issuance of revenue bonds  
5 by an affirmative vote of three-fourths of all the members of  
6 the governing body; and

7 (3) designates the source of the pledged  
8 revenues.

9 B. If a majority of the governing body, but less  
10 than three-fourths of all the members, votes in favor of  
11 adopting the ordinance authorizing the issuance of revenue  
12 bonds, the ordinance is adopted but shall not become effective  
13 until the question of issuing the revenue bonds is submitted to  
14 a vote of the qualified electors for their approval at a  
15 special or regular local election. If an election is  
16 necessary, the election shall be conducted in the manner  
17 provided in the Local Election Act.

18 C. In addition and as an alternative to adopting an  
19 ordinance as required by the provisions of Subsections A and B  
20 of this section, at a regular or special meeting called for the  
21 purpose of issuing revenue bonds as authorized in Section  
22 3-31-1 NMSA 1978, the governing body may authorize the issuance  
23 and sale, from time to time, of revenue bonds in amounts not to  
24 exceed one million dollars (\$1,000,000) at any one time to the  
25 New Mexico finance authority by adoption of a resolution that:

.223540.1

underscoring material = new  
[bracketed material] = delete

1 (1) declares the necessity for issuing and  
2 selling revenue bonds to the New Mexico finance authority;

3 (2) authorizes the issuance and sale of  
4 revenue bonds to the New Mexico finance authority by an  
5 affirmative vote of a majority of all the members of the  
6 governing body; and

7 (3) designates the source of the pledged  
8 revenues.

9 At the option of the governing body, revenue bonds in an  
10 amount in excess of one million dollars (\$1,000,000) may be  
11 authorized by an ordinance adopted in accordance with  
12 Subsections A and B of this section and issued and sold to the  
13 New Mexico finance authority.

14 D. ~~[No]~~ An ordinance or resolution ~~[may]~~ shall not  
15 be adopted under the provisions of this section that uses as  
16 pledged revenues the municipal ~~[gross receipts]~~ sales tax  
17 authorized by Section 7-19D-9 NMSA 1978 for a purpose that  
18 would be inconsistent with the purpose for which that municipal  
19 ~~[gross receipts]~~ sales tax revenue was dedicated. Any revenue  
20 in excess of the amount necessary to meet all principal and  
21 interest payments and other requirements incident to repayment  
22 of the bonds shall be used for the purposes to which the  
23 revenue was dedicated."

24 SECTION 4. Section 3-31-9 NMSA 1978 (being Laws 1973,  
25 Chapter 399, Section 1, as amended) is amended to read:

.223540.1

1 "3-31-9. REFUNDING BONDS--ESCROW--DETAIL.--

2 A. Refunding bonds issued pursuant to Sections  
3 3-31-1 through 3-31-12 NMSA 1978 shall be authorized by  
4 ordinance or by resolution if the refunding bonds are to be  
5 issued and sold to the New Mexico finance authority pursuant to  
6 Subsection C of Section 3-31-4 NMSA 1978. Any bonds that are  
7 refunded under the provisions of this section shall be paid at  
8 maturity or on any permitted prior redemption date in the  
9 amounts, at the time and places and, if called prior to  
10 maturity, in accordance with any applicable notice provisions,  
11 all as provided in the proceedings authorizing the issuance of  
12 the refunded bonds or otherwise appertaining thereto, except  
13 for any such bond that is voluntarily surrendered for exchange  
14 or payment by the holder or owner.

15 B. Provision shall be made for paying the bonds  
16 refunded at the time or times provided in Subsection A of this  
17 section. The principal amount of the refunding bonds may  
18 exceed the principal amount of the refunded bonds and may also  
19 be less than or the same as the principal amount of the bonds  
20 being refunded so long as provision is duly and sufficiently  
21 made for the payment of the refunded bonds.

22 C. The proceeds of refunding bonds, including any  
23 accrued interest and premium appertaining to the sale of  
24 refunding bonds, shall either be immediately applied to the  
25 retirement of the bonds being refunded or be placed in escrow

.223540.1

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

1 in a commercial bank or trust company, which possesses and is  
2 exercising trust powers and which is a member of the federal  
3 deposit insurance corporation, to be applied to the payment of  
4 the principal of, interest on and any prior redemption premium  
5 due in connection with the bonds being refunded; provided that  
6 such refunding bond proceeds, including any accrued interest  
7 and any premium appertaining to a sale of refunding bonds, may  
8 be applied to the establishment and maintenance of a reserve  
9 fund and to the payment of expenses incidental to the refunding  
10 and the issuance of the refunding bonds, the interest thereon  
11 and the principal thereof or both interest and principal as the  
12 municipality may determine. Nothing in this section requires  
13 the establishment of an escrow if the refunded bonds become due  
14 and payable within one year from the date of the refunding  
15 bonds and if the amounts necessary to retire the refunded bonds  
16 within that time are deposited with the paying agent for the  
17 refunded bonds. Any such escrow shall not necessarily be  
18 limited to proceeds of refunding bonds but may include other  
19 money available for its purpose. Any proceeds in escrow  
20 pending such use may be invested or reinvested in bills,  
21 certificates of indebtedness, notes or bonds that are direct  
22 obligations of or the principal and interest of which  
23 obligations are unconditionally guaranteed by the United States  
24 of America or in certificates of deposit of banks that are  
25 members of the federal deposit insurance corporation, the par

.223540.1

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

1 value of which certificates of deposit is collateralized by a  
2 pledge of obligations of or the payment of which is  
3 unconditionally guaranteed by the United States of America, the  
4 par value of which obligations is at least seventy-five percent  
5 of the par value of the certificates of deposit. Such proceeds  
6 and investments in escrow together with any interest or other  
7 income to be derived from any such investment shall be in an  
8 amount at all times sufficient as to principal, interest, any  
9 prior redemption premium due and any charges of the escrow  
10 agent payable therefrom to pay the bonds being refunded as they  
11 become due at their respective maturities or due at any  
12 designated prior redemption date or dates in connection with  
13 which the municipality shall exercise a prior redemption  
14 option. Any purchaser of any refunding bond issued under  
15 Sections 3-31-1 through 3-31-12 NMSA 1978 is in no manner  
16 responsible for the application of the proceeds thereof by the  
17 municipality or any of its officers, agents or employees.

18 D. Refunding bonds may bear such additional terms  
19 and provisions as may be determined by the municipality subject  
20 to the limitations in this section and Section 3-31-10 NMSA  
21 1978 and, to the extent applicable, Sections 3-31-1 through  
22 3-31-12 NMSA 1978 relating to original bond issues, and the  
23 refunding bonds are not subject to the provisions of any other  
24 statute except as may be incorporated by reference in Sections  
25 3-31-1 through 3-31-12 NMSA 1978.

.223540.1

underscored material = new  
[bracketed material] = delete

1           E. The municipality shall receive from the  
2 department of finance and administration written approval of  
3 any [~~gross receipts~~] sales tax refunding revenue bonds,  
4 gasoline tax refunding revenue bonds or project refunding  
5 revenue bonds issued pursuant to the provisions of Sections  
6 3-31-8 through 3-31-12 NMSA 1978."

7           SECTION 5. Section 3-37A-2 NMSA 1978 (being Laws 1979,  
8 Chapter 284, Section 2, as amended) is amended to read:

9           "3-37A-2. DEFINITIONS.--As used in the Small Cities  
10 Assistance Act:

11           A. "municipality" means an incorporated city, town  
12 or village, whether incorporated under general act, special act  
13 or special charter, and incorporated counties and H-class  
14 counties;

15           B. "municipal share" means one and thirty-five one-  
16 hundredths percent of the taxable gross receipts as defined in  
17 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act  
18 reported annually for each municipality to the taxation and  
19 revenue department during a twelve-month period ending June 30;

20           C. "total municipal share" means the sum of all  
21 municipal shares;

22           D. "statewide per capita average" means the  
23 quotient of the total municipal share divided by the total  
24 population in all municipalities;

25           E. "municipal per capita average" means the

.223540.1

underscored material = new  
[bracketed material] = delete

1 quotient of the municipal share divided by the municipality's  
2 population;

3 F. "population" means the most recent official  
4 census or estimate determined by the United States census  
5 bureau [~~of the census~~], or, if neither is available,  
6 "population" means an estimate as determined by the local  
7 government division of the department of finance and  
8 administration;

9 G. "local tax effort" means the amount produced by  
10 a one-fourth of one percent municipal [~~gross receipts~~] sales  
11 tax in the previous fiscal year;

12 H. "qualifying municipality" means a municipality  
13 with a population of less than ten thousand that has enacted on  
14 or before the last day of the preceding fiscal year an  
15 ordinance or ordinances imposing a municipal [~~gross receipts~~]  
16 sales tax pursuant to Section 7-19D-9 NMSA 1978 at a rate of  
17 one-fourth of one percent or more;

18 I. "enacted" means adopted by a majority of the  
19 members of the governing body of the municipality pursuant to  
20 Section 7-19D-9 NMSA 1978 and:

21 (1) for which no election has been called in  
22 the manner and within the time provided by Section 7-19D-9 NMSA  
23 1978; or

24 (2) that has been approved by a majority of  
25 the registered voters voting on the question pursuant to

.223540.1

underscored material = new  
[bracketed material] = delete

1 Section 7-19D-9 NMSA 1978; and

2 J. "minimum amount" means an amount equal to ninety  
3 thousand dollars (\$90,000)."

4 SECTION 6. Section 3-38-14 NMSA 1978 (being Laws 1969,  
5 Chapter 199, Section 2, as amended) is amended to read:

6 "3-38-14. DEFINITIONS.--As used in the Lodgers' Tax Act:

7 A. "gross taxable rent" means the total amount of  
8 rent paid for lodging, not including the state [~~gross receipts~~]  
9 sales tax or local option sales taxes;

10 B. "lodging" means the transaction of furnishing  
11 rooms or other accommodations by a vendor to a vendee who for  
12 rent uses, possesses or has the right to use or possess the  
13 rooms or other units of accommodations in or at a taxable  
14 premises;

15 C. "lodgings" means the rooms or other  
16 accommodations furnished by a vendor to a vendee by a taxable  
17 service of lodging;

18 D. "occupancy tax" means the tax on lodging  
19 authorized by the Lodgers' Tax Act;

20 E. "person" means a corporation, firm, other body  
21 corporate, partnership, association or individual. "Person"  
22 includes an executor, administrator, trustee, receiver or other  
23 representative appointed according to law and acting in a  
24 representative capacity. "Person" does not include the United  
25 States of America, the state of New Mexico, any corporation,

.223540.1



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

1 department, instrumentality or agency of the federal government  
2 or the state government or any political subdivision of the  
3 state;

4 F. "rent" means the consideration received by a  
5 vendor in money, credits, property or other consideration  
6 valued in money for lodgings subject to an occupancy tax  
7 authorized in the Lodgers' Tax Act;

8 G. "taxable premises" means a hotel, motel or other  
9 premises used for lodging that is not the vendee's household or  
10 primary residence;

11 H. "temporary lodging" means lodgings for the  
12 purpose of housing a vendee within proximity of the vendee's  
13 employment or job location;

14 I. "tourist" means a person who travels for the  
15 purpose of business, pleasure or culture to a municipality or  
16 county imposing an occupancy tax;

17 J. "tourist-related events" means events that are  
18 planned for, promoted to and attended by tourists;

19 K. "tourist-related facilities and attractions"  
20 means facilities and attractions that are intended to be used  
21 by or visited by tourists;

22 L. "tourist-related transportation systems" means  
23 transportation systems that provide transportation for tourists  
24 to and from tourist-related facilities and attractions and  
25 tourist-related events;

.223540.1

underscored material = new  
[bracketed material] = delete

1 M. "vendee" means a natural person to whom lodgings  
2 are furnished in the exercise of the taxable service of  
3 lodging; and

4 N. "vendor" means a person or the person's agent  
5 furnishing lodgings in the exercise of the taxable service of  
6 lodging."

7 SECTION 7. Section 3-38A-2 NMSA 1978 (being Laws 2003,  
8 Chapter 417, Section 2) is amended to read:

9 "3-38A-2. DEFINITIONS.--As used in the Hospitality Fee  
10 Act:

11 A. "gross rent" means the total amount of rent paid  
12 for tourist accommodations, not including the state and local  
13 option [~~gross receipts~~] sales taxes paid on the rent receipts;

14 B. "municipality" means a municipality located in a  
15 class A county with a population greater than two hundred fifty  
16 thousand according to the most recent federal decennial census;

17 C. "person" means a corporation, firm, other body  
18 corporate, partnership, association or individual, including an  
19 executor, administrator, trustee, receiver or other  
20 representative appointed according to law and acting in a  
21 representative capacity. "Person" does not include the United  
22 States of America; the state of New Mexico; any corporation,  
23 department, instrumentality or agency of the federal government  
24 or the state government; or any political subdivision of the  
25 state;

.223540.1

underscored material = new  
[bracketed material] = delete

1 D. "proprietor" means a person who furnishes  
2 tourist accommodations to a renter;

3 E. "rent" means the consideration received by a  
4 proprietor in money, credits, property or other consideration  
5 valued in money from renters for tourist accommodations, other  
6 than:

7 (1) consideration received from a renter who  
8 has been a permanent resident of the tourist accommodation for  
9 a period of at least thirty consecutive days or a renter who  
10 enters into or has entered into a written agreement for rental  
11 of the tourist accommodation for a period of at least thirty  
12 consecutive days; or

13 (2) consideration received from a renter for a  
14 room or other unit of accommodation for which the renter has  
15 paid less than two dollars (\$2.00) per day;

16 F. "renter" means a person to whom tourist  
17 accommodations are furnished;

18 G. "room" means a room or other unit of  
19 accommodation furnished by a proprietor to a renter in a  
20 tourist accommodation; and

21 H. "tourist accommodation" means a hotel,  
22 apartment, apartment hotel, apartment house, lodge,  
23 [~~lodginghouse~~] lodging house, rooming house, motor hotel, guest  
24 house, guest ranch, ranch resort, guest resort, mobile home,  
25 motor court, auto court, auto camp, trailer court, trailer

.223540.1

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

1 camp, trailer park, tourist camp, cabin or other premises used  
2 for accommodation. "Tourist accommodation" does not include:

3 (1) accommodations at religious, charitable,  
4 educational or philanthropic institutions, including summer  
5 camps operated by such institutions;

6 (2) clinics, hospitals or other medical  
7 facilities;

8 (3) privately owned and operated convalescent  
9 homes or homes for the aged, infirm, indigent or chronically  
10 ill; or

11 (4) accommodations that do not have at least  
12 three rooms or other units of accommodation."

13 SECTION 8. Section 3-60A-13 NMSA 1978 (being Laws 1979,  
14 Chapter 391, Section 13, as amended) is amended to read:

15 "3-60A-13. PROPERTY EXEMPT FROM TAXES AND FROM LEVY AND  
16 SALE BY VIRTUE OF AN EXECUTION.--

17 A. All property of a local government, including  
18 funds, owned or held in fee simple by it for the purposes of  
19 the Metropolitan Redevelopment Code shall be exempt from levy  
20 and sale by virtue of an execution, and no execution or other  
21 judicial process shall issue against the property nor shall  
22 judgment against a local government be a charge or lien upon  
23 the property; provided, however, that the provisions of this  
24 section shall not apply to or limit the right of obligees to  
25 pursue any remedies for the enforcement of any pledge or lien

.223540.1

underscored material = new  
[bracketed material] = delete

1 given pursuant to the Redevelopment Law by a local government  
2 on its rents, fees, grants, land or revenues from projects.

3 B. The property of a local government acquired or  
4 held for the purposes of the Metropolitan Redevelopment Code is  
5 declared to be public property used for essential public and  
6 governmental purposes, and the property shall be exempt from  
7 property taxes or assessments of the local government, the  
8 county, the state or any political subdivision thereof;  
9 provided that the exemption shall terminate when the local  
10 government transfers its fee simple interest in the property to  
11 a purchaser that is not entitled to the exemption with respect  
12 to the property. Nothing in this subsection authorizes an  
13 exemption or deduction from the imposition of the [~~gross~~  
14 ~~receipts and compensating~~] sales and use taxes [~~under the Gross~~  
15 ~~Receipts and Compensating~~] pursuant to the Sales and Use Tax  
16 Act on the gross receipts from the sale of property to or the  
17 use of property by a local government or any other person in  
18 connection with a metropolitan redevelopment project created  
19 under the Metropolitan Redevelopment Code."

20 SECTION 9. Section 3-65-8 NMSA 1978 (being Laws 2001,  
21 Chapter 231, Section 8) is amended to read:

22 "3-65-8. AUTHORIZATION OF PROJECT.--

23 A. Pursuant to the provisions of Section 6-21-6  
24 NMSA 1978, the legislature authorizes the authority to make a  
25 loan from the public project revolving fund to a municipality  
.223540.1

underscoring material = new  
[bracketed material] = delete

1 to acquire land for and to design, purchase, construct,  
2 remodel, renovate, rehabilitate, improve, equip or furnish a  
3 minor league baseball stadium on terms and conditions  
4 established by the authority.

5 B. Prior to receiving the loan, the governing body  
6 shall approve the loan and related documents by an ordinance to  
7 be adopted by a majority of the members of the governing body.  
8 The ordinance shall pledge the stadium surcharge receipts to  
9 make the loan payments. In addition to pledging stadium  
10 surcharge receipts for making loan payments, the ordinance  
11 shall pledge legally available [~~gross receipts~~] sales tax  
12 revenues distributed or transferred to a municipality pursuant  
13 to Section 7-1-6.4 or 7-1-6.12 NMSA 1978 in an amount  
14 satisfactory to the authority and in an amount at least  
15 sufficient to make the loan payments. No action shall be  
16 brought questioning the legality of the pledge of receipts and  
17 revenues, the ordinance, the loan, the proceedings, the stadium  
18 surcharge or any other matter concerning the loan after thirty  
19 days from the date of publication of the ordinance approving  
20 the loan and related documents and pledging stadium surcharge  
21 receipts and [~~gross receipts~~] sales tax revenues of the  
22 municipality to make the loan payments.

23 C. The legislature or a municipality shall not  
24 repeal, amend or otherwise modify any law or ordinance that  
25 adversely affects or impairs the stadium surcharge or any loan

.223540.1

underscoring material = new  
[bracketed material] = delete

1 from the authority secured by a pledge of the stadium surcharge  
2 and [~~gross receipts~~] sales tax revenues, unless the loan has  
3 been paid in full or provisions have been made for full  
4 payment."

5 SECTION 10. Section 3-65-9 NMSA 1978 (being Laws 2001,  
6 Chapter 231, Section 9) is amended to read:

7 "3-65-9. CUMULATIVE AND COMPLETE AUTHORITY.--The Minor  
8 League Baseball Stadium Funding Act shall be deemed to provide  
9 an additional and alternative method for obtaining funding for  
10 a minor league baseball stadium, establishing the stadium  
11 surcharge and completing the acts authorized thereby and shall  
12 be regarded as supplemental and additional to powers conferred  
13 by other laws of the state, without reference to such other  
14 laws of the state, and shall constitute full authority for the  
15 exercise of powers granted herein, including but not limited to  
16 the pledging of stadium surcharge receipts and [~~gross receipts~~]  
17 sales tax revenues by the governing body to make loan payments  
18 to the authority."

19 SECTION 11. Section 3-66-8 NMSA 1978 (being Laws 2005,  
20 Chapter 351, Section 10) is amended to read:

21 "3-66-8. ISSUANCE OF BONDS.--

22 A. A municipality may issue revenue bonds, in  
23 accordance with the procedures set forth in Sections 3-31-3  
24 through 3-31-7 NMSA 1978, to acquire land for and to design,  
25 purchase, construct, remodel, renovate, rehabilitate, improve,

.223540.1

underscored material = new  
[bracketed material] = delete

1 equip or furnish a municipal event center.

2 B. Revenue bonds issued by a municipality may be  
3 secured by event center revenues, event center surcharge  
4 receipts or [~~gross receipts~~] sales tax revenues distributed or  
5 transferred to that municipality pursuant to Section 7-1-6.4 or  
6 7-1-6.12 NMSA 1978.

7 C. An action shall not be brought questioning the  
8 legality of the pledge of event center revenues, event center  
9 surcharge receipts or [~~gross receipts~~] sales tax revenues,  
10 bonds issued pursuant to the Municipal Event Center Funding  
11 Act, issuance of those bonds, an event center surcharge  
12 included in a vendor contract or any other matter concerning  
13 the bonds after thirty days from the date of publication of the  
14 ordinance authorizing issuance of the bonds and the pledging of  
15 event center receipts, event center surcharge receipts or  
16 [~~gross receipts~~] sales tax revenues of a municipality to make  
17 debt service payments.

18 D. The legislature or a municipality shall not  
19 repeal, amend or otherwise modify any law or ordinance that  
20 adversely affects or impairs the event center surcharge or any  
21 bonds secured by a pledge of the event center revenues, event  
22 center surcharge receipts or [~~gross receipts~~] sales tax  
23 revenues, unless the bonds have been paid in full or provisions  
24 have been made for full payment."

25 SECTION 12. Section 4-48B-12 NMSA 1978 (being Laws 1981,  
.223540.1



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

1 Chapter 83, Section 12, as amended) is amended to read:

2 "4-48B-12. TAX LEVIES AUTHORIZED.--

3 A. The county commissioners are authorized to  
4 impose a mill levy and collect annual assessments against the  
5 net taxable value of the property in a county to pay the cost  
6 of operating and maintaining county hospitals or to pay to  
7 contracting hospitals in accordance with a health care  
8 facilities contract and in class A counties to pay for the  
9 county's transfer to the county-supported medicaid fund  
10 pursuant to Section 27-10-4 NMSA 1978 as follows:

11 (1) in class A counties as defined in Section  
12 4-44-1 NMSA 1978, the mill levy shall not exceed a rate of six  
13 dollars fifty cents (\$6.50), or any lower maximum amount  
14 required by operation of the rate limitation provisions of  
15 Section 7-37-7.1 NMSA 1978 upon a mill levy imposed pursuant to  
16 this paragraph, on each one thousand dollars (\$1,000) of net  
17 taxable value of property allocated to the county; however, if  
18 the county uses any portion, not to exceed one dollar fifty  
19 cents (\$1.50), of the rate authorized by this paragraph to meet  
20 the requirement of Section 27-10-4 NMSA 1978, the provisions of  
21 Section 7-37-7.1 NMSA 1978 do not apply to the portion of the  
22 rate necessary to produce the revenues required, provided that  
23 the portion of the rate does not exceed one dollar fifty cents  
24 (\$1.50); and

25 (2) in other counties, the mill levy shall not

.223540.1

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

1 exceed four dollars twenty-five cents (\$4.25), or any lower  
2 maximum amount required by operation of the rate limitation  
3 provisions of Section 7-37-7.1 NMSA 1978 upon a mill levy  
4 imposed pursuant to this paragraph, on each one thousand  
5 dollars (\$1,000) of net taxable value of property allocated to  
6 the county.

7 B. The mill levies provided in Paragraphs (1) and  
8 (2) of Subsection A of this section shall be made at the  
9 direction of the county commissioners, but only to the extent  
10 that the county commissioners deem it necessary to operate and  
11 maintain county hospitals, to pay the amounts required in the  
12 performance of any health care facilities contracts made  
13 pursuant to the Hospital Funding Act and to provide for a class  
14 A county's transfer to the county-supported medicaid fund  
15 pursuant to Section 27-10-4 NMSA 1978.

16 C. In the event that the mill levy provided for in  
17 Paragraph (1) of Subsection A of this section is not authorized  
18 by the electorate or the resulting mill levy proceeds are not  
19 remitted to the entity operating the hospital within a  
20 reasonable time period, any lease for operation of the hospital  
21 between a county and a state educational institution named in  
22 Article 12, Section 11 of the constitution of New Mexico may,  
23 at the option of the state educational institution, be  
24 terminated immediately. Except as provided in Subsection D of  
25 this section, in the event that the mill levy provided for in

.223540.1

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

1 Paragraph (1) of Subsection A of this section is authorized, an  
2 amount not less than the amount that would be produced by a  
3 mill levy at the rate of four dollars (\$4.00), or any lower  
4 amount that would be required by operation of the rate  
5 limitation provisions of Section 7-37-7.1 NMSA 1978 upon this  
6 rate, on each one thousand dollars (\$1,000) of net taxable  
7 value of property allocated to the county shall be provided  
8 from the proceeds of the mill levy to the state educational  
9 institution operating the hospital for hospital purposes unless  
10 the institution determines that the amount is not necessary.

11 D. A class A county imposing the mill levy provided  
12 for in Paragraph (1) of Subsection A of this section may enter  
13 into a mutual agreement with a state educational institution  
14 named in Article 12, Section 11 of the constitution of New  
15 Mexico operating the hospital permitting the transfer to the  
16 county-supported medicaid fund by the county pursuant to  
17 Section 27-10-4 NMSA 1978 of not to exceed the amount that  
18 would be produced by a mill levy at a rate of one dollar fifty  
19 cents (\$1.50) applied to the net taxable value of property  
20 allocated to the county for the prior property tax year and  
21 also not to exceed the amount that would be produced by  
22 imposition of the county health care [~~gross receipts~~] sales  
23 tax.

24 E. The distribution of the mill levy authorized at  
25 the rates specified in Subsection A of this section shall be

.223540.1

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

1 made to county and contracting hospitals as authorized in the  
2 Hospital Funding Act."

3 SECTION 13. Section 4-61-2 NMSA 1978 (being Laws 1982,  
4 Chapter 44, Section 2, as amended) is amended to read:

5 "4-61-2. DEFINITIONS.--As used in the Small Counties  
6 Assistance Act:

7 A. "adjustment factor" means a fraction, the  
8 numerator of which is the net taxable value of the state for  
9 the property tax year prior to the year in which the amount of  
10 small counties assistance is being determined and the  
11 denominator of which is the net taxable value for property tax  
12 year 2002; the adjustment factor shall be calculated without  
13 reference to assessed value determined pursuant to the Oil and  
14 Gas Ad Valorem Production Tax Act, assessed value determined  
15 pursuant to the Oil and Gas Production Equipment Ad Valorem Tax  
16 Act or taxable value determined pursuant to the Copper  
17 Production Ad Valorem Tax Act;

18 B. "ceiling valuation" means:

19 (1) for the 2002 property tax year, one  
20 billion four hundred million dollars (\$1,400,000,000); and

21 (2) for each subsequent property tax year, an  
22 amount equal to the product obtained by multiplying one billion  
23 four hundred million dollars (\$1,400,000,000) by the adjustment  
24 factor for the year;

25 C. "demographer" means the bureau of business and

.223540.1

1 economic research at the university of New Mexico;

2 D. "inflation factor" means a fraction whose  
3 numerator is the annual implicit price deflator index for state  
4 and local government purchases of goods and services, as  
5 published in the United States department of commerce monthly  
6 publication entitled "Survey of Current Business" or any  
7 successor publication prepared by an agency of the United  
8 States and adopted by the department of finance and  
9 administration, for the calendar year one year prior to the  
10 year in which the distribution is to be made and whose  
11 denominator is the annual index for calendar year 2004;  
12 provided that, if the inflation factor is calculated to have a  
13 value less than one, it shall be deemed to have a value of one;

14 E. "population" means the official population shown  
15 by the most recent federal decennial census or, if there is a  
16 change in boundaries after the date of the census, "population"  
17 for each affected unit shall be the most current estimated  
18 population for that unit provided in writing by the  
19 demographer; provided that after five years from the first day  
20 of the calendar year of the most recent federal decennial  
21 census, that census shall not be used, and "population" for the  
22 period from that date until the date when the next following  
23 official final decennial census population data are available  
24 shall be the most current estimated population provided in  
25 writing by the demographer;

.223540.1

underscored material = new  
[bracketed material] = delete

1 F. "qualifying county" means a county that has:

2 (1) for the property tax year in which any  
3 distribution under the Small Counties Assistance Act is made to  
4 the county, imposed a property tax rate for general county  
5 purposes pursuant to Paragraph (1) of Subsection B of Section  
6 7-37-7 NMSA 1978 as limited by Section 7-37-7.1 NMSA 1978 of at  
7 least eight dollars eighty-five cents (\$8.85) per one thousand  
8 dollars (\$1,000) of net taxable value;

9 (2) by July 1 of the property tax year in  
10 which any distribution under the Small Counties Assistance Act  
11 is made to the county, received a written certification from  
12 the director of the property tax division of the taxation and  
13 revenue department that the county assessor of that county has  
14 implemented an acceptable program of maintaining current and  
15 correct property values for property taxation purposes as  
16 required by Section 7-36-16 NMSA 1978 or has submitted to the  
17 director an acceptable plan for the implementation of such a  
18 program;

19 (3) on July 1 of the year in which any  
20 distribution under the Small Counties Assistance Act is made to  
21 the county, a population of not more than forty-eight thousand;

22 (4) imposed county [~~gross receipts~~] sales tax  
23 increments authorized pursuant to Section 7-20E-9 NMSA 1978  
24 totaling at least three-eighths percent and has those  
25 increments in effect on July 1 of the year in which a

.223540.1

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

1 distribution is made; provided that this paragraph does not  
2 apply to a county if the county's valuation for property  
3 taxation purposes does not exceed the product of two hundred  
4 thirty million dollars (\$230,000,000) multiplied by the  
5 adjustment factor for the year; and

6 (5) a total valuation for the property tax  
7 year preceding the year in which a distribution pursuant to the  
8 Small Counties Assistance Act for that county is to be made  
9 that is no greater than the ceiling valuation for that property  
10 tax year;

11 G. "tax rate factor" means a fraction, the  
12 numerator of which is the average rate imposed in Section 7-9-7  
13 NMSA 1978 for the fiscal year one year prior to the fiscal year  
14 in which the distribution is to be made and the denominator of  
15 which is five percent; and

16 H. "total valuation" means the sum for a  
17 jurisdiction for a property tax year of the net taxable value  
18 determined pursuant to the Property Tax Code, the assessed  
19 value determined pursuant to the Oil and Gas Ad Valorem  
20 Production Tax Act, the assessed value determined pursuant to  
21 the Oil and Gas Production Equipment Ad Valorem Tax Act and the  
22 taxable value determined pursuant to the Copper Production Ad  
23 Valorem Tax Act."

24 SECTION 14. Section 4-61-3 NMSA 1978 (being Laws 1982,  
25 Chapter 44, Section 3, as amended) is amended to read:

.223540.1

1 "4-61-3. SMALL COUNTIES ASSISTANCE FUND--DISTRIBUTION.--

2 A. The "small counties assistance fund" is created  
3 within the state treasury.

4 B. On or before September 1, 2003 and on or before  
5 September 1 of each subsequent year, the demographer shall  
6 certify in writing to the department of finance and  
7 administration the population of the state and of each county  
8 as of June 30 of the year.

9 C. On or before September 15, 2003 and on or before  
10 September 15 of each subsequent year, the secretary of finance  
11 and administration shall certify to the state treasurer with  
12 respect to each qualifying county:

13 (1) its population as certified by the  
14 demographer;

15 (2) its total valuation for the preceding  
16 property tax year; and

17 (3) the distribution amount calculated for it.

18 D. The distribution amount for each qualifying  
19 county shall be determined for 2003 and each subsequent year in  
20 accordance with the following table; provided that the bracket  
21 amounts in the first two columns of the table shall be adjusted  
22 annually after 2003 by the adjustment factor. The bracket  
23 amounts in the last column shall be adjusted annually after  
24 2005 by the inflation factor and, in 2011 and subsequent years,  
25 shall be adjusted by the tax rate factor. The department of

.223540.1



underscored material = new  
[bracketed material] = delete

1 finance and administration may round the results of the  
2 adjustments made pursuant to this subsection to the nearest one  
3 thousand dollars (\$1,000).

4 If the county's total valuation for the preceding property  
5 tax year is:

6	at least:	but less	and the county	then the distribution
7		than:	population is:	amount is:
8	\$ 0	\$100,000,000	under 1,000	\$515,000
9	\$ 0	\$100,000,000	at least 1,000	
10			but under 4,000	\$370,000
11	\$ 0	\$100,000,000	at least 4,000	\$285,000
12	\$100,000,000	\$230,000,000	under 12,000	\$200,000
13	\$100,000,000	\$230,000,000	at least 12,000	\$145,000
14	\$230,000,000	\$1,400,000,000	under 48,000	\$85,000.

15 E. If the balance in the small counties assistance  
16 fund as of the preceding August 31 exceeds the sum of the  
17 distributions to be made to qualifying counties pursuant to  
18 the provisions of Subsection D of this section, the department  
19 of finance and administration shall increase the distribution  
20 amount for each county receiving a distribution amount  
21 pursuant to the provisions of Subsection D of this section by:

22 (1) fifty thousand dollars (\$50,000) if the  
23 county has imposed and has in effect on July 1 of the year in  
24 which the distribution is to be made a county [~~gross receipts~~]  
25 sales tax at a rate of at least one-eighth percent; provided

.223540.1

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

1 that the ordinance imposing the increment shall dedicate the  
2 revenue from the increment:

3 (a) for the purpose of operating,  
4 maintaining, constructing, purchasing, furnishing, equipping,  
5 rehabilitating, expanding or improving a judicial-correctional  
6 or a county correctional facility or the grounds of a  
7 judicial-correctional or county correctional facility,  
8 including acquiring and improving parking lots, landscaping or  
9 any combination of the foregoing;

10 (b) for the purpose of transporting or  
11 extraditing prisoners; or

12 (c) to payment of principal and  
13 interest on revenue bonds or refunding bonds issued pursuant  
14 to Section 4-62-1 NMSA 1978;

15 (2) twenty thousand dollars (\$20,000) if the  
16 county has imposed and has in effect on July 1 of the year in  
17 which the distribution is to be made a county [~~gross receipts~~]  
18 sales tax increment of one-sixteenth percent; or

19 (3) seventy thousand dollars (\$70,000) if  
20 the county has met the requirements of Paragraphs (1) and (2)  
21 of this subsection.

22 F. If the balance in the small counties assistance  
23 fund as of the preceding August 31 is less than the sum of the  
24 distributions determined pursuant to Subsection D of this  
25 section plus the distribution increases authorized pursuant to  
.223540.1

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

1 Subsection E of this section, the distribution increases  
2 pursuant to Subsection E of this section shall be  
3 proportionately reduced.

4 G. If the balance in the small counties assistance  
5 fund as of the preceding August 31 is less than the sum of the  
6 distributions to be made to qualifying counties, the  
7 department of finance and administration shall reduce each  
8 qualifying county's calculated distribution by a percentage  
9 computed by dividing the amount by which the fund is  
10 insufficient by the sum of all the calculated distributions  
11 and shall certify the reduced amounts as the qualifying  
12 counties' distributions.

13 H. Any interest accruing from the temporary  
14 investment of the small counties assistance fund shall be  
15 credited to the general fund.

16 I. On or before September 30, 2003 and on or  
17 before September 30 of each subsequent year, the state  
18 treasurer shall distribute to each county for whom a  
19 distribution has been certified for that year the amount  
20 certified for that county for that year. If the balance in  
21 the fund as of the preceding August 31 exceeds the sum of  
22 certified amounts distributed, the difference shall revert to  
23 the general fund.

24 J. If any date specified in Subsection B, C or I  
25 of this section falls on a Saturday, Sunday or legal holiday,

.223540.1

underscoring material = new  
[bracketed material] = delete

1 any action required to be performed as provided in those  
2 subsections is timely if performed on the next day that is not  
3 a Saturday, Sunday or legal holiday."

4 SECTION 15. Section 4-62-1 NMSA 1978 (being Laws 1992,  
5 Chapter 95, Section 1, as amended by Laws 2019, Chapter 210,  
6 Section 1 and by Laws 2019, Chapter 274, Section 4) is amended  
7 to read:

8 "4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF  
9 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

10 A. In addition to any other law authorizing a  
11 county to issue revenue bonds, a county may issue revenue  
12 bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the  
13 purposes specified in this section.

14 B. [~~Gross receipts~~] Sales tax revenue bonds may be  
15 issued for any county purpose. A county may pledge  
16 irrevocably any or all of the revenue received by the county  
17 pursuant to Section 7-1-6.13 NMSA 1978 for payment of  
18 principal and interest due in connection with, and other  
19 expenses related to, [~~gross receipts~~] sales tax revenue bonds  
20 or for any area of county government services. If the revenue  
21 is pledged for payment of principal and interest as authorized  
22 by this subsection, the pledge shall require the revenues  
23 received to be deposited into a special bond fund for payment  
24 of the principal, interest and expenses. At the end of each  
25 fiscal year, money remaining in the special bond fund after

.223540.1

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

1 the annual obligations for the bonds are fully met may be  
2 transferred to any other fund of the county. Revenues in  
3 excess of the annual principal and interest due on [~~gross~~  
4 ~~receipts~~] sales tax revenue bonds secured by a pledge of  
5 [~~gross receipts~~] sales tax revenue may be accumulated in a  
6 debt service reserve account. The governing body of the  
7 county may appoint a commercial bank trust department to act  
8 as trustee of the proceeds of the tax and to administer the  
9 payment of principal of and interest on the bonds.

10 C. Gasoline tax revenue bonds may be issued for  
11 the acquisition of rights of way for and the construction,  
12 reconstruction, resurfacing, maintenance, repair or other  
13 improvement of county roads and bridges. A county may pledge  
14 irrevocably any or all of the county gasoline tax revenue for  
15 payment of principal and interest due in connection with, and  
16 other expenses related to, county gasoline tax revenue bonds.

17 D. Utility revenue bonds or joint utility revenue  
18 bonds may be issued for acquiring, extending, enlarging,  
19 bettering, repairing or otherwise improving water facilities,  
20 sewer facilities, gas facilities or electric facilities. A  
21 county may pledge irrevocably any or all of the net revenues  
22 from the operation of the utility or joint utility for which  
23 the particular utility or joint utility bonds are issued to  
24 the payment of principal and interest due in connection with,  
25 and other expenses related to, utility or joint utility

.223540.1

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

1 revenue bonds.

2 E. Project revenue bonds may be issued for  
3 acquiring, extending, enlarging, bettering, repairing,  
4 improving, constructing, purchasing, furnishing, equipping or  
5 rehabilitating any revenue-producing project, including, as  
6 applicable, purchasing, otherwise acquiring or improving the  
7 ground for the project and acquiring and improving parking  
8 lots. The county may pledge irrevocably any or all of the net  
9 revenues from the operation of the revenue-producing project  
10 for which the particular project revenue bonds are issued to  
11 the payment of the interest on and principal of the project  
12 revenue bonds. The net revenues of any revenue-producing  
13 project shall not be pledged to the project revenue bonds  
14 issued for any other revenue-producing project that is clearly  
15 unrelated in nature; but nothing in this subsection prevents  
16 the pledge to any of the project revenue bonds of the revenues  
17 received from existing, future or disconnected facilities and  
18 equipment that are related to and that may constitute a part  
19 of the particular revenue-producing project. A general  
20 determination by the governing body that facilities or  
21 equipment is reasonably related to and constitutes a part of a  
22 specified revenue-producing project shall be conclusive if set  
23 forth in the proceedings authorizing the project revenue  
24 bonds.

25 F. Fire district revenue bonds may be issued for

.223540.1

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

1 acquiring, extending, enlarging, bettering, repairing,  
2 improving, constructing, purchasing, furnishing, equipping and  
3 rehabilitating a fire district project, including, as  
4 applicable, purchasing, otherwise acquiring or improving the  
5 ground for the project. The county may pledge irrevocably any  
6 or all of the revenues received by the fire district from the  
7 fire protection fund as provided in the Fire Protection Fund  
8 Law and any or all of the revenues provided for the operation  
9 of the fire district project for which the particular bonds  
10 are issued to the payment of the interest on and principal of  
11 the bonds. The revenues of a fire district project shall not  
12 be pledged to the bonds issued for a fire district project  
13 that clearly is unrelated in its purpose; but nothing in this  
14 section prevents the pledge to such bonds of revenues received  
15 from existing, future or disconnected facilities and equipment  
16 that are related to and that may constitute a part of the  
17 particular fire district project. A general determination by  
18 the governing body of the county that facilities or equipment  
19 is reasonably related to and constitutes a part of a specified  
20 fire district project shall be conclusive if set forth in the  
21 proceedings authorizing the fire district revenue bonds.

22 G. Law enforcement protection revenue bonds may be  
23 issued for the repair and purchase of law enforcement  
24 apparatus and equipment that meet nationally recognized  
25 standards. The county may pledge irrevocably any or all of

.223540.1

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

1 the revenues received by the county from the law enforcement  
2 protection fund distributions pursuant to the Law Enforcement  
3 Protection Fund Act to the payment of the interest on and  
4 principal of the law enforcement protection revenue bonds.

5 H. PILT revenue bonds may be issued by a county to  
6 repay all or part of the principal and interest of an  
7 outstanding loan owed by the county to the New Mexico finance  
8 authority. A county may pledge irrevocably all or part of  
9 PILT revenue to the payment of principal of and interest on  
10 new loans or preexisting loans provided by the New Mexico  
11 finance authority to finance a public project.

12 I. Except for the purpose of refunding previous  
13 revenue bond issues, no county may sell revenue bonds payable  
14 from pledged revenue after the expiration of two years from  
15 the date of the ordinance authorizing the issuance of the  
16 bonds or, for bonds to be issued and sold to the New Mexico  
17 finance authority as authorized in Subsection C of Section  
18 4-62-4 NMSA 1978, after the expiration of two years from the  
19 date of the resolution authorizing the issuance of the bonds.  
20 However, any period of time during which a particular revenue  
21 bond issue is in litigation shall not be counted in  
22 determining the expiration date of that issue.

23 J. No bonds may be issued by a county, other than  
24 an H class county, a class B county as defined in Section  
25 4-36-8 NMSA 1978 or a class A county as described in Section  
.223540.1



underscored material = new  
[bracketed material] = delete

1 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,  
2 repair or construct a utility unless the utility is regulated  
3 by the public regulation commission pursuant to the Public  
4 Utility Act and the issuance of the bonds is approved by the  
5 commission.

6 K. Any law that imposes or authorizes the  
7 imposition of a tax authorized by the County Local Option  
8 [~~Gross Receipts~~] Sales and Use Taxes Act or that affects that  
9 tax shall not be repealed or amended in such a manner as to  
10 impair outstanding revenue bonds that are issued pursuant to  
11 Chapter 4, Article 62 NMSA 1978 and that may be secured by a  
12 pledge of the tax unless the outstanding revenue bonds have  
13 been discharged in full or for which provision has been fully  
14 made."

15 SECTION 16. Section 4-62-1.1 NMSA 1978 (being Laws  
16 2019, Chapter 274, Section 5) is amended to read:

17 "4-62-1.1. DEFINITIONS.--As used in Chapter 4, Article  
18 62 NMSA 1978:

19 A. "bond" means any obligation of a county issued  
20 under Chapter 4, Article 62 NMSA 1978, whether designated as a  
21 bond, note, loan, warrant, debenture, lease-purchase agreement  
22 or other instrument evidencing an obligation of a county to  
23 make payments;

24 B. "gasoline tax revenue" means the revenue from  
25 that portion of the gasoline tax distributed to the county

.223540.1

underscoring material = new  
[bracketed material] = delete

1 pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;

2 C. "gasoline tax revenue bonds" means the bonds  
3 authorized by Subsection C of Section 4-62-1 NMSA 1978;

4 ~~[D. "gross receipts tax revenue" means the revenue~~  
5 ~~attributable to the county gross receipts tax transferred to~~  
6 ~~the county pursuant to Section 7-1-6.13 NMSA 1978 and any~~  
7 ~~distribution made pursuant to Section 7-1-6.16 NMSA 1978;~~

8 ~~E. "gross receipts tax revenue bonds" means the~~  
9 ~~bonds authorized by Subsection B of Section 4-62-1 NMSA 1978;~~

10 ~~F.]~~ D. "PILT revenue" means revenue received by a  
11 county from the federal government as payments in lieu of  
12 taxes;

13 ~~[G.]~~ E. "pledged revenue" means the revenue, net  
14 income or net revenue authorized to be pledged to the payment  
15 of particular revenue bonds as specifically provided in  
16 Section 4-62-1 NMSA 1978;

17 ~~[H.]~~ F. "project revenues" means the net revenues  
18 of revenue-producing projects that may be pledged to project  
19 revenue bonds pursuant to Subsection E of Section 4-62-1 NMSA  
20 1978;

21 ~~[I.]~~ G. "public project" means "public project" as  
22 defined in Subsection E of Section 6-21-3 NMSA 1978;

23 H. "sales tax revenue" means the revenue  
24 attributable to the county sales tax transferred to the county  
25 pursuant to Section 7-1-6.13 NMSA 1978 and any distribution

.223540.1

underscoring material = new  
[bracketed material] = delete

1 made pursuant to Section 7-1-6.16 NMSA 1978;

2 I. "sales tax revenue bonds" means the bonds  
3 authorized by Subsection B of Section 4-62-1 NMSA 1978;

4 J. "utility" means a water, wastewater, sewer, gas  
5 or electric utility or joint utility servicing the public; and

6 K. "utility revenue bonds" or "joint utility  
7 revenue bonds" means the bonds authorized by Subsection D of  
8 Section 4-62-1 NMSA 1978."

9 SECTION 17. Section 4-62-4 NMSA 1978 (being Laws 1992,  
10 Chapter 95, Section 4, as amended) is amended to read:

11 "4-62-4. ORDINANCE AUTHORIZING REVENUE BONDS--  
12 [~~TWO-THIRDS~~] TWO-THIRDS' MAJORITY REQUIRED--RESOLUTION  
13 AUTHORIZING REVENUE BONDS TO BE ISSUED AND SOLD TO THE NEW  
14 MEXICO FINANCE AUTHORITY.--

15 A. At a regular or special meeting called for the  
16 purpose of issuing revenue bonds as authorized in Section  
17 4-62-1 NMSA 1978, the governing body may adopt an ordinance  
18 that:

- 19 (1) declares the necessity for issuing  
20 revenue bonds;
- 21 (2) authorizes the issuance of revenue bonds  
22 by an affirmative vote of two-thirds of all the members of the  
23 governing body; and
- 24 (3) designates the source of the pledged  
25 revenues.

.223540.1

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

1           B. If a majority of a five-member governing body,  
2 but fewer than four members, votes in favor of adopting the  
3 ordinance authorizing the issuance of revenue bonds, the  
4 ordinance is adopted but shall not become effective until the  
5 question of issuing the revenue bonds is submitted to a vote  
6 of the qualified electors for their approval at a special or  
7 regular county election. If an election is necessary, the  
8 election shall be conducted in the manner provided in Section  
9 4-49-8 NMSA 1978. Notice of the election shall be given as  
10 provided in Section 4-49-8 NMSA 1978.

11           C. In addition and as alternative to adopting an  
12 ordinance as required by the provisions of Subsections A and B  
13 of this section, at a regular or special meeting called for  
14 the purpose of issuing revenue bonds as authorized in Section  
15 4-62-1 NMSA 1978, the governing body may authorize the  
16 issuance and sale, from time to time, of revenue bonds in  
17 amounts not to exceed one million dollars (\$1,000,000) at any  
18 one time to the New Mexico finance authority by adoption of a  
19 resolution that:

20                   (1) declares the necessity for issuing and  
21 selling revenue bonds to the New Mexico finance authority;

22                   (2) authorizes the issuance and sale of  
23 revenue bonds to the New Mexico finance authority by an  
24 affirmative vote of a majority of all the members of the  
25 governing body; and

.223540.1

underscored material = new  
[bracketed material] = delete

1 (3) designates the source of the pledged  
2 revenues.

3 D. At the option of the governing body, revenue  
4 bonds in an amount in excess of one million dollars  
5 (\$1,000,000) may be authorized by an ordinance adopted in  
6 accordance with Subsections A and B of this section and issued  
7 and sold to the New Mexico finance authority.

8 [~~D.~~] E. No ordinance or resolution may be adopted  
9 under the provisions of this section that uses as pledged  
10 revenues the county [~~gross receipts~~] sales tax for a purpose  
11 that would be inconsistent with the purpose for which that  
12 county [~~gross receipts~~] sales tax revenue was dedicated. Any  
13 revenue in excess of the amount necessary to meet all annual  
14 principal and interest payments and other requirements  
15 incident to repayment of the bonds may be transferred to any  
16 other fund of the county."

17 **SECTION 18.** Section 4-62-8 NMSA 1978 (being Laws 1992,  
18 Chapter 95, Section 8, as amended) is amended to read:

19 "4-62-8. REFUNDING BONDS--ESCROW--DETAIL.--

20 A. Refunding bonds issued pursuant to Chapter 4,  
21 Article 62 NMSA 1978 shall be authorized by ordinance or by  
22 resolution if the refunding bonds are to be issued and sold to  
23 the New Mexico finance authority pursuant to Subsection C of  
24 Section 4-62-4 NMSA 1978. Any bonds that are refunded under  
25 the provisions of this section shall be paid at maturity or on

.223540.1

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

1 any permitted prior redemption date in the amounts, at the  
2 time and places and, if called prior to maturity, in  
3 accordance with any applicable notice provisions, all as  
4 provided in the proceedings authorizing the issuance of the  
5 refunded bonds or otherwise appertaining thereto, except for  
6 any bond that is voluntarily surrendered for exchange or  
7 payment by the holder or owner.

8 B. Provisions shall be made for paying the bonds  
9 refunded at the time provided in Subsection A of this section.  
10 The principal amount of the refunding bonds may exceed the  
11 principal amount of the refunded bonds and may also be less  
12 than or the same as the principal amount of the bonds being  
13 refunded so long as provision is duly and sufficiently made  
14 for the payment of the refunded bonds.

15 C. The proceeds of refunding bonds, including any  
16 accrued interest and premium appertaining to the sale of  
17 refunding bonds, shall either be immediately applied to the  
18 retirement of the bonds being refunded or be placed in escrow  
19 in a commercial bank or trust company that possesses and is  
20 exercising trust powers and that is a member of the federal  
21 deposit insurance corporation to be applied to the payment of  
22 the principal of, interest on and any prior redemption premium  
23 due in connection with the bonds being refunded; provided that  
24 such refunding bond proceeds, including any accrued interest  
25 and any premium appertaining to a sale of refunding bonds, may

.223540.1

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

1 be applied to the establishment and maintenance of a reserve  
2 fund and to the payment of expenses incidental to the  
3 refunding and the issuance of the refunding bonds, the  
4 interest thereon and the principal thereof or both interest  
5 and principal as the county may determine. Nothing in this  
6 section requires the establishment of an escrow if the  
7 refunded bonds become due and payable within one year from the  
8 date of the refunding bonds and if the amounts necessary to  
9 retire the refunded bonds within that time are deposited with  
10 the paying agent for the refunded bonds. Any escrow shall not  
11 be limited to proceeds of refunding bonds but may include the  
12 other money available for its purpose. Any proceeds in escrow  
13 pending such use may be invested or reinvested in bills,  
14 certificates of indebtedness, notes or bonds that are direct  
15 obligations of, or the principal and interest of which  
16 obligations are unconditionally guaranteed by, the United  
17 States or in certificates of deposit of banks that are members  
18 of the federal deposit insurance corporation, the par value of  
19 which certificates of deposit is collateralized by a pledge of  
20 obligations of, or the payment of which is unconditionally  
21 guaranteed by, the United States, the par value of which  
22 obligations is at least seventy-five percent of the par value  
23 of the certificates of deposit. Such proceeds and investments  
24 in escrow together with any interest or other income to be  
25 derived from any such investment shall be in an amount at all

.223540.1

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

1 times sufficient as to principal, interest, any prior  
2 redemption premium due and any charges of the escrow agent  
3 payable therefrom to pay the bonds being refunded as they  
4 become due at their respective maturities or due at any  
5 designated prior redemption date in connection with which the  
6 county shall exercise a prior redemption option. Any  
7 purchaser of any refunding bond issued under Chapter 4,  
8 Article 62 NMSA 1978 is in no manner responsible for the  
9 application of the proceeds thereof by the county or of its  
10 officers, agents or employees.

11 D. Refunding bonds may bear such additional terms  
12 and provisions as may be determined by the county subject to  
13 the limitations in this section and Section 4-62-9 NMSA 1978  
14 and, to the extent applicable, Sections 4-62-1 through 4-62-6  
15 NMSA 1978 relating to original bond issues, and the refunding  
16 bonds are not subject to the provisions of any other statute  
17 except as may be incorporated by reference in Chapter 4,  
18 Article 62 NMSA 1978.

19 E. The county shall receive from the department of  
20 finance and administration written approval of any non-utility  
21 [~~gross receipts~~] sales tax refunding revenue bonds, gasoline  
22 tax refunding revenue bonds, fire protection refunding revenue  
23 bonds, environmental refunding revenue bonds or non-utility  
24 project refunding revenue bonds issued pursuant to the  
25 provisions of Sections 4-62-7 through 4-62-10 NMSA 1978."

.223540.1



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

1           SECTION 19. Section 5-10-3 NMSA 1978 (being Laws 1993,  
2 Chapter 297, Section 3, as amended by Laws 2021, Chapter 3,  
3 Section 1 and by Laws 2021, Chapter 135, Section 1) is amended  
4 to read:

5           "5-10-3. DEFINITIONS.--As used in the Local Economic  
6 Development Act:

7           A. "arts and cultural district" means a developed  
8 district of public and private uses that is created pursuant  
9 to the Arts and Cultural District Act;

10          B. "broadband telecommunications network  
11 facilities" means the electronics, equipment, transmission  
12 facilities, fiber-optic cables and any other item directly  
13 related to a system capable of transmission of internet  
14 protocol or other formatted data at current federal  
15 communications commission baseline speed standard, all of  
16 which will be owned and used by a provider of internet access  
17 services;

18          C. "cultural facility" means a facility that is  
19 owned by the state, a county, a municipality or a qualifying  
20 entity that serves the public through preserving, educating  
21 and promoting the arts and culture of a particular locale,  
22 including theaters, museums, libraries, galleries, cultural  
23 compounds, educational organizations, performing arts venues  
24 and organizations, fine arts organizations, studios and media  
25 laboratories and live-work housing facilities;

.223540.1

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

1           D. "department" means the economic development  
2 department;

3           E. "economic development project" or "project"  
4 means the project of a qualifying entity for which public  
5 support may be provided pursuant to the Local Economic  
6 Development Act;

7           F. "governing body" means the city council, city  
8 commission or board of trustees of a municipality or the board  
9 of county commissioners of a county;

10          G. "local government" means a municipality or  
11 county;

12          H. "municipality" means an incorporated city, town  
13 or village;

14          I. "new full-time economic base job" means a job:  
15           (1) that is primarily performed in New  
16 Mexico;

17           (2) that is held by an employee who is hired  
18 to work an average of at least thirty-two hours per week for  
19 at least forty-eight weeks per year;

20           (3) that is:  
21           (a) involved, directly or in a  
22 supervisory capacity, with the production of: 1) a service;  
23 provided that the majority of the revenue generated from the  
24 service is from sources outside the state; or 2) tangible or  
25 intangible personal property for sale; or

.223540.1

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

1 (b) held by an employee who is employed  
2 at a regional, national or international headquarters  
3 operation or at an operation that primarily provides services  
4 for other operations of the qualifying entity that are located  
5 outside the state; and

6 (4) that is not directly involved with  
7 natural resources extraction or processing, on-site services  
8 where the customer is present for the delivery of the service,  
9 retail, construction or agriculture except for value-added  
10 processing performed on agricultural products that would then  
11 be sold for wholesale or retail consumption;

12 J. "person" means an individual, corporation,  
13 association, partnership or other legal entity;

14 K. "public support" means the provision of  
15 assistance by the state to a local or regional government or  
16 the provision of direct or indirect assistance to a qualifying  
17 entity by a local or regional government for an economic  
18 development project. "Public support":

19 (1) includes the provision of:

20 (a) land, buildings or other  
21 infrastructure, by purchase, lease, grant, construction,  
22 reconstruction, improvement or other acquisition or  
23 conveyance;

24 (b) the placement of new broadband  
25 telecommunications network facilities; provided that the

.223540.1

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

1 facilities shall not serve a public facility or location that  
2 already meets federal communications commission baseline speed  
3 standards;

4 (c) rights-of-way infrastructure,  
5 including trenching and conduit, for the placement of new  
6 broadband telecommunications network facilities;

7 (d) public works improvements essential  
8 to the location or expansion of a qualifying entity;

9 (e) payments for professional services  
10 contracts necessary for local or regional governments to  
11 implement a plan or provide public support for a project;

12 (f) direct loans or grants for land,  
13 buildings or infrastructure;

14 (g) technical assistance to cultural  
15 facilities;

16 (h) loan guarantees securing the cost  
17 of land, buildings or infrastructure in an amount not to  
18 exceed the revenue that may be derived from an increment of  
19 the: 1) municipal [~~gross receipts~~] sales tax imposed at a  
20 rate not to exceed one-fourth percent and dedicated by the  
21 ordinance imposing the increment for projects; or 2) county  
22 [~~gross receipts~~] sales tax imposed at a rate not to exceed  
23 one-eighth percent and dedicated by the ordinance imposing the  
24 increment for projects;

25 (i) grants for public works

.223540.1

1 infrastructure improvements essential to the location or  
2 expansion of a qualifying entity and grants or subsidies to  
3 cultural facilities;

4 (j) land for a publicly held industrial  
5 park or a publicly owned cultural facility, by purchase; and

6 (k) the construction of a building for  
7 use by a qualifying entity; but

8 (2) does not include the purchase, lease,  
9 grant or other acquisition or conveyance of water rights;

10 L. "qualifying entity" means a corporation,  
11 limited liability company, partnership, joint venture,  
12 syndicate, association or other person that is one or a  
13 combination of two or more of the following:

14 (1) an industry for the manufacturing,  
15 processing or assembling of agricultural or manufactured  
16 products;

17 (2) a commercial enterprise for storing,  
18 warehousing, distributing or selling products of agriculture,  
19 mining or industry, but, other than as provided in Paragraph  
20 (5), (6) or (9) of this subsection, not including any  
21 enterprise for sale of goods or commodities at retail or for  
22 distribution to the public of electricity, gas, water or  
23 telephone or other services commonly classified as public  
24 utilities;

25 (3) a business, including a restaurant or

1 lodging establishment, in which all or part of the activities  
2 of the business involves the supplying of services to the  
3 general public or to governmental agencies or to a specific  
4 industry or customer, but, other than as provided in Paragraph  
5 (5) or (9) of this subsection, not including businesses  
6 primarily engaged in the sale of goods or commodities at  
7 retail;

8 (4) an Indian nation, tribe or pueblo or a  
9 federally chartered tribal corporation;

10 (5) a telecommunications sales enterprise  
11 that makes the majority of its sales to persons outside New  
12 Mexico;

13 (6) a facility for the direct sales by  
14 growers of agricultural products, commonly known as farmers'  
15 markets;

16 (7) a business that is the developer of a  
17 metropolitan redevelopment project;

18 (8) a cultural facility; and

19 (9) a retail business;

20 M. "regional government" means any combination of  
21 municipalities and counties that enter into a joint powers  
22 agreement to provide public support for economic development  
23 projects pursuant to a plan adopted by all parties to the  
24 joint powers agreement; and

25 N. "retail business" means a business that is

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

1 primarily engaged in the sale of goods or commodities at  
2 retail and that is located:

- 3 (1) in a municipality with a population,  
4 according to the most recent federal decennial census, of:  
5 (a) fifteen thousand or less; or  
6 (b) more than fifteen thousand if the  
7 economic development project is not funded or financed with  
8 state government revenues; or

9 (2) in an unincorporated area of a county."

10 SECTION 20. Section 5-10-4 NMSA 1978 (being Laws 1993,  
11 Chapter 297, Section 4, as amended) is amended to read:

12 "5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON  
13 PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

14 A. No local or regional government shall provide  
15 public support for economic development projects as permitted  
16 pursuant to Article 9, Section 14 of the constitution of New  
17 Mexico except as provided in the Local Economic Development  
18 Act or as otherwise permitted by law.

19 B. The total amount of public money expended and  
20 the value of credit pledged in the fiscal year in which that  
21 money is expended by a local government for economic  
22 development projects pursuant to Article 9, Section 14 of the  
23 constitution of New Mexico and the Local Economic Development  
24 Act shall not exceed ten percent of the annual general fund  
25 expenditures of the local government in that fiscal year. The

.223540.1

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

1 limits of this subsection shall not apply to:

2 (1) the value of any land or building  
3 contributed to any project pursuant to a project participation  
4 agreement;

5 (2) revenue generated through the imposition  
6 of an increment of the municipal [~~gross receipts~~] sales tax at  
7 a rate not to exceed one-fourth percent and dedicated to  
8 furthering or implementing economic development plans and  
9 projects as defined in the Local Economic Development Act or  
10 projects as defined in the Statewide Economic Development  
11 Finance Act; provided that no more than the greater of fifty  
12 thousand dollars (\$50,000) or ten percent of the revenue  
13 collected shall be used for promotion and administration of or  
14 professional services contracts related to the implementation  
15 of any such economic development plan adopted by the governing  
16 body;

17 (3) revenue generated through the imposition  
18 of an increment of the county [~~gross receipts~~] sales tax at a  
19 rate not to exceed one-eighth percent and dedicated to  
20 furthering or implementing economic development plans and  
21 projects as defined in the Local Economic Development Act or  
22 projects as defined in the Statewide Economic Development  
23 Finance Act; provided that no more than the greater of fifty  
24 thousand dollars (\$50,000) or ten percent of the revenue  
25 collected shall be used for promotion and administration of or

.223540.1



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

1 professional services contracts related to the implementation  
2 of any such economic development plan adopted by the governing  
3 body;

4 (4) the proceeds of a revenue bond issue to  
5 which municipal infrastructure gross receipts tax revenue is  
6 pledged;

7 (5) the proceeds of a revenue bond issue to  
8 which the revenue from an increment of the county [~~gross~~  
9 ~~receipts~~] sales tax, imposed at a rate not to exceed one-  
10 eighth percent and dedicated by the ordinance imposing the  
11 increment to provide public support for projects, is pledged;  
12 or

13 (6) funds donated by private entities to be  
14 used for defraying the cost of a project.

15 C. A regional or local government that generates  
16 revenue for economic development projects to which the limits  
17 of Subsection B of this section do not apply shall create an  
18 economic development fund into which such revenues shall be  
19 deposited. The economic development fund and income from the  
20 economic development fund shall be deposited as provided by  
21 law. Money in the economic development fund may be expended  
22 only as provided in the Local Economic Development Act or the  
23 Statewide Economic Development Finance Act.

24 D. In order to expend money from an economic  
25 development fund for arts and cultural district purposes,

.223540.1

underscoring material = new  
[bracketed material] = delete

1 cultural facilities or retail businesses, the governing body  
2 of a municipality or county ~~[that has]~~ shall have adopted a  
3 resolution pursuant to an election pursuant to this section as  
4 it was in effect prior to July 1, 2013 that approved arts and  
5 cultural districts as a qualifying purpose and cultural  
6 facilities or retail businesses as a qualifying entity and  
7 imposed a municipal or county local option infrastructure  
8 gross receipts tax for furthering or implementing economic  
9 development plans and providing public support for projects as  
10 defined in the Local Economic Development Act or projects as  
11 defined in the Statewide Economic Development Finance Act ~~[by~~  
12 ~~referendum of the majority of the voters voting on the~~  
13 ~~question approving the ordinance imposing the municipal or~~  
14 ~~county infrastructure gross receipts tax before July 1, 2013~~  
15 ~~shall be required to adopt a resolution. The resolution shall~~  
16 ~~call for an election to approve arts and cultural districts as~~  
17 ~~a qualifying purpose and cultural facilities or retail~~  
18 ~~businesses as a qualifying entity before any revenue generated~~  
19 ~~by the municipal or county local option gross receipts tax for~~  
20 ~~furthering or implementing economic development plans and~~  
21 ~~providing public support for projects as defined in the Local~~  
22 ~~Economic Development Act or projects as defined in the~~  
23 ~~Statewide Economic Development Finance Act can be expended~~  
24 ~~from the economic development fund for arts and cultural~~  
25 ~~district purposes, cultural facilities or retail businesses.~~

.223540.1

underscored material = new  
[bracketed material] = delete

1           ~~E. The governing body shall adopt a resolution~~  
2           ~~calling for an election within seventy five days of the date~~  
3           ~~the ordinance is adopted on the question of approving arts and~~  
4           ~~cultural districts as a qualifying purpose and cultural~~  
5           ~~facilities or retail businesses as a qualifying entity~~  
6           ~~eligible to utilize revenue generated by the Municipal Local~~  
7           ~~Option Gross Receipts and Compensating Taxes Act or the County~~  
8           ~~Local Option Gross Receipts and Compensating Taxes Act for~~  
9           ~~furthering or implementing economic development plans and~~  
10           ~~providing public support for projects as defined in the Local~~  
11           ~~Economic Development Act or projects as defined in the~~  
12           ~~Statewide Economic Development Finance Act.~~

13           ~~F. The question shall be submitted to the voters~~  
14           ~~of the municipality or county as a separate question at a~~  
15           ~~regular local or county election or at a special election~~  
16           ~~called for that purpose by the governing body. A special~~  
17           ~~local election shall be called, conducted and canvassed as~~  
18           ~~provided in the Local Election Act. A special county election~~  
19           ~~shall be called, conducted and canvassed in substantially the~~  
20           ~~same manner as provided by law for general elections.~~

21           ~~G. If a majority of the voters voting on the~~  
22           ~~question approves the ordinance adding arts and cultural~~  
23           ~~districts and cultural facilities or retail businesses as an~~  
24           ~~approved use of the local option municipal or county economic~~  
25           ~~development infrastructure gross receipts tax fund, the~~

.223540.1

underscored material = new  
[bracketed material] = delete

1 ~~ordinance shall become effective on July 1 or January 1,~~  
2 ~~whichever date occurs first after the expiration of three~~  
3 ~~months from the date of the adopted ordinance. The ordinance~~  
4 ~~shall include the effective date]."~~

5 SECTION 21. Section 5-10-14 NMSA 1978 (being Laws 2020,  
6 Chapter 74, Section 1, as amended) is amended to read:

7 "5-10-14. LOCAL ECONOMIC DEVELOPMENT ACT FUND.--

8 A. The "Local Economic Development Act fund" is  
9 created in the state treasury. Income from the fund shall be  
10 credited to the fund. Money in the fund shall not revert or  
11 be transferred to any other fund at the end of a fiscal year.  
12 The department shall administer the fund, and money in the  
13 fund is appropriated to the department to pay the cost of  
14 administering the fund and for economic development projects  
15 pursuant to the Local Economic Development Act. Money in the  
16 fund shall be expended on warrants of the department of  
17 finance and administration pursuant to vouchers signed by the  
18 secretary of economic development.

19 B. The following may be used to provide public  
20 support for certain economic development projects of  
21 qualifying entities pursuant to Section ~~[2 of this 2021 act]~~  
22 5-10-17 NMSA 1978 and shall be separately accounted for in the  
23 fund:

24 (1) fifty percent of the tax revenue  
25 attributable to the state ~~[gross receipts]~~ sales tax and the  
.223540.1

underscored material = new  
[bracketed material] = delete

1 state [~~compensating~~] use tax, as determined pursuant to  
2 Subsection A of Section [~~2 of this 2021 act~~] 5-10-17 NMSA  
3 1978, and distributed pursuant to Subsection A of Section [~~5~~  
4 ~~of this 2021 act~~] 7-1-6.67 NMSA 1978; and

5 (2) that portion of the tax revenue  
6 attributable to the local option [~~gross receipts~~] sales tax  
7 and county [~~compensating~~] use tax imposed by a county and  
8 local option [~~gross receipts~~] sales tax and municipal  
9 [~~compensating~~] use tax imposed by a municipality dedicated  
10 pursuant to Subsection B of Section [~~2 of this 2021 act~~]  
11 5-10-17 NMSA 1978 and distributed pursuant to Subsection B of  
12 Section [~~5 of this 2021 act~~] 7-1-6.67 NMSA 1978."

13 SECTION 22. Section 5-10-16 NMSA 1978 (being Laws 2021,  
14 Chapter 3, Section 10) is amended to read:

15 "5-10-16. GRANTS TO REIMBURSE RENT, LEASE OR MORTGAGE  
16 PAYMENTS FOR CERTAIN BUSINESSES.--

17 A. Prior to January 1, 2023, the department may  
18 transfer to the authority funds appropriated by the  
19 legislature to the department for the purpose of providing  
20 recovery grants to recovery entities pursuant to this section.

21 B. The department and the authority shall enter  
22 into a memorandum of understanding to develop a program for  
23 the authority to accept a transfer of funds from the  
24 department pursuant to Subsection A of this section, to  
25 provide recovery grants to recovery entities, to accept and

.223540.1

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

1 review applications for recovery grants and to disburse  
2 recovery grants to recovery entities. The authority shall  
3 require documentation from applicants of employment levels and  
4 rent, lease and mortgage payments for taxable year 2020 and  
5 subsequent taxable years in which a recovery entity applies  
6 for a recovery grant. The authority shall prioritize funding  
7 to applicants that had the greatest decline in business  
8 revenues between comparable quarters in taxable year 2019 to  
9 taxable year 2020. The department shall provide oversight of  
10 the program and may set policies and promulgate rules in  
11 accordance with this section. The authority may designate one  
12 or more application periods and shall review applications  
13 received in each period and provide a determination to the  
14 applicant within a reasonable amount of time after review.  
15 The first application period shall accept applications no  
16 later than June 30, 2021, and the last application period  
17 shall accept applications no later than December 31, 2021;  
18 provided that an application period for funds set aside  
19 pursuant to Subsection E of this section shall accept  
20 applications no later than June 30, 2022. The authority shall  
21 prioritize funding to applicants that had the greatest decline  
22 in business revenues between comparable quarters in taxable  
23 year 2019 to taxable year 2020.

24 C. To receive a recovery grant, a recovery entity  
25 shall agree to:

.223540.1

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

1 (1) use the proceeds of the recovery grant  
2 for reimbursement of rent, lease or mortgage obligations of  
3 the recovery entity for its business locations within the  
4 state of New Mexico;

5 (2) provide a written certification signed  
6 by an appropriate officer of the recovery entity that  
7 certifies that:

8 (a) the officer understands that,  
9 pursuant to the Local Economic Development Act, the recovery  
10 grant shall be accompanied by new job creation in accordance  
11 with department rules and policies and the terms of the  
12 agreement issued by the authority to the recovery entity in  
13 advance of disbursement of the recovery grant;

14 (b) all documents submitted in support  
15 of the recovery grant application are true and accurate to the  
16 best of the officer's knowledge;

17 (c) the officer has a reasonable basis  
18 to believe that, as of the date of a recovery grant  
19 application and receipt of any recovery grant, the recovery  
20 entity does not expect to permanently cease business  
21 operations or file for bankruptcy;

22 (d) as of the date of a recovery grant  
23 application and of receipt of a recovery grant, the recovery  
24 entity is current on all obligations pursuant to the Income  
25 Tax Act, the Corporate Income and Franchise Tax Act, the

.223540.1

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

1 Withholding Tax Act, the [~~Gross Receipts and Compensating~~  
2 Sales and Use Tax Act and the Unemployment Compensation Law  
3 applicable to the recovery entity's business operations; and

4 (e) all recovery grant proceeds will be  
5 used for the purpose of payment of rent, lease or mortgage  
6 payments of the recovery entity pursuant to the Local Economic  
7 Development Act;

8 (3) provide documentation to the authority  
9 demonstrating a decline in business revenues between taxable  
10 years 2019 and 2020;

11 (4) upon request, provide the department and  
12 the authority with information relevant to the reporting  
13 requirements of the department and the authority pursuant to  
14 Subsection H of this section; and

15 (5) submit an application to the authority  
16 for a recovery grant pursuant to rules established by the  
17 authority, but no later than June 30, 2022.

18 D. Up to one hundred thousand dollars (\$100,000)  
19 in a recovery grant may be provided to each recovery entity in  
20 quarterly payments in an amount of up to twenty-five percent  
21 of the total amount of the recovery grant awarded to the  
22 recovery entity. The department shall promulgate rules to  
23 determine the amount of a recovery grant; provided that, for  
24 each quarterly payment a recovery entity may be awarded a  
25 specified amount for each job created depending on the wages

.223540.1



1 provided and the relative decline in business revenues for  
2 taxable year 2020, not to exceed a total of twenty-five  
3 thousand dollars (\$25,000) per quarter. To remain eligible  
4 for additional quarterly payments, a recovery entity shall  
5 provide documentation to the department and to the authority  
6 demonstrating the following:

7 (1) the recovery entity remains active and  
8 open and can demonstrate a net increase in the number of full-  
9 time-equivalent employees relative to the immediately  
10 preceding quarter, as submitted quarterly to the workforce  
11 solutions department from the date of application to the date  
12 of receipt of a recovery grant payment;

13 (2) the recovery entity is current on state  
14 and local tax obligations; and

15 (3) the recovery entity paid rent, lease or  
16 mortgage obligations of the recovery entity for its business  
17 locations within the state of New Mexico from the date of  
18 application to the present request for a subsequent quarterly  
19 payment that exceeds all payments to the recovery entity to  
20 date pursuant to this section.

21 E. If, on the effective date of this section,  
22 there remains in effect a public health order that requires  
23 businesses to remain closed, the department and the authority  
24 shall set aside a portion of the funds available for recovery  
25 grants until such time as the public health order ceases to be

.223540.1

underscoring material = new  
[bracketed material] = delete

1 in effect or is changed to permit all businesses subject to  
2 the public health order to be open. The portion set aside  
3 shall be estimated, at the discretion of the department and  
4 the authority, to represent the number of recovery entities  
5 and employees impacted by the public health order, but in no  
6 case shall exceed twenty percent of the total funds  
7 appropriated pursuant to Laws 2021, Chapter 3, Section 11 [~~of~~  
8 ~~this 2021 act~~].

9 F. If a recovery entity loses eligibility in a  
10 quarter, the authority shall set aside funds for the recovery  
11 entity to access should the recovery entity become eligible  
12 again in a succeeding quarter.

13 G. Information obtained by the department and the  
14 authority regarding individual recovery entity grant  
15 applicants shall be confidential and not subject to inspection  
16 pursuant to the Inspection of Public Records Act; provided  
17 that nothing in this section shall prevent the department and  
18 the authority from disclosing broad demographic information  
19 and information relating to the total amount of recovery  
20 grants made, the total outstanding balance of recovery grants  
21 made and the names of the recovery entities that received  
22 recovery grants.

23 H. The department and the authority shall submit  
24 an annual report in each year of 2021 through 2023 to the  
25 legislature, the legislative finance committee, the New Mexico

.223540.1

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

1 finance authority oversight committee, the revenue  
2 stabilization and tax policy committee and the interim  
3 legislative committee concerning economic and rural  
4 development. The report shall provide information regarding  
5 recovery grants made pursuant to this section. The report  
6 shall include:

7 (1) the total dollar value of recovery  
8 grants made to date, along with breakouts of disbursements by  
9 quarterly payment number;

10 (2) the number of recovery entities  
11 assisted, in total and by county;

12 (3) the total number of new jobs created and  
13 the total number of employees currently employed by recovery  
14 entities that received grants;

15 (4) the total projected annual payroll for  
16 the jobs created;

17 (5) the total number of recovery grant  
18 applications;

19 (6) the number of recovery entities, if any,  
20 that received initial payments but were determined to be  
21 ineligible for additional quarterly payments; and

22 (7) an overview of the industries and types  
23 of business entities represented by recovery entities that  
24 received recovery grants.

25 I. As used in this section:

.223540.1

1 (1) "authority" means the New Mexico finance  
2 authority;

3 (2) "recovery entity" means a corporation,  
4 limited liability company, partnership, joint venture,  
5 syndicate, association or other person that:

6 (a) is a business operating in New  
7 Mexico with one or more employees but with fewer than seventy-  
8 five people employed at any of the business's business  
9 locations;

10 (b) is current on all state or local  
11 tax obligations; and

12 (c) experienced a decline in business  
13 revenue between one or more comparable quarters in taxable  
14 years 2019 and 2020, as determined by the economic development  
15 department and the authority based on documentation provided  
16 by the business;

17 (3) "recovery grant" means a grant disbursed  
18 to a recovery entity by the authority from funds provided by  
19 the department for the purpose of reimbursement of rent, lease  
20 or mortgage payments of the recovery entity pursuant to the  
21 Local Economic Development Act; and

22 (4) "taxable year" means "taxable year" as  
23 that term is used in the Income Tax Act or the Corporate  
24 Income and Franchise Tax Act, as applicable to a recovery  
25 entity."

.223540.1

underscored material = new  
[bracketed material] = delete

1           SECTION 23. Section 5-10-17 NMSA 1978 (being Laws 2021  
2 (1st S.S.), Chapter 2, Section 2) is amended to read:

3           "5-10-17. [~~GROSS RECEIPTS~~] SALES TAX AND [~~COMPENSATING~~]  
4 USE TAX REVENUE AS PUBLIC SUPPORT FOR CERTAIN PROJECTS.--

5           A. A qualifying entity that meets the following  
6 requirements may receive public support for the qualifying  
7 entity's economic development project from funds in the Local  
8 Economic Development Act fund pursuant to Subsection B of  
9 Section 5-10-14 NMSA 1978 in an amount equal to fifty percent  
10 of the net receipts attributable to the state [~~gross receipts~~]  
11 sales tax and state [~~compensating~~] use tax imposed on the  
12 expenses related to the construction of the qualifying  
13 entity's project, as determined by the department, related to  
14 the economic development project and the amount dedicated  
15 pursuant to Subsection B of this section; provided that the  
16 public support shall be provided for a period of no more than  
17 ten years, beginning on the date the applicable project  
18 participation agreement with the qualifying entity is  
19 executed:

20                       (1) the qualifying entity signs a project  
21 participation agreement with the governing body of each local  
22 government that has jurisdiction of the area in which the  
23 qualifying entity's economic development project is located  
24 and the local government has passed an ordinance dedicating  
25 local government [~~gross receipts~~] sales tax revenue pursuant

.223540.1

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

1 to Subsection B of this section;

2 (2) the qualifying entity signs a project  
3 participation agreement with the department; provided that the  
4 department shall not sign the agreement unless the applicable  
5 local governments have signed a project participation  
6 agreement pursuant to Paragraph (1) of this subsection; and  
7 provided further that the project participation agreement  
8 shall provide that if, at the end of the ten-year period, the  
9 economic development project fails to meet the three-hundred-  
10 fifty-million-dollar (\$350,000,000) requirement pursuant to  
11 Paragraph (3) of this subsection, the department shall seek to  
12 recover some or all of the public support provided to the  
13 qualifying entity and shall transfer any amount recovered to  
14 the general fund and to the contributing local government  
15 based on each entity's pro rata share of public support to the  
16 economic development project;

17 (3) the economic development project has a  
18 reasonable expectation to incur, within ten years of the date  
19 the project participation agreement with the local government  
20 and the department is executed, at least three hundred fifty  
21 million dollars (\$350,000,000) in expenses related to the  
22 construction and infrastructure of the project in the state;

23 (4) the qualifying entity and the economic  
24 development project meet all other requirements to receive  
25 public support pursuant to the Local Economic Development Act;

.223540.1

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

1 and

2 (5) prior to the end of each month, the  
3 qualifying entity submits the appropriate documents, including  
4 tax documents of the qualifying entity and its contractors  
5 submitted to the taxation and revenue department, to the  
6 department and to the local governments with which the  
7 qualifying entity signed a project participation agreement, on  
8 forms and in a manner determined by the department, of the  
9 taxable expenses related to the construction of the economic  
10 development project for the previous month.

11 B. A local government may dedicate, by ordinance,  
12 fifty percent of the tax revenue attributable to the [~~gross~~  
13 ~~receipts~~] sales and [~~compensating~~] use taxes imposed by the  
14 local government on the qualifying entity's receipts for  
15 expenses related to the construction of the economic  
16 development project to the Local Economic Development Act fund  
17 for the purposes provided in Subsection B of Section 5-10-14  
18 NMSA 1978.

19 C. Within thirty days after execution of a project  
20 participation agreement with a qualifying entity, the  
21 department shall issue a report to the department of finance  
22 and administration and the legislative finance committee that  
23 shall identify the qualifying entity intended to receive  
24 public support pursuant to this section, the estimated  
25 expenses related to the construction of the qualifying

.223540.1

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

1 entity's project as determined by the department, the location  
2 of the project, the amount of public support pledged by the  
3 department and each local government for the project pursuant  
4 to this section and the amount of any other public support  
5 pledged for the project pursuant to the Local Economic  
6 Development Act.

7 D. As soon as practicable, the taxation and  
8 revenue department shall implement a rate type to identify  
9 ~~[gross receipts]~~ sales and ~~[compensating]~~ use taxes reported  
10 and paid to the taxation and revenue department for expenses  
11 related to the construction of an economic development  
12 project. Once implemented, all such ~~[gross receipts]~~ sales  
13 and ~~[compensating]~~ use taxes shall be reported and paid with  
14 that rate type.

15 E. If the taxation and revenue department has not  
16 implemented the rate type provided in Subsection D of this  
17 section, and if the requirements of Subsection A of this  
18 section have been met, the economic development department and  
19 the local governments that signed a project participation  
20 agreement with the qualifying entity shall:

21 (1) review the documents submitted by a  
22 qualifying entity pursuant to Paragraph (5) of Subsection A of  
23 this section;

24 (2) estimate the amount equal to fifty  
25 percent of the tax revenue attributable to the ~~[gross~~

.223540.1



underscored material = new  
[bracketed material] = delete

1 ~~receipts~~ sales tax and [~~compensating~~] use tax imposed on the  
2 taxable expenses related to the construction of the economic  
3 development project appropriate to:

4 (a) the local government's [~~gross~~  
5 ~~receipts~~] sales and [~~compensating~~] use taxes if a local  
6 government; and

7 (b) the state [~~gross receipts~~] sales  
8 and [~~compensating~~] use taxes if the department;

9 (3) if a local government, on the first  
10 business day of each month, submit the estimated amount and  
11 the supporting documents to the department; and

12 (4) if the department, on or before the  
13 twenty-fifth day of December, March, June and September,  
14 provide the estimates and any supporting documentation to the  
15 taxation and revenue department, on forms and in a manner  
16 determined by that department.

17 F. The taxation and revenue department shall  
18 review the amounts estimated pursuant to Subsection E of this  
19 section for accuracy and computation, make any necessary  
20 corrections or adjustments and make a final determination of  
21 the amounts to be distributed from the relevant tax revenue  
22 pursuant to Section [~~5 of this 2021 act~~] 7-1-6.67 NMSA 1978."

23 **SECTION 24.** Section 5-15-3 NMSA 1978 (being Laws 2006,  
24 Chapter 75, Section 3, as amended by Laws 2019, Chapter 212,  
25 Section 199 and also by Laws 2019, Chapter 275, Section 1) is  
.223540.1

underscored material = new  
[bracketed material] = delete

1 amended to read:

2 "5-15-3. DEFINITIONS.--As used in the Tax Increment for  
3 Development Act:

4 [~~A. "base gross receipts taxes" means:~~

5 ~~(1) the total amount of gross receipts taxes~~  
6 ~~collected within a tax increment development district, as~~  
7 ~~estimated by the governing body that adopted a resolution to~~  
8 ~~form that district, in consultation with the taxation and~~  
9 ~~revenue department, in the calendar year preceding the~~  
10 ~~formation of the tax increment development district or, when~~  
11 ~~an area is added to an existing district, the amount of gross~~  
12 ~~receipts taxes collected in the calendar year preceding the~~  
13 ~~effective date of the modification of the tax increment~~  
14 ~~development plan and designated by the governing body to be~~  
15 ~~available as part of the gross receipts tax increment; and~~

16 ~~(2) any amount of gross receipts taxes that~~  
17 ~~would have been collected in such year if any applicable~~  
18 ~~additional gross receipts taxes imposed after that year had~~  
19 ~~been imposed in that year;~~

20 B.] A. "base property taxes" means:

21 (1) the portion of property taxes produced  
22 by the total of all property tax levied at the rate fixed each  
23 year by each governing body levying a property tax on the  
24 assessed value of taxable property within the tax increment  
25 development area last certified for the year ending

.223540.1

underscored material = new  
[bracketed material] = delete

1 immediately prior to the year in which a tax increment  
2 development plan is approved for the tax increment development  
3 area, or, when an area is added to an existing tax increment  
4 development area, "base property taxes" means that portion of  
5 property taxes produced by the total of all property tax  
6 levied at the rate fixed each year by each governing body  
7 levying a property tax upon the assessed value of taxable  
8 property within the tax increment development area on the date  
9 of the modification of the tax increment development plan and  
10 designated by the governing body to be available as part of  
11 the property tax increment; and

12 (2) any amount of property taxes that would  
13 have been collected in such year if any applicable additional  
14 property taxes imposed after that year had been imposed in  
15 that year;

16 B. "base sales taxes" means:

17 (1) the total amount of sales taxes  
18 collected within a tax increment development district, as  
19 estimated by the governing body that adopted a resolution to  
20 form that district, in consultation with the taxation and  
21 revenue department, in the calendar year preceding the  
22 formation of the tax increment development district or, when  
23 an area is added to an existing district, the amount of sales  
24 taxes collected in the calendar year preceding the effective  
25 date of the modification of the tax increment development plan

.223540.1

underscored material = new  
[bracketed material] = delete

1 and designated by the governing body to be available as part  
2 of the sales tax increment; and

3 (2) any amount of sales taxes that would  
4 have been collected in such year if any applicable additional  
5 sales taxes imposed after that year had been imposed in that  
6 year;

7 C. "county option [~~gross receipts~~] sales taxes"  
8 means [~~gross receipts~~] sales taxes imposed by counties  
9 pursuant to the County Local Option [~~Gross Receipts~~] Sales and  
10 Use Taxes Act and designated by the governing body of the  
11 county to be available as part of the [~~gross receipts~~] sales  
12 tax increment;

13 D. "district" means a tax increment development  
14 district;

15 E. "district board" means a board formed in  
16 accordance with the provisions of the Tax Increment for  
17 Development Act to govern a tax increment development  
18 district;

19 F. "enhanced services" means public services  
20 provided by a municipality or county within the district at a  
21 higher level or to a greater degree than otherwise available  
22 to the land located in the district from the municipality or  
23 county, including such services as public safety, fire  
24 protection, street or sidewalk cleaning or landscape  
25 maintenance in public areas; provided that "enhanced services"

.223540.1

underscored material = new  
[bracketed material] = delete

1 does not include the basic operation and maintenance related  
2 to infrastructure improvements financed by the district  
3 pursuant to the Tax Increment for Development Act;

4 G. "governing body" means the city council or city  
5 commission of a city, the board of trustees or council of a  
6 town or village or the board of county commissioners of a  
7 county;

8 ~~[H. "gross receipts tax increment" means the gross~~  
9 ~~receipts taxes collected within a tax increment development~~  
10 ~~district in excess of the base gross receipts taxes collected~~  
11 ~~in the district;~~

12 ~~I. "gross receipts tax increment bonds" means~~  
13 ~~bonds issued by a district in accordance with the Tax~~  
14 ~~Increment for Development Act, the pledged revenue for which~~  
15 ~~is a gross receipts tax increment;~~

16 ~~J.]~~ H. "local government" means a municipality or  
17 county;

18 ~~[K.]~~ I. "municipal option [~~gross receipts~~] sales  
19 taxes" means those [~~gross receipts~~] sales taxes imposed by  
20 municipalities pursuant to the Municipal Local Option [~~Gross~~  
21 ~~Receipts~~] Sales and Use Taxes Act and designated by the  
22 governing body of the municipality to be available as part of  
23 the [~~gross receipts~~] sales tax increment;

24 ~~[L.]~~ J. "municipality" means an incorporated city,  
25 town or village;

.223540.1

underscoring material = new  
[bracketed material] = delete

1                   [~~M.~~] K. "new full-time economic base job" means a  
2 job:

3                                 (1) that is primarily performed in New  
4 Mexico;

5                                 (2) that is held by an employee who is hired  
6 to work an average of at least thirty-two hours per week for  
7 at least forty-eight weeks per year;

8                                 (3) that is:

9   (a) involved, directly or in a  
10 supervisory capacity, with the production of: 1) a service;  
11 provided that the majority of the revenue generated from the  
12 service is from sources outside the state; or 2) tangible or  
13 intangible personal property for sale; or

14   (b) held by an employee that is  
15 employed at a regional, national or international headquarters  
16 operation or at an operation that primarily provides services  
17 for other operations of the qualifying entity that are located  
18 outside the state; and

19                                 (4) that is not directly involved with  
20 natural resources extraction or processing, on-site services  
21 where the customer is present for the delivery of the service,  
22 retail, construction or agriculture except for value-added  
23 processing performed on agricultural products that would then  
24 be sold for wholesale or retail consumption;

25                   [~~N.~~] L. "owner" means a person owning real

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

1 property within the boundaries of a district;

2           ~~[O-]~~ M. "person" means an individual, corporation,  
3 association, partnership, limited liability company or other  
4 legal entity;

5           ~~[P-]~~ N. "project" means a tax increment  
6 development project;

7           ~~[Q-]~~ O. "property tax increment" means all  
8 property tax collected on real property within the designated  
9 tax increment development area that is in excess of the base  
10 property tax until termination of the district and distributed  
11 to the district in the same manner as distributions are made  
12 under the provisions of the Tax Administration Act;

13           ~~[R-]~~ P. "property tax increment bonds" means bonds  
14 issued by a district in accordance with the Tax Increment for  
15 Development Act, the pledged revenue for which is a property  
16 tax increment;

17           ~~[S-]~~ Q. "public improvements" means on-site  
18 improvements and off-site improvements that directly or  
19 indirectly benefit a tax increment development district or  
20 facilitate development within a tax increment development area  
21 and that are dedicated to the governing body in which the  
22 district lies. "Public improvements" includes:

23                   (1) sanitary sewage systems, including  
24 collection, transport, treatment, dispersal, effluent use and  
25 discharge;

.223540.1

1 (2) drainage and flood control systems,  
2 including collection, transport, storage, treatment,  
3 dispersal, effluent use and discharge;

4 (3) water systems for domestic, commercial,  
5 office, hotel or motel, industrial, irrigation, municipal or  
6 fire protection purposes, including production, collection,  
7 storage, treatment, transport, delivery, connection and  
8 dispersal;

9 (4) highways, streets, roadways, bridges,  
10 crossing structures and parking facilities, including all  
11 areas for vehicular use for travel, ingress, egress and  
12 parking;

13 (5) trails and areas for pedestrian,  
14 equestrian, bicycle or other non-motor vehicle use for travel,  
15 ingress, egress and parking;

16 (6) pedestrian and transit facilities,  
17 parks, recreational facilities and open space areas for the  
18 use of members of the public for entertainment, assembly and  
19 recreation;

20 (7) landscaping, including earthworks,  
21 structures, plants, trees and related water delivery systems;

22 (8) public buildings, public safety  
23 facilities and fire protection and police facilities;

24 (9) electrical generation, transmission and  
25 distribution facilities;

.223540.1



underscoring material = new  
[bracketed material] = delete

- 1 (10) natural gas distribution facilities;  
2 (11) lighting systems;  
3 (12) cable or other telecommunications lines  
4 and related equipment;  
5 (13) traffic control systems and devices,  
6 including signals, controls, markings and signage;  
7 (14) school sites and facilities with the  
8 consent of the governing board of the public school district  
9 for which the facility is to be acquired, constructed or  
10 renovated;  
11 (15) library and other public educational or  
12 cultural facilities;  
13 (16) equipment, vehicles, furnishings and  
14 other personal property related to the items listed in this  
15 subsection;  
16 (17) inspection, construction management,  
17 planning and program management and other professional  
18 services costs incidental to the project;  
19 (18) workforce housing; and  
20 (19) any other improvement that the  
21 governing body determines to be for the use or benefit of the  
22 public;

23 R. "sales tax increment" means the sales taxes  
24 collected within a tax increment development district in  
25 excess of the base sales taxes collected in the district;

.223540.1

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

1                    S. "sales tax increment bonds" means bonds issued  
2 by a district in accordance with the Tax Increment for  
3 Development Act, the pledged revenue for which is a sales tax  
4 increment;

5                    T. "state [~~gross receipts~~] sales tax" means the  
6 [~~gross receipts~~] sales tax imposed pursuant to the [~~Gross~~  
7 ~~Receipts and Compensating~~] Sales and Use Tax Act, but does not  
8 include that portion distributed to municipalities pursuant to  
9 Sections 7-1-6.4 and 7-1-6.46 NMSA 1978 or to counties  
10 pursuant to Section 7-1-6.47 NMSA 1978;

11                    U. "sustainable development" means land  
12 development that achieves sustainable economic and social  
13 goals in ways that can be supported for the long term by  
14 conserving resources, protecting the environment and ensuring  
15 human health and welfare using mixed-use, pedestrian-oriented,  
16 multimodal land use planning;

17                    V. "tax increment development area" means the land  
18 included within the boundaries of a tax increment development  
19 district;

20                    W. "tax increment development district" means a  
21 district formed for the purposes of carrying out tax increment  
22 development projects;

23                    X. "tax increment development plan" means a plan  
24 for the undertaking of a tax increment development project;

25                    Y. "tax increment development project" means

.223540.1

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

1 activities undertaken within a tax increment development area  
2 to enhance the sustainability of the local, regional or  
3 statewide economy; to support the creation of jobs, schools  
4 and workforce housing; and to generate tax revenue for the  
5 provision of public improvements and may include:

6 (1) acquisition of land within a designated  
7 tax increment development area or a portion of that tax  
8 increment development area;

9 (2) demolition and removal of buildings and  
10 improvements and installation, construction or reconstruction  
11 of streets, utilities, parks, playgrounds and improvements  
12 necessary to carry out the objectives of the Tax Increment for  
13 Development Act;

14 (3) installation, construction or  
15 reconstruction of streets, water utilities, sewer utilities,  
16 parks, playgrounds and other public improvements necessary to  
17 carry out the objectives of the Tax Increment for Development  
18 Act;

19 (4) disposition of property acquired or held  
20 by a tax increment development district as part of the  
21 undertaking of a tax increment development project at the fair  
22 market value of such property for uses in accordance with the  
23 Tax Increment for Development Act;

24 (5) payments for professional services  
25 contracts necessary to implement a tax increment development

.223540.1

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

1 plan or project;

2 (6) borrowing to purchase land, buildings or  
3 infrastructure in an amount not to exceed the revenue stream  
4 that may be derived from the [~~gross receipts~~] sales tax  
5 increment or the property tax increment estimated to be  
6 received by a tax increment development district; and

7 (7) grants for public improvements essential  
8 to the location or expansion of a business;

9 Z. "taxing entity" means the governing body of a  
10 political subdivision of the state, the [~~gross receipts~~] sales  
11 tax increment or property tax increment of which may be used  
12 for a tax increment development project; and

13 AA. "workforce housing" means decent, safe and  
14 sanitary dwellings, apartments, single-family dwellings or  
15 other living accommodations that are affordable for persons or  
16 families earning less than eighty percent of the median income  
17 within the county in which the tax increment development  
18 project is located; provided that an owner-occupied housing  
19 unit is affordable to a household if the expected sales price  
20 is reasonably anticipated to result in monthly housing costs  
21 that do not exceed thirty-three percent of the household's  
22 gross monthly income; provided that:

23 (1) determination of mortgage amounts and  
24 payments is to be based on down payment rates and interest  
25 rates generally available to lower- and moderate-income

.223540.1

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

1 households; and

2 (2) a renter-occupied housing unit is  
3 affordable to a household if the unit's monthly housing costs,  
4 including rent and basic utility and energy costs, do not  
5 exceed thirty-three percent of the household's gross monthly  
6 income."

7 SECTION 25. Section 5-15-4 NMSA 1978 (being Laws 2006,  
8 Chapter 75, Section 4, as amended) is amended to read:

9 "5-15-4. RESOLUTION FOR FORMATION OF A DISTRICT.--

10 A. A tax increment development plan may be  
11 approved by the governing body of the municipality or county  
12 within which tax increment development projects are proposed.  
13 Upon filing with the clerk of the governing body of an  
14 approved tax increment development plan and upon receipt of a  
15 petition bearing the signatures of the owners of at least  
16 fifty percent of the real property located within a proposed  
17 tax increment development area, the governing body may adopt a  
18 resolution declaring its intent to form a tax increment  
19 development district. Prior to the formation of a district,  
20 the owner or developer of the real property located within an  
21 area proposed to be designated as a tax increment development  
22 area may enter into an agreement with the governing body  
23 concerning the improvement of specific property within the  
24 district, and that agreement may be used to establish  
25 obligations of the owner or developer and the governing body

.223540.1

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

1 concerning the zoning, subdivision, improvement, impact fees,  
2 financial responsibilities and other matters relating to the  
3 development, improvement and use of real property within the  
4 district.

5 B. A governing body may adopt a resolution on its  
6 own motion upon its finding that a need exists for the  
7 formation of a district.

8 C. The resolution to form a district shall  
9 include:

10 (1) the area or areas to be included within  
11 the boundaries of the district;

12 (2) the purposes for which the district is  
13 to be formed;

14 (3) a statement that a tax increment  
15 development plan is on file with the clerk of the governing  
16 body and that the plan includes a map depicting the boundaries  
17 of the tax increment development area and the real property  
18 proposed to be included in the area;

19 (4) the rate of any proposed property tax  
20 levy;

21 (5) identification of [~~gross receipts~~] sales  
22 tax increment and property tax increment financing mechanisms  
23 proposed;

24 (6) identification of [~~gross receipts~~] sales  
25 tax increments and property tax increments proposed to secure

.223540.1

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

1 proposed [~~gross receipts~~] sales tax increment bonds or  
2 property tax increment bonds;

3 (7) requirement of a public hearing for the  
4 formation of the district and notice of the hearing;

5 (8) a statement that formation of a district  
6 may result in the use of [~~gross receipts~~] sales tax increments  
7 or property tax increments to pay the costs of construction of  
8 public improvements made by the district; and

9 (9) a reference to the Tax Increment for  
10 Development Act.

11 D. A resolution may direct that, prior to holding  
12 a hearing on formation of a district, petitioners for the  
13 formation of a district prepare a study of the feasibility,  
14 the financing and the estimated costs of improvements,  
15 services and benefits to result from the formation of the  
16 proposed district. The governing body may require those  
17 petitioners to deposit with the clerk or treasurer of the  
18 governing body an amount equal to the estimated costs of  
19 conducting the study and other estimated formation costs. The  
20 deposit shall be reimbursed from the proceeds from the sale of  
21 bonds issued by the tax increment development district if the  
22 district is formed and if [~~gross receipts~~] sales tax increment  
23 bonds or property tax increment bonds are issued by that  
24 district pursuant to the Tax Increment for Development Act.

25 E. A resolution adopted pursuant to this section

.223540.1

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

1 shall direct that a public hearing on formation of the  
2 district be scheduled and that notice of the hearing be mailed  
3 and published.

4 F. A governing body of the municipality or county  
5 within which tax increment development projects are proposed  
6 that adopts a resolution to form a district shall notify the  
7 secretary of taxation and revenue, the secretary of finance  
8 and administration and the director of the legislative finance  
9 committee of the governing body's action within ten days  
10 following the date on which the resolution was adopted. A  
11 copy of the adopted resolution shall be included in the notice  
12 sent pursuant to this subsection. All resolution materials,  
13 including fiscal and economic studies, shall also be available  
14 electronically to the public."

15 SECTION 26. Section 5-15-5 NMSA 1978 (being Laws 2006,  
16 Chapter 75, Section 5) is amended to read:

17 "5-15-5. CONTENTS OF TAX INCREMENT DEVELOPMENT PLAN.--A  
18 tax increment development plan shall include:

19 A. a map depicting the geographical boundaries of  
20 the area proposed for inclusion within the tax increment  
21 development area;

22 B. the estimated time necessary to complete the  
23 tax increment development project;

24 C. a description and the estimated cost of all  
25 public improvements proposed for the tax increment development

.223540.1



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

1 project;

2 D. whether it is proposed to use [~~gross receipts~~]  
3 sales tax increment bonds or property tax increment bonds or  
4 both to finance all or part of the public improvements;

5 E. the estimated annual [~~gross receipts~~] sales tax  
6 increment to be generated by the tax increment development  
7 project and the portion of that [~~gross receipts~~] sales tax  
8 increment to be allocated during the time necessary to  
9 complete the payment of the tax increment development project;

10 F. the estimated annual property tax increment to  
11 be generated by the tax increment development project and the  
12 portion of that property tax increment to be allocated during  
13 the time necessary to complete the payment of the tax  
14 increment development project;

15 G. the general proposed land uses for the tax  
16 increment development project;

17 H. the number and types of jobs expected to be  
18 created by the tax increment development project;

19 I. the amount and characteristics of workforce  
20 housing expected to be created by the tax increment  
21 development project;

22 J. the location and characteristics of public  
23 school facilities expected to be created, improved,  
24 rehabilitated or constructed by the tax increment development  
25 project;

.223540.1

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

1           K. a description of innovative planning  
2 techniques, including mixed-use transit-oriented development,  
3 traditional neighborhood design or sustainable development  
4 techniques, that are deemed by the governing body to be  
5 beneficial and that will be incorporated into the tax  
6 increment development project; and

7           L. the amount and type of private investment in  
8 each tax increment development project."

9           **SECTION 27.** Section 5-15-12 NMSA 1978 (being Laws 2006,  
10 Chapter 75, Section 12) is amended to read:

11           "5-15-12. DISTRICT POWERS--LIMITATIONS.--

12           A. In addition to other express or implied  
13 authority granted by law, a district shall have the power to:

14                   (1) enter into contracts or expend money for  
15 any public purpose with respect to the district;

16                   (2) enter into agreements with a  
17 municipality, county or other local government entity in  
18 connection with real property located within the district;

19                   (3) enter into an intergovernmental  
20 agreement in accordance with the Joint Powers Agreements Act  
21 for the planning, design, inspection, ownership, control,  
22 maintenance, operation or repair of public infrastructure or  
23 the provision of enhanced services by the municipality or  
24 county in which the district lies or for any other purpose  
25 authorized by the Tax Increment for Development Act;

.223540.1

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

1 (4) sell, lease or otherwise dispose of  
2 district property if the sale, lease or conveyance is not a  
3 violation of the terms of any contract or bond covenant of the  
4 district;

5 (5) reimburse a municipality or county in  
6 which the tax increment development district is located for  
7 providing services within the tax increment development area;

8 (6) operate, maintain and repair public  
9 infrastructure until dedicated to the governing body;

10 (7) employ staff, counsel, advisors and  
11 consultants;

12 (8) reimburse a municipality or county in  
13 which the district is located for staff and consultant  
14 services and support facilities supplied by the municipality  
15 or county;

16 (9) accept gifts or grants and incur and  
17 repay loans for a public purpose;

18 (10) enter into an agreement with an owner  
19 concerning the advance of money by an owner for a public  
20 purpose or the granting of real property by the owner for a  
21 public purpose;

22 (11) levy property taxes in accordance with  
23 election requirements of the Tax Increment for Development Act  
24 for a public purpose on real property located in the district;

25 (12) pay the financial, legal and

.223540.1

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

1 administrative costs of the district;

2 (13) enter into contracts, agreements and  
3 trust indentures to obtain credit enhancement or liquidity  
4 support for its bonds and process the issuance, registration,  
5 transfer and payment of its bonds and the disbursement and  
6 investment of proceeds of the bonds in accordance with the  
7 provisions for investment of funds by municipal treasurers;

8 (14) borrow money within the limits of the  
9 Tax Increment for Development Act to fund the construction,  
10 operation and maintenance of public improvements until  
11 dedicated to the governing body or for any other lawful public  
12 purposes related to the purposes of the Tax Increment for  
13 Development Act; and

14 (15) use public easements and rights of way  
15 in or across public property, roadways, highways, streets or  
16 other thoroughfares and other public easements and rights of  
17 way of the district, municipality or county.

18 B. Notwithstanding the provisions of the  
19 Procurement Code or local procurement requirements that may  
20 otherwise be applicable to the municipality or county in which  
21 the district is located, the district board may enter into  
22 contracts to carry out any of the tax increment development  
23 district's authorized powers, including the planning, design,  
24 engineering, financing, construction and acquisition of public  
25 improvements for the district, with a contractor, an owner or

.223540.1

underscoring material = new  
[bracketed material] = delete

1 other person or entity, on such terms and with such persons as  
2 the district board determines to be appropriate.

3 C. A district shall not have the power of eminent  
4 domain for any purpose.

5 D. A casino shall not be located in a district,  
6 and a district shall not use the proceeds of property tax  
7 increment bonds or [~~gross receipts~~] sales tax increment bonds  
8 to finance public improvements for a casino."

9 SECTION 28. Section 5-15-15 NMSA 1978 (being Laws 2006,  
10 Chapter 75, Section 15, as amended by Laws 2019, Chapter 274,  
11 Section 8 and by Laws 2019, Chapter 275, Section 2) is amended  
12 to read:

13 "5-15-15. TAX INCREMENT FINANCING--~~[GROSS RECEIPTS]~~  
14 SALES TAX INCREMENT TO SECURE BONDS.--

15 A. A tax increment development plan, as originally  
16 approved or as later modified, may contain a provision that  
17 [~~gross receipts~~] sales tax increments collected within the tax  
18 increment development area after the effective date of  
19 approval of the tax increment development plan may be  
20 dedicated for the purpose of securing [~~gross receipts~~] sales  
21 tax increment bonds pursuant to the Tax Increment for  
22 Development Act.

23 B. A municipality may dedicate a portion of [~~a~~  
24 ~~gross receipts tax increment from~~] any of the following  
25 [~~taxes~~] to pay the principal of, the interest on and any

.223540.1

underscored material = new  
[bracketed material] = delete

1 premium due in connection with the bonds of, loans or advances  
2 to, or any indebtedness incurred by, whether funded, refunded,  
3 assumed or otherwise, the authority for financing or  
4 refinancing, in whole or in part, a tax increment development  
5 project within the tax increment development area:

6 (1) an increment of a municipal option  
7 [~~gross receipts~~] sales tax that is dedicated by the ordinance  
8 imposing the increment to the tax increment development  
9 project; and

10 (2) an amount distributed to municipalities  
11 pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978.

12 C. A county may dedicate a portion of [~~a gross~~  
13 ~~receipts tax increment from~~] any of the following [~~taxes~~] to  
14 pay the principal of, the interest on and any premium due in  
15 connection with the bonds of, loans or advances to or any  
16 indebtedness incurred by, whether funded, refunded, assumed or  
17 otherwise, the district for financing or refinancing, in whole  
18 or in part, a tax increment development project within the tax  
19 increment development area:

20 (1) an increment of a county option [~~gross~~  
21 ~~receipts~~] sales tax that is dedicated by the ordinance  
22 imposing the increment to the tax increment development  
23 project; and

24 (2) the amount distributed to counties  
25 pursuant to Section 7-1-6.47 NMSA 1978.

.223540.1

underscored material = new  
[bracketed material] = delete

1           D. Subject to the provisions of Subsection G of  
2 this section, the state board of finance may dedicate a [~~gross~~  
3 ~~receipts~~] sales tax increment attributable to the state [~~gross~~  
4 ~~receipts~~] sales tax to pay the financing and refinancing  
5 costs, the principal of, the interest on and any premium due  
6 in connection with [~~gross receipts~~] sales tax increment bonds  
7 issued to finance a tax increment development project within  
8 the tax increment development area; provided that:

9                   (1) beginning July 1, 2029 the increment  
10 from the state [~~gross receipts~~] sales tax is no more than the  
11 average of:

12                           (a) the increment from municipal option  
13 [~~gross receipts~~] sales taxes dedicated by resolution by the  
14 municipality, if the district is located in a municipality;  
15 and

16                           (b) the increment from county option  
17 [~~gross receipts~~] sales taxes dedicated by resolution by the  
18 county;

19                   (2) the state board of finance has adopted a  
20 resolution dedicating an increment attributable to the state  
21 [~~gross receipts~~] sales tax for the purpose of securing [~~gross~~  
22 ~~receipts~~] sales tax increment bonds pursuant to Subsection G  
23 of this section; and

24                   (3) the dedication shall be conditioned on  
25 the [~~gross receipts~~] sales tax increment bonds being issued no

.223540.1

underscoring material = new  
[bracketed material] = delete

1 later than four years after the state board of finance has  
2 adopted the resolution dedicating the increment.

3 E. The [~~gross receipts~~] sales tax increment  
4 generated by the imposition of municipal or county option  
5 [~~gross receipts~~] sales taxes specified by statute for  
6 particular purposes may nonetheless be dedicated for the  
7 purposes of the Tax Increment for Development Act if intent to  
8 do so is set forth in the tax increment development plan  
9 approved by the governing body, if the purpose for which the  
10 increment is intended to be used is consistent with the  
11 purposes set forth in the statute authorizing the municipal or  
12 county option [~~gross receipts~~] sales tax.

13 F. An imposition of a [~~gross receipts~~] sales tax  
14 increment attributable to a [~~gross receipts~~] sales tax by a  
15 taxing entity may be dedicated for the purpose of securing  
16 [~~gross receipts~~] sales tax increment bonds with the agreement  
17 of the taxing entity, evidenced by a resolution adopted by a  
18 majority vote of that taxing entity. A taxing entity shall  
19 not agree to dedicate for the purposes of securing [~~gross~~  
20 ~~receipts~~] sales tax increment bonds more than seventy-five  
21 percent of its [~~gross receipts~~] sales tax increment  
22 attributable to [~~gross receipts~~] sales taxes by the taxing  
23 entity. A resolution of the taxing entity to dedicate a  
24 [~~gross receipts~~] sales tax increment or to increase the  
25 dedication of a [~~gross receipts~~] sales tax increment shall

.223540.1



underscoring material = new  
[bracketed material] = delete

1 become effective only on January 1 or July 1 of the calendar  
2 year.

3 G. The state board of finance shall condition a  
4 dedication of a [~~gross receipts~~] sales tax increment  
5 attributable to the state [~~gross receipts~~] sales tax on the  
6 approval required pursuant to Section 5-15-21 NMSA 1978 and  
7 that the initial [~~gross receipts~~] sales tax increment bonds  
8 issuance secured by a portion of the [~~gross receipts~~] sales  
9 tax increment attributable to the state [~~gross receipts~~] sales  
10 tax shall be issued no later than four years after the state  
11 board of finance has adopted the resolution making the  
12 dedication. Subject to the limitations provided in Subsection  
13 D of this section, the state board of finance shall not agree  
14 to dedicate more than seventy-five percent of the [~~gross~~  
15 ~~receipts~~] sales tax increment attributable to the state [~~gross~~  
16 ~~receipts~~] sales tax within the district. The resolution of  
17 the state board of finance shall become effective on January 1  
18 or July 1 of the calendar year following the notification  
19 period pursuant to Section 5-15-27 NMSA 1978 and shall find  
20 that:

21 (1) the state board of finance has reviewed  
22 the request for the use of the state [~~gross receipts~~] sales  
23 tax;

24 (2) based upon review by the state board of  
25 finance of the applicable tax increment development plan, the

.223540.1

underscoring material = new  
[bracketed material] = delete

1 dedication by the state board of finance of a portion of the  
2 [~~gross receipts~~] sales tax increment within the district for  
3 use in meeting the required goals of the tax increment plan is  
4 reasonable and in the best interest of the state; and

5 (3) based upon the review by the state board  
6 of finance, the use of the state [~~gross receipts~~] sales tax is  
7 likely to stimulate the creation of jobs, economic  
8 opportunities and general revenue for the state through the  
9 addition of new businesses to the state and the expansion of  
10 existing businesses within the state; provided that, when  
11 reviewing the applicable tax increment development plan to  
12 create jobs and economic opportunities, the state board of  
13 finance shall prioritize in its consideration net, new full-  
14 time economic base jobs that would not have occurred on a  
15 similar scale and time line but for the use of the state  
16 [~~gross receipts~~] sales tax increment. The benefit to be  
17 evaluated is the marginal benefit of the speed-up in time or  
18 the incremental change in job creation above expected normal  
19 growth and shall exclude retail jobs, call center jobs and  
20 service jobs where the customer is typically on site.

21 H. The governing body of the jurisdiction in which  
22 a tax increment development district has been established  
23 shall timely notify the assessor of the county in which the  
24 district has been established, the taxation and revenue  
25 department and the local government division of the department

.223540.1

underscoring material = new  
[bracketed material] = delete

1 of finance and administration when:

2 (1) a tax increment development plan has  
3 been approved that contains a provision for the allocation of  
4 a [~~gross receipts~~] sales tax increment;

5 (2) any outstanding bonds of the district  
6 have been paid off; and

7 (3) the purposes of the district have  
8 otherwise been achieved."

9 SECTION 29. Section 5-15-15.1 NMSA 1978 (being Laws  
10 2019, Chapter 275, Section 3) is amended to read:

11 "5-15-15.1. FILING FEE FOR EVALUATING USE OF STATE  
12 [~~GROSS RECEIPTS~~] SALES TAX INCREMENT.--Prior to approval of a  
13 dedication of a [~~gross receipts~~] sales tax increment  
14 attributable to the state [~~gross receipts~~] sales tax by the  
15 state board of finance pursuant to Section 5-15-15 NMSA 1978,  
16 a tax increment development district shall submit a filing fee  
17 to the state board of finance to pay the reasonable costs, as  
18 determined by the department of finance and administration, of  
19 evaluating the tax increment development plan and the  
20 district's requested use of a state [~~gross receipts~~] sales tax  
21 increment."

22 SECTION 30. Section 5-15-16 NMSA 1978 (being Laws 2006,  
23 Chapter 75, Section 16, as amended) is amended to read:

24 "5-15-16. BONDING AUTHORITY--[~~GROSS RECEIPTS~~] SALES TAX  
25 INCREMENT.--

.223540.1

underscored material = new  
[bracketed material] = delete

1           A. A district may issue [~~gross receipts~~] sales tax  
2 increment revenue bonds, the pledged revenue for which is a  
3 [~~gross receipts~~] sales tax increment dedicated in accordance  
4 with the provisions of the Tax Increment for Development Act,  
5 for any one or more of the purposes authorized by that act.

6           B. A district may pledge irrevocably the revenue  
7 from a [~~gross receipts~~] sales tax increment received by the  
8 district to the payment of the interest on and principal of  
9 the [~~gross receipts~~] sales tax increment bonds for any of the  
10 purposes authorized in the Tax Increment for Development Act.  
11 A law that imposes or authorizes the imposition of a municipal  
12 or county [~~gross receipts~~] sales tax or that affects the  
13 municipal or county [~~gross receipts~~] sales tax shall not be  
14 repealed, amended or otherwise directly or indirectly modified  
15 in any manner to adversely impair any outstanding [~~gross~~  
16 ~~receipts~~] sales tax increment bonds that may be secured by a  
17 pledge of any municipal or county option [~~gross receipts~~]  
18 sales tax increment, unless those outstanding bonds have been  
19 discharged in full or provision has been fully made for those  
20 bonds.

21           C. Revenues in excess of the annual principal and  
22 interest due on [~~gross receipts~~] sales tax increment bonds  
23 secured by a pledge of [~~gross receipts~~] sales tax increment  
24 revenue may be accumulated in a debt service reserve account.  
25 The district may appoint a commercial bank trust department to

.223540.1

underscoring material = new  
[bracketed material] = delete

1 act as paying agent or trustee of the [~~gross receipts~~] sales  
2 tax increment revenue and to administer the payment of  
3 principal of and interest on the bonds.

4 D. Except as otherwise provided in the Tax  
5 Increment for Development Act, [~~gross receipts~~] sales tax  
6 increment bonds:

7 (1) may have interest, principal value or  
8 any part thereof payable at intervals or at maturity as may be  
9 determined by the governing body;

10 (2) may be subject to a prior redemption at  
11 the district's option at a time and upon terms and conditions,  
12 with or without the payment of a premium, as determined by the  
13 district board;

14 (3) may mature at any time not exceeding  
15 twenty-five years after the date of issuance;

16 (4) may be serial in form and maturity, may  
17 consist of one bond payable at one time or in installments or  
18 may be in another form determined by the district board;

19 (5) shall be sold for cash at, above or  
20 below par and at a price that results in a net effective  
21 interest rate that does not exceed the maximum permitted by  
22 the Public Securities Act and the Public Securities Short-Term  
23 Interest Rate Act; and

24 (6) may be sold at public or negotiated  
25 sale.

.223540.1

underscored material = new  
[bracketed material] = delete

1           E. At a regular or special meeting, the district  
2 board may adopt a resolution that:

3                   (1) declares the necessity for issuing  
4 [~~gross receipts~~] sales tax increment bonds;

5                   (2) authorizes the issuance of [~~gross~~  
6 ~~receipts~~] sales tax increment bonds by an affirmative vote of  
7 a majority of all the members of the district board; and

8                   (3) designates the sources of [~~gross~~  
9 ~~receipts~~] sales increments thereof to be pledged to the  
10 repayment of the [~~gross receipts~~] sales tax increment bonds."

11           SECTION 31. Section 5-15-20 NMSA 1978 (being Laws 2006,  
12 Chapter 75, Section 20, as amended) is amended to read:

13           "5-15-20. GENERAL BONDING AUTHORITY OF A TAX INCREMENT  
14 DEVELOPMENT DISTRICT--OTHER LIMITATIONS.--

15           A. A district board shall not issue bonds against  
16 [~~gross receipts~~] sales tax increments attributable to:

17                   (1) the state [~~gross receipts~~] sales tax  
18 without:

19                           (a) the state board of finance adopting  
20 a resolution dedicating a [~~gross receipts~~] sales tax increment  
21 attributable to the state [~~gross receipts~~] sales tax for the  
22 purpose of securing the [~~gross receipts~~] sales tax increment  
23 bonds pursuant to Subsection G of Section 5-15-15 NMSA 1978;  
24 and

25                           (b) the approval required by Section

underscored material = new  
[bracketed material] = delete

1 5-15-21 NMSA 1978; and

2 (2) a [~~gross receipts~~] sales tax imposed by  
3 a taxing entity without the agreement of the taxing entity as  
4 evidenced by a resolution adopted pursuant to Subsection B or  
5 C of Section 5-15-15 NMSA 1978.

6 B. Except as otherwise provided in this section, a  
7 district board shall not issue bonds against either [~~gross~~  
8 ~~receipts~~] sales tax increments or property tax increments  
9 without the express written authorization of the department of  
10 finance and administration, as evidenced by a letter signed by  
11 the secretary of finance and administration. A district  
12 formed and approved by a class A county or by a municipality  
13 within a class A county if the municipality has a population  
14 of more than sixty-five thousand persons, according to the  
15 most recent federal decennial census, is not required to  
16 obtain express written authorization of the department of  
17 finance and administration for the issuance of [~~gross~~  
18 ~~receipts~~] sales tax increment bonds or property tax increment  
19 bonds.

20 C. Prior to the issuance of indebtedness evidenced  
21 by the [~~gross receipts~~] sales tax increment bonds or property  
22 tax increment bonds issued by a district pursuant to the Tax  
23 Increment for Development Act, the property owners within the  
24 district shall contribute a minimum of twenty percent of the  
25 initial public infrastructure costs, which may be reimbursed

.223540.1

underscored material = new  
[bracketed material] = delete

1 with proceeds of [~~gross receipts~~] sales tax increment or  
2 property tax increment bonds; unless the project to be  
3 financed with [~~gross receipts~~] sales tax increment bonds or  
4 property tax increment bonds is a metropolitan redevelopment  
5 project pursuant to the Metropolitan Redevelopment Code.

6 D. The amount of indebtedness evidenced by the  
7 [~~gross receipts~~] sales tax increment bonds or property tax  
8 increment bonds issued pursuant to the Tax Increment for  
9 Development Act shall not exceed the estimated cost of the  
10 public improvements plus all costs connected with the public  
11 infrastructure purposes and the issuance and sale of bonds,  
12 including, without limitation, formation costs, credit  
13 enhancement and liquidity support fees and costs.

14 E. The indebtedness evidenced by the [~~gross~~  
15 ~~receipts~~] sales tax increment bonds or property tax increment  
16 bonds shall not affect the general obligation bonding capacity  
17 of the municipality or county in which the tax increment  
18 development district is located.

19 F. The indebtedness evidenced by the [~~gross~~  
20 ~~receipts~~] sales tax increment bonds or property tax increment  
21 bonds shall be payable only from the special funds into which  
22 are deposited the [~~gross receipts~~] sales tax increments and  
23 property tax increments as set forth in the Tax Increment for  
24 Development Act.

25 G. Bonds issued by a tax increment development

.223540.1



underscoring material = new  
[bracketed material] = delete

1 district shall not be a general obligation of the state, the  
2 county or the municipality in which the tax increment  
3 development district is located and shall not pledge the full  
4 faith and credit of the state, the county or the municipality  
5 in which the tax increment development district is located."

6 SECTION 32. Section 5-15-21 NMSA 1978 (being Laws 2006,  
7 Chapter 75, Section 21, as amended) is amended to read:

8 "5-15-21. APPROVAL REQUIRED FOR ISSUANCE OF BONDS  
9 AGAINST STATE [~~GROSS RECEIPTS~~] SALES TAX INCREMENTS.--

10 A. In addition to all other requirements of the  
11 Tax Increment for Development Act, prior to a district board  
12 issuing bonds that are issued in whole or in part against a  
13 [~~gross receipts~~] sales tax increment attributable to the state  
14 [~~gross receipts~~] sales tax within a district and before a  
15 distribution attributable to the state [~~gross receipts~~] sales  
16 tax is made pursuant to Section 7-1-6.54 NMSA 1978, the New  
17 Mexico finance authority shall review the proposed issuance of  
18 the bonds and determine that the proceeds of the bonds will be  
19 used for a tax increment development project in accordance  
20 with the district's tax increment development plan and present  
21 the proposed issuance of the bonds to the legislature for  
22 approval.

23 B. The issuance of the bonds and the maximum  
24 amount of bonds to be issued shall be specifically authorized  
25 by law."

.223540.1

underscored material = new  
[bracketed material] = delete

1           **SECTION 33.** Section 5-15-23 NMSA 1978 (being Laws 2006,  
2 Chapter 75, Section 23) is amended to read:

3           "5-15-23. PROTECTION FROM IMPAIRMENT.--If the  
4 provisions set forth in the Tax Increment for Development Act  
5 impair the ability of a municipality, county or other public  
6 body to meet its principal or interest payment obligations for  
7 revenue bonds or general obligation bonds outstanding prior to  
8 the effective date of the Tax Increment for Development Act  
9 that are secured by the pledge of all or part of the  
10 municipality, county or other public body's revenue [~~gross~~  
11 ~~receipts~~] from sales tax or property tax, then the amount  
12 otherwise payable to the district pursuant to the Tax  
13 Increment for Development Act shall be paid instead to the  
14 municipality, county or public body in an amount sufficient to  
15 meet any required payment."

16           **SECTION 34.** Section 5-15-24 NMSA 1978 (being Laws 2006,  
17 Chapter 75, Section 24) is amended to read:

18           "5-15-24. TAX INCREMENT ACCOUNTING PROCEDURES.--A  
19 district board shall separately account for all revenues and  
20 indebtedness based on [~~gross receipts~~] sales tax increments  
21 and property tax increments. The district board shall  
22 individually account for all [~~gross receipts~~] sales tax  
23 increments."

24           **SECTION 35.** Section 5-15-25.1 NMSA 1978 (being Laws  
25 2014, Chapter 11, Section 1) is amended to read:

.223540.1

underscored material = new  
[bracketed material] = delete

1 "5-15-25.1. BASE YEAR REVISION--RESOLUTION--COMMENT  
2 PERIOD--SUBMISSION OF MATERIALS.--

3 A. A district may revise the base year that the  
4 district uses to determine its [~~gross receipts~~] sales tax  
5 increment. To initiate the process of revising its base year,  
6 a district board shall:

7 (1) adopt a resolution declaring that  
8 intent; and

9 (2) forward copies of the adopted resolution  
10 to the secretary of taxation and revenue, the secretary of  
11 finance and administration, the developer and the local  
12 governments that have dedicated a tax increment to the  
13 district.

14 B. The taxation and revenue department, the  
15 department of finance and administration, the developer and  
16 the local governments that have dedicated a tax increment to  
17 the district may submit written comments to the district with  
18 copies sent to the state board of finance for fifteen days  
19 after receiving a copy of a district board's resolution  
20 indicating the board's intent to revise the base year used to  
21 determine the district's [~~gross receipts~~] sales tax increment.

22 C. No more than forty-five days after adopting the  
23 resolution declaring the intent to revise the base year that  
24 the district uses to determine its [~~gross receipts~~] sales tax  
25 increment, the district board shall submit to the state board

.223540.1

underscored material = new  
[bracketed material] = delete

1 of finance and send copies to the developer and any local  
2 government that has dedicated a tax increment to the district:

3 (1) a copy of the resolution;

4 (2) all comments on the matter that the  
5 district received from the taxation and revenue department,  
6 the department of finance and administration, the developer  
7 and the local governments that have dedicated a tax increment  
8 to the district; and

9 (3) any other related documentation.

10 D. As used in this section, "developer" means the  
11 owner or developer who has entered into an agreement pursuant  
12 to Subsection A of Section 5-15-4 NMSA 1978 with the governing  
13 body that formed the district or the owner's or developer's  
14 successors or assigns."

15 SECTION 36. Section 5-15-25.2 NMSA 1978 (being Laws  
16 2014, Chapter 11, Section 2) is amended to read:

17 "5-15-25.2. BASE YEAR REVISION--APPROVAL.--

18 A. The state board of finance may approve the  
19 revision of the base year used to determine a district's  
20 [~~gross receipts~~] sales tax increment:

21 (1) once during the lifetime of the  
22 district;

23 (2) if the revised year is a calendar year  
24 that is completed;

25 (3) if no [~~gross receipts~~] sales tax

.223540.1

underscored material = new  
[bracketed material] = delete

1 increment bonds attributable to the district have been issued;

2 (4) if there is no unresolved objection to  
3 the revision by the developer or by a local government that  
4 has dedicated a tax increment to the district; and

5 (5) upon a finding that the revision is  
6 reasonable and in the best interest of the state.

7 B. If the state board of finance approves the  
8 revision of the base year used to determine a district's  
9 [~~gross receipts~~] sales tax increment, the state board of  
10 finance shall notify the district, the secretary of taxation  
11 and revenue, the developer and the local governments that have  
12 dedicated a tax increment to the district.

13 C. As used in this section, "developer" means the  
14 owner or developer who has entered into an agreement pursuant  
15 to Subsection A of Section 5-15-4 NMSA 1978 with the governing  
16 body that formed the district or the owner's or developer's  
17 successors or assigns."

18 SECTION 37. Section 5-15-25.3 NMSA 1978 (being Laws  
19 2014, Chapter 11, Section 3) is amended to read:

20 "5-15-25.3. BASE YEAR REVISION--EFFECT.--

21 A. Upon notice of the approval of a revision of  
22 the base year used to determine a district's [~~gross receipts~~]  
23 sales tax increment, the district shall:

24 (1) return to the taxation and revenue  
25 department any [~~gross receipts~~] sales tax increment credited  
.223540.1

underscored material = new  
[bracketed material] = delete

1 to the period between the time that the revenue collection  
2 began and the end of the revised base year and distributed to  
3 the district;

4 (2) update the district tax increment  
5 development plan to reflect the revision; and

6 (3) file with the clerk of the governing  
7 body that formed the district the revised tax increment  
8 development plan.

9 B. Upon receipt of the revenue identified in  
10 Paragraph (1) of Subsection A of this section, the taxation  
11 and revenue department shall remit to the taxing entities that  
12 have dedicated a [~~gross receipts~~] sales tax increment to the  
13 district an amount of that revenue in proportion to the amount  
14 of [~~gross receipts~~] sales tax increment attributable to their  
15 dedication."

16 SECTION 38. Section 5-15-27 NMSA 1978 (being Laws 2006,  
17 Chapter 75, Section 27, as amended) is amended to read:

18 "5-15-27. DEDICATION OF [~~GROSS RECEIPTS~~] SALES TAX  
19 INCREMENT--NOTICE TO TAXATION AND REVENUE DEPARTMENT.--

20 A. If the state board of finance or a taxing  
21 entity approves a dedication or increase in the dedication of  
22 a [~~gross receipts~~] sales tax increment to a district, the  
23 state board of finance or the taxing entity shall notify the  
24 taxation and revenue department of that approval at least one  
25 hundred twenty days before the effective date of the

.223540.1

underscored material = new  
[bracketed material] = delete

1 dedication or increase in the dedication; provided that the  
2 effective date of the dedication by the state board of finance  
3 is on or after the date the bonds are approved by the  
4 legislature pursuant to Section 5-15-21 NMSA 1978.

5 B. In regard to a dedication of a [~~gross receipts~~]  
6 sales tax increment attributable to the state [~~gross receipts~~]  
7 sales tax, if the approval required pursuant to Section  
8 5-15-21 NMSA 1978 has not occurred when the notice pursuant to  
9 Subsection A of this section is made, the state board of  
10 finance shall include in the notice that legislative approval  
11 is needed prior to a distribution pursuant to Section 7-1-6.54  
12 NMSA 1978 attributable to the state [~~gross receipts~~] sales tax  
13 can be made. Upon approval pursuant to Section 5-15-21 NMSA  
14 1978, the state board of finance shall notify the department  
15 of the approval."

16 SECTION 39. Section 5-15-29 NMSA 1978 (being Laws 2019,  
17 Chapter 275, Section 8) is amended to read:

18 "5-15-29. REPORT REQUIRED.--On September 1 of each  
19 year, the district board of a district that receives a  
20 distribution of a [~~gross receipts~~] sales tax increment  
21 attributable to the state [~~gross receipts~~] sales tax shall  
22 submit a report to the state board of finance and the  
23 legislative finance committee that includes the estimated  
24 capital investment in the district, the estimated total net  
25 new jobs and new full-time economic base jobs created in the

.223540.1

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

1 district and the total revenues distributed to the district in  
2 each previous fiscal year."

3 SECTION 40. Section 5-16-3 NMSA 1978 (being Laws 2006,  
4 Chapter 15, Section 3) is amended to read:

5 "5-16-3. DEFINITIONS.--As used in the Regional  
6 Spaceport District Act:

7 A. "authority" means the spaceport authority  
8 created pursuant to the Spaceport Development Act;

9 B. "board" means the board of directors of a  
10 district;

11 C. "bond" means a revenue bond issued by the  
12 authority on behalf of a district;

13 D. "combination" means two or more governmental  
14 units that exercise joint authority;

15 E. "district" means a regional spaceport district  
16 that is a political subdivision of the state created pursuant  
17 to the Regional Spaceport District Act;

18 F. "governmental unit" means the state, a county  
19 or a municipality of the state or an Indian nation, tribe or  
20 pueblo located within the boundaries of the state;

21 G. "project" means any land, building or other  
22 improvements acquired as part of a spaceport or associated  
23 with a spaceport or to aid commerce in connection with a  
24 spaceport and all real and personal property deemed necessary  
25 in connection with the spaceport;

.223540.1



underscored material = new  
[bracketed material] = delete

1           H. "revenues" means municipal regional spaceport  
2 [~~gross receipts~~] sales tax revenues and county regional  
3 spaceport [~~gross receipts~~] sales tax revenues; and

4           I. "spaceport" means any facility in New Mexico at  
5 which space vehicles may be launched or landed, including all  
6 facilities and support infrastructure related to launch,  
7 landing or payload processing."

8           SECTION 41. Section 5-16-13 NMSA 1978 (being Laws 2006,  
9 Chapter 15, Section 13) is amended to read:

10           "5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.--~~[Each~~  
11 ~~governmental unit that is a county or municipality and is a~~  
12 ~~member of a combination shall have enacted a municipal~~  
13 ~~regional spaceport gross receipts tax or a county regional~~  
14 ~~spaceport gross receipts tax prior to December 31, 2008.]~~ At  
15 least seventy-five percent of the municipal regional spaceport  
16 [~~gross receipts~~] sales tax or county regional spaceport [~~gross~~  
17 ~~receipts~~] sales tax revenues received by each governmental  
18 unit must be used by the district for the financing, planning,  
19 designing, engineering and construction of a regional  
20 spaceport. No more than twenty-five percent of the municipal  
21 regional spaceport [~~gross receipts~~] sales tax or county  
22 regional spaceport [~~gross receipts~~] sales tax revenues may be  
23 used by the governmental unit enacting the tax for spaceport-  
24 related projects as approved by resolution of the governmental  
25 unit."

.223540.1

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

1           SECTION 42. Section 6-14-2 NMSA 1978 (being Laws 1970,  
2 Chapter 10, Section 2, as amended) is amended to read:

3           "6-14-2. DEFINITIONS.--As used in the Public Securities  
4 Act:

5           A. "net effective interest rate" means the  
6 interest rate of public securities, compounded semiannually,  
7 necessary to discount the scheduled debt service payments of  
8 principal and interest to the date of the public securities  
9 and to the price paid to the public body for the public  
10 securities, excluding any interest accrued to the date of  
11 delivery and based upon a year with the same number of days as  
12 the number of days for which interest is computed on the  
13 public securities;

14           B. "public body" means this state or any  
15 department, board, agency or instrumentality of the state, any  
16 county, city, town, village, school district, other district,  
17 educational institution or any other governmental agency or  
18 political subdivision of the state; and

19           C. "public securities" means any bonds, notes,  
20 warrants or other obligations now or hereafter authorized to  
21 be issued by any public body pursuant to the provisions of any  
22 general or special law enacted by the legislature, but does  
23 not include bonds, notes, warrants or other obligations issued  
24 pursuant to:

25                   (1) the Industrial Revenue Bond Act;

.223540.1

underscored material = new  
[bracketed material] = delete

- 1 (2) the County Improvement District Act;  
2 (3) Sections 3-33-1 through 3-33-43 NMSA  
3 1978;  
4 (4) the Pollution Control Revenue Bond Act;  
5 (5) the County Pollution Control Revenue  
6 Bond Act;  
7 (6) the County Industrial Revenue Bond Act;  
8 (7) the Metropolitan Redevelopment Code;  
9 (8) the Supplemental Municipal [~~Gross~~  
10 Receipts] Sales Tax Act;  
11 (9) the Hospital Equipment Loan Act; or  
12 (10) the New Mexico Finance Authority Act."

13 SECTION 43. Section 6-21-6.1 NMSA 1978 (being Laws  
14 1994, Chapter 145, Section 2, as amended) is amended to read:

15 "6-21-6.1. PUBLIC PROJECT REVOLVING FUND--  
16 APPROPRIATIONS TO OTHER FUNDS.--

17 A. At the end of each fiscal year, after all debt  
18 service charges, replenishment of reserves and administrative  
19 costs on all outstanding bonds, notes or other obligations  
20 payable from the public project revolving fund are satisfied,  
21 an aggregate amount not to exceed thirty-five percent of the  
22 governmental [~~gross receipts~~] sales tax proceeds distributed  
23 to the public project revolving fund in the preceding fiscal  
24 year less all debt service charges and administrative costs of  
25 the authority paid in the preceding fiscal year on bonds

.223540.1

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

1 issued pursuant to this section may be appropriated by the  
2 legislature from the public project revolving fund to:

3 (1) the following funds for local  
4 infrastructure financing:

5 (a) the wastewater facility  
6 construction loan fund for purposes of the Wastewater Facility  
7 Construction Loan Act;

8 (b) the rural infrastructure revolving  
9 loan fund for purposes of the Rural Infrastructure Act;

10 (c) the solid waste facility grant fund  
11 for purposes of the Solid Waste Act;

12 (d) the drinking water state revolving  
13 loan fund for purposes of the Drinking Water State Revolving  
14 Loan Fund Act;

15 (e) the water and wastewater project  
16 grant fund for purposes specified in the New Mexico Finance  
17 Authority Act; or

18 (f) the local government planning fund  
19 for purposes specified in the New Mexico Finance Authority  
20 Act; or

21 (2) the cultural affairs facilities  
22 infrastructure fund.

23 B. The authority and the department of finance and  
24 administration in coordination with the New Mexico finance  
25 authority oversight committee may recommend annually to each

.223540.1

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

1 regular session of the legislature amounts to be appropriated  
2 to the funds listed in Subsection A of this section."

3 SECTION 44. Section 6-21C-5 NMSA 1978 (being Laws 2001,  
4 Chapter 199, Section 5, as amended) is amended to read:

5 "6-21C-5. STATE BUILDING BONDING FUND CREATED--MONEY IN  
6 THE FUND PLEDGED.--

7 A. The "state building bonding fund" is created as  
8 a special fund within the New Mexico finance authority. The  
9 fund shall be administered by the New Mexico finance authority  
10 as a special account. The fund shall consist of money  
11 appropriated and transferred to the fund and [~~gross receipts~~]  
12 sales tax revenues distributed to the fund by law. Earnings  
13 of the fund shall be credited to the fund. Balances in the  
14 fund at the end of any fiscal year shall remain in the fund,  
15 except as provided in this section.

16 B. Money in the state building bonding fund is  
17 pledged for the payment of principal and interest on all  
18 building bonds issued pursuant to the State Building Bonding  
19 Act. Money in the fund is appropriated:

20 (1) to the New Mexico finance authority for  
21 the purpose of paying debt service, including redemption  
22 premiums, on the building bonds and the expenses incurred in  
23 the issuance, payment and administration of the bonds; and

24 (2) if specifically authorized in the law  
25 authorizing the acquisition of a building, to the facilities

.223540.1

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

1 management division of the general services department for  
2 expenditures for required maintenance and repairs of that  
3 building but only if the authority determines that money in  
4 the fund is sufficient to meet the requirements of Paragraph  
5 (1) of this subsection.

6 C. On the last day of January and July of each  
7 year, the New Mexico finance authority shall estimate the  
8 amount needed to make debt service and other payments during  
9 the next twelve months from the state building bonding fund on  
10 the building bonds issued pursuant to the State Building  
11 Bonding Act plus the amount that may be needed for any  
12 required reserves and, if specifically authorized in the law  
13 authorizing the acquisition of a building, the amount that may  
14 be needed for required maintenance and repairs of that  
15 building. The New Mexico finance authority shall transfer to  
16 the general fund any balance in the state building bonding  
17 fund above the estimated amounts.

18 D. Any balance remaining in the state building  
19 bonding fund shall be transferred to the general fund upon  
20 certification by the New Mexico finance authority that:

21 (1) the director of the facilities  
22 management division of the general services department and the  
23 New Mexico finance authority have agreed that the building  
24 bonds issued pursuant to the State Building Bonding Act have  
25 been retired, that no additional obligations of the state

.223540.1

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

1 building bonding fund exist and that no additional  
2 expenditures from the fund are necessary; or

3 (2) a court of jurisdiction has ruled that  
4 the building bonds have been retired, that no additional  
5 obligations of the state building bonding fund exist and that  
6 no additional expenditures from the fund are necessary.

7 E. The building bonds issued pursuant to the State  
8 Building Bonding Act shall be payable solely from the state  
9 building bonding fund or, with the approval of the  
10 bondholders, such other special funds as may be provided by  
11 law and do not create an obligation or indebtedness of the  
12 state within the meaning of any constitutional provision. No  
13 breach of any contractual obligation incurred pursuant to that  
14 act shall impose a pecuniary liability or a charge upon the  
15 general credit or taxing power of the state, and the bonds are  
16 not general obligations for which the state's full faith and  
17 credit is pledged.

18 F. The state does hereby pledge that the state  
19 building bonding fund shall be used only for the purposes  
20 specified in this section and pledged first to pay the debt  
21 service on the building bonds issued pursuant to the State  
22 Building Bonding Act. The state further pledges that any law  
23 authorizing the distribution of taxes or other revenues to the  
24 state building bonding fund or authorizing expenditures from  
25 the fund shall not be amended or repealed or otherwise

.223540.1

underscored material = new  
[bracketed material] = delete

1 modified so as to impair the bonds to which the state building  
2 bonding fund is dedicated as provided in this section."

3 SECTION 45. Section 6-21D-5 NMSA 1978 (being Laws 2005,  
4 Chapter 176, Section 5) is amended to read:

5 "6-21D-5. ENERGY EFFICIENCY AND RENEWABLE ENERGY  
6 BONDING FUND--PLEDGE OF MONEY IN THE FUND.--

7 A. The "energy efficiency and renewable energy  
8 bonding fund" is created as a special fund within the  
9 authority. The fund shall be administered by the authority as  
10 a special account. The fund shall consist of [~~gross receipts~~]  
11 sales tax revenues distributed to the fund by law, money  
12 transferred to the fund pursuant to the provisions of the  
13 Energy Efficiency and Renewable Energy Bonding Act and other  
14 transfers and appropriations made to the fund. Earnings of  
15 the fund shall be credited to the fund. Any unexpended or  
16 unencumbered balance in the energy efficiency and renewable  
17 energy bonding fund shall revert to the general fund at the  
18 end of a fiscal year.

19 B. Money in the fund shall be pledged irrevocably  
20 by the authority for the payment of principal and interest on  
21 all bonds issued pursuant to the Energy Efficiency and  
22 Renewable Energy Bonding Act. Money in the fund is  
23 appropriated to the authority for the purpose of paying debt  
24 service, including redemption premiums, on the bonds and the  
25 expenses incurred in the issuance, payment and administration

.223540.1



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

1 of the bonds.

2 C. On the last day of January and July of each  
3 year, the authority shall estimate the amount needed to make  
4 debt service payments on the bonds issued pursuant to the  
5 Energy Efficiency and Renewable Energy Bonding Act plus the  
6 amount that may be needed for any required reserves,  
7 administrative expenses or the obligations coming due during  
8 the next twelve months from the fund. Amounts that revert to  
9 the general fund from the energy efficiency and renewable  
10 energy bonding fund may be appropriated by the legislature to  
11 the department for the purposes of carrying out the provisions  
12 of the Energy Efficiency and Renewable Energy Bonding Act.

13 D. Upon payment or defeasance of all principal,  
14 interest and other expenses or obligations related to the  
15 bonds, the authority shall certify to the public education  
16 department, the department of finance and administration and  
17 the secretary of taxation and revenue that all obligations for  
18 the bonds issued pursuant to the Energy Efficiency and  
19 Renewable Energy Bonding Act have been discharged and shall  
20 direct that distributions cease to the fund pursuant to that  
21 act and the Tax Administration Act.

22 E. The bonds issued pursuant to the Energy  
23 Efficiency and Renewable Energy Bonding Act shall be payable  
24 solely from the fund or such other special funds as may be  
25 provided by law and do not create an obligation or

.223540.1

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

1       indebtedness of the state within the meaning of any  
2       constitutional provision. A breach of any contractual  
3       obligation incurred pursuant to that act shall not impose a  
4       pecuniary liability or a charge upon the general credit or  
5       taxing power of the state, and the bonds are not general  
6       obligations for which the state's full faith and credit is  
7       pledged.

8                 F. The state does hereby pledge that the fund  
9       shall be used only for the purposes specified in this section  
10      and pledged first to pay the debt service on the bonds issued  
11      pursuant to the Energy Efficiency and Renewable Energy Bonding  
12      Act. The state further pledges that any law authorizing the  
13      distribution of taxes or other revenues to the fund or  
14      authorizing expenditures from the fund shall not be amended or  
15      repealed or otherwise modified so as to impair the bonds to  
16      which the fund is dedicated as provided in this section."

17                 SECTION 46. Section 6-23-8 NMSA 1978 (being Laws 1993,  
18      Chapter 231, Section 8, as amended) is amended to read:

19                 "6-23-8. MUNICIPALITIES--USE OF CERTAIN REVENUES  
20      AUTHORIZED.--Upon adoption of an ordinance or resolution by an  
21      affirmative vote of a majority of the members of the governing  
22      body at any regular or special meeting of the governing body  
23      called for this purpose, a municipality may pledge utility  
24      cost savings, conservation-related cost savings or any or all  
25      revenues not otherwise pledged or obligated from [~~gross~~

.223540.1

underscored material = new  
[bracketed material] = delete

1 ~~receipts]~~ sales taxes received by the municipality pursuant to  
2 [~~Section]~~ Sections 7-1-6.4 [~~NMSA 1978]~~ and [~~Section]~~ 7-1-6.12  
3 NMSA 1978 for payments pursuant to a guaranteed utility  
4 savings contract with a qualified provider and any installment  
5 payment contract or lease-purchase agreement pursuant to that  
6 guaranteed utility savings contract. The ordinance or  
7 resolution shall declare the necessity for the guaranteed  
8 utility savings contract and related contracts or agreements  
9 and shall designate the source of the pledged revenues. Any  
10 revenues pledged for such contract payments shall be deposited  
11 in a special fund, and the municipality shall not use any  
12 other revenues to make such payments. At the end of each  
13 fiscal year, any money remaining in the special fund after  
14 payment obligations are met may be transferred to any other  
15 fund of the municipality."

16 SECTION 47. Section 6-23-9 NMSA 1978 (being Laws 1993,  
17 Chapter 231, Section 9, as amended) is amended to read:

18 "6-23-9. COUNTIES--USE OF CERTAIN REVENUES  
19 AUTHORIZED.--Upon adoption of an ordinance or resolution by an  
20 affirmative vote of a majority of the members of the board of  
21 county commissioners at any regular or special meeting of the  
22 board called for this purpose, a county may pledge utility  
23 cost savings, conservation-related cost savings or any or all  
24 of the revenue not otherwise pledged or obligated from the  
25 [~~first one-eighth of one percent increment and of one-half of~~  
.223540.1

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

1 ~~the revenue from the third one-eighth of one percent increment~~  
2 ~~of the] county [gross receipts] sales tax transferred to the~~  
3 county pursuant to Section 7-1-6.13 NMSA 1978 and any or all  
4 of the revenue from the distribution related to ~~[the first~~  
5 ~~one-eighth of one percent increment made pursuant to]~~ Section  
6 7-1-6.16 NMSA 1978 for the purpose of making payments pursuant  
7 to a guaranteed utility savings contract with a qualified  
8 provider or any installment payment contract or lease-purchase  
9 agreement pursuant to that guaranteed utility savings  
10 contract. The ordinance or resolution shall declare the  
11 necessity for the guaranteed utility savings contract and  
12 related contracts or agreements and shall designate the source  
13 of the pledged revenues. Any revenues pledged for such  
14 contract payments shall be deposited in a special fund and the  
15 county shall not use any other county or state revenue to make  
16 such payments. At the end of each fiscal year, any money  
17 remaining in the special fund after the payment obligations  
18 are met may be transferred to any other fund of the county."

19 SECTION 48. Section 6-25-7 NMSA 1978 (being Laws 2003,  
20 Chapter 349, Section 7, as amended) is amended to read:

21 "6-25-7. PROJECT REVENUE BONDS.--

22 A. The authority may issue project revenue bonds  
23 on behalf of an eligible entity to provide funds for a  
24 project. Project revenue bonds issued pursuant to the  
25 Statewide Economic Development Finance Act shall not be a

.223540.1

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

1 general obligation of the authority or the state within the  
2 meaning of any provision of the constitution of New Mexico and  
3 shall never give rise to a pecuniary liability of the  
4 authority or the state or a charge against the general credit  
5 or taxing powers of the state. Project revenue bonds shall be  
6 payable from the revenue derived from a project being financed  
7 by the bonds and from other revenues pledged by an eligible  
8 entity and may be secured in such manner as provided in the  
9 Statewide Economic Development Finance Act and as determined  
10 by the authority. Project revenue bonds may be executed and  
11 delivered at any time, may be in such form and denominations,  
12 may be payable in installments and at times not exceeding  
13 thirty years from their date of delivery, may bear or accrete  
14 interest at a rate or rates and may contain such provisions  
15 not inconsistent with the Statewide Economic Development  
16 Finance Act, all as provided in the resolution and proceedings  
17 of the authority authorizing issuance of the bonds. Project  
18 revenue bonds issued by the authority pursuant to the  
19 Statewide Economic Development Finance Act may be sold at  
20 public or private sale in such manner and from time to time as  
21 may be determined by the authority, and the authority may pay  
22 all expenses that the authority may determine necessary in  
23 connection with the authorization, sale and issuance of the  
24 bonds. All project revenue bonds issued pursuant to the  
25 Statewide Economic Development Finance Act shall be

.223540.1

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

1 negotiable.

2 B. The principal of and interest on project  
3 revenue bonds issued pursuant to the Statewide Economic  
4 Development Finance Act shall be secured by a pledge of the  
5 revenues of the project being financed with the proceeds of  
6 the bonds, may be secured by a mortgage of all or a part of  
7 the project being financed or other collateral pledged by an  
8 eligible entity and may be secured by the lease of such  
9 project, which collateral and lease may be assigned, in whole  
10 or in part, by the department to the authority or to third  
11 parties to carry out the purposes of the Statewide Economic  
12 Development Finance Act. The resolution of the authority  
13 pursuant to which the project revenue bonds are authorized to  
14 be issued or any such mortgage may contain any agreement and  
15 provisions customarily contained in instruments securing  
16 bonds, including provisions respecting the fixing and  
17 collection of all revenues from any project to which the  
18 resolution or mortgage pertains, the terms to be incorporated  
19 in the lease of the project, the maintenance and insurance of  
20 the project, the creation and maintenance of special funds  
21 from the revenues of the project and the rights and remedies  
22 available in event of default to the bondholders or to the  
23 trustee under a mortgage, all as determined by the authority  
24 or the department and as shall not be in conflict with the  
25 Statewide Economic Development Finance Act; provided, however,

.223540.1

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

1 that, in making any such agreements or provisions, the  
2 authority and the department may not obligate themselves  
3 except with respect to the project and application of the  
4 revenues from the project, and except as expressly permitted  
5 by the Statewide Economic Development Finance Act, and shall  
6 not have the power to incur a pecuniary liability or a charge  
7 or to pledge the general credit or taxing power of the state.  
8 The resolution authorizing the issuance of project revenue  
9 bonds may provide procedures and remedies in the event of  
10 default in payment of the principal of or interest on the  
11 bonds or in the performance of any agreement. No breach of  
12 any such agreement shall impose any pecuniary liability upon  
13 the authority, the department or the state or any charge  
14 against the general credit or taxing powers of the state.

15 C. The authority may arrange for such other  
16 guarantees, insurance or other credit enhancements or  
17 additional security provided by an eligible entity as  
18 determined by the authority for the project revenue bonds and  
19 may provide for the payment of the costs from the proceeds of  
20 the bonds or may require payment of the costs by the eligible  
21 entity on whose behalf the bonds are issued.

22 D. Project revenue bonds issued to finance a  
23 project may also be secured by pledging a portion of the  
24 qualifying municipal or county ~~[gross receipts]~~ sales tax  
25 revenues by the municipality or county in which the project is

.223540.1

underscoring material = new  
[bracketed material] = delete

1 located, as permitted by the Local Economic Development Act.

2 E. The project revenue bonds and the income from  
3 the bonds, all mortgages or other instruments executed as  
4 security for the bonds, all lease agreements made pursuant to  
5 the provisions of the Statewide Economic Development Finance  
6 Act and revenue derived from any sale or lease of a project  
7 shall be exempt from all taxation by the state or any  
8 political subdivision of the state. The authority may issue  
9 project revenue bonds the interest on which is exempt from  
10 taxation under federal law.

11 F. In any calendar year, no more than fifteen  
12 percent of the state ceiling allocated pursuant to the Private  
13 Activity Bond Act may be used for projects financed pursuant  
14 to the Statewide Economic Development Finance Act."

15 SECTION 49. Section 7-1-2 NMSA 1978 (being Laws 1965,  
16 Chapter 248, Section 2, as amended) is amended to read:

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

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

- 22 (1) Income Tax Act;  
23 (2) Withholding Tax Act;  
24 (3) Oil and Gas Proceeds and Pass-Through  
25 Entity Withholding Tax Act;

.223540.1



underscored material = new  
[bracketed material] = delete

1                                   (4) [~~Gross Receipts and Compensating~~] Sales  
2 and Use Tax Act, Interstate Telecommunications [~~Gross~~  
3 ~~Receipts~~] Sales Tax Act and Leased Vehicle [~~Gross Receipts~~]  
4 Sales Tax Act;

5                                   (5) Liquor Excise Tax Act;

6                                   (6) Local Liquor Excise Tax Act;

7                                   (7) any municipal local option [~~gross~~  
8 ~~receipts~~] sales tax or municipal [~~compensating~~] use tax;

9                                   (8) any county local option [~~gross receipts~~]  
10 sales tax or county [~~compensating~~] use tax;

11                                   (9) Special Fuels Supplier Tax Act;

12                                   (10) Gasoline Tax Act;

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

16                                   (12) Alternative Fuel Tax Act;

17                                   (13) Cigarette Tax Act;

18                                   (14) Estate Tax Act;

19                                   (15) Railroad Car Company Tax Act;

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

25                                   (17) Corporate Income and Franchise Tax Act;

.223540.1

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

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

.223540.1

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

1 Valorem Tax Act;

2 (10) Copper Production Ad Valorem Tax Act;

3 (11) any advance payment required to be made

4 by any act specified in this subsection, which advance payment

5 shall be considered a tax for the purposes of the Tax

6 Administration Act;

7 (12) Enhanced Oil Recovery Act;

8 (13) Natural Gas and Crude Oil Production

9 Incentive Act; and

10 (14) intergovernmental production tax credit

11 and intergovernmental production equipment tax credit;

12 C. the administration and enforcement of the

13 following taxes, surcharges, fees or acts as they now exist or

14 may hereafter be amended:

15 (1) Weight Distance Tax Act;

16 (2) the workers' compensation fee authorized

17 by Section 52-5-19 NMSA 1978, which fee shall be considered a

18 tax for purposes of the Tax Administration Act;

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

20 (4) 911 emergency surcharge and the network

21 and database surcharge, which surcharges shall be considered

22 taxes for purposes of the Tax Administration Act;

23 (5) the solid waste assessment fee

24 authorized by the Solid Waste Act, which fee shall be

25 considered a tax for purposes of the Tax Administration Act;

.223540.1

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

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

4 (7) the gaming tax imposed pursuant to the  
5 Gaming Control Act; and

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

11 SECTION 50. Section 7-1-3 NMSA 1978 (being Laws 1965,  
12 Chapter 248, Section 3, as amended by Laws 2019, Chapter 270,  
13 Section 2 and by Laws 2019, Chapter 274, Section 10) is  
14 amended to read:

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

21 A. "automated clearinghouse transaction" means an  
22 electronic credit or debit transmitted through an automated  
23 clearinghouse payable to the state treasurer and deposited  
24 with the fiscal agent of New Mexico;

25 B. "business location" means the location where a

.223540.1

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

1 taxpayer's gross receipts and deductions are required to be  
2 reported pursuant to Section 7-1-14 NMSA 1978;

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

7 D. "electronic payment" means a payment made by  
8 automated clearinghouse deposit, any funds wire transfer  
9 system or a credit card, debit card or electronic cash  
10 transaction through the internet;

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

17 F. "financial institution" means any state or  
18 federally chartered, federally insured depository institution;

19 G. "hearing officer" means a person who has been  
20 designated by the chief hearing officer to serve as a hearing  
21 officer and who is:

- 22 (1) the chief hearing officer;  
23 (2) an employee of the administrative  
24 hearings office; or  
25 (3) a contractor of the administrative

.223540.1

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

1 hearings office;

2 H. "Internal Revenue Code" means the Internal  
3 Revenue Code of 1986, as that code may be amended or its  
4 sections renumbered;

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

10 J. "local option [~~gross receipts~~] sales tax" means  
11 a tax authorized to be imposed by a county or municipality  
12 upon a taxpayer's gross receipts, as that term is defined in  
13 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act,  
14 and required to be collected by the department at the same  
15 time and in the same manner as the [~~gross receipts~~] sales tax;

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

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

.223540.1

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

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

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

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

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

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

23 R. "property" means property or rights to  
24 property;

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

.223540.1

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

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

3 T. "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 U. "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,  
16 such 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  
20 or tax liability that was not obtained from public sources or  
21 that 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 V. "secretary" means the secretary of taxation and

.223540.1



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

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 W. "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  
8 secretary;

9 X. "security" means money, property or rights to  
10 property or a surety bond;

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

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

.223540.1

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

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

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

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

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

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

.223540.1

underscored material = new  
[bracketed material] = delete

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

4 SECTION 51. Section 7-1-6.2 NMSA 1978 (being Laws 1983,  
5 Chapter 211, Section 7, as amended) is amended to read:

6 "7-1-6.2. DISTRIBUTION--SMALL CITIES ASSISTANCE FUND.--  
7 A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
8 made to the small cities assistance fund in an amount equal to  
9 fifteen percent of the net receipts attributable to the  
10 [~~compensating~~] use tax."

11 SECTION 52. Section 7-1-6.4 NMSA 1978 (being Laws 1983,  
12 Chapter 211, Section 9, as amended) is amended to read:

13 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM [~~GROSS~~  
14 RECEIPTS] SALES TAX.--

15 A. Except as provided in Subsection B of this  
16 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978  
17 shall be made to each municipality in an amount, subject to  
18 any increase or decrease made pursuant to Section 7-1-6.15  
19 NMSA 1978, equal to the product of the quotient of one and two  
20 hundred twenty-five thousandths percent divided by the tax  
21 rate imposed by Section 7-9-4 NMSA 1978 multiplied by the net  
22 receipts, except net receipts attributable to a nonprofit  
23 hospital licensed by the department of health, for the month  
24 attributable to the [~~gross receipts~~] sales tax from business  
25 locations:

.223540.1

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

- 1 (1) within that municipality;
- 2 (2) on land owned by the state, commonly
- 3 known as the "state fairgrounds", within the exterior
- 4 boundaries of that municipality;
- 5 (3) outside the boundaries of any
- 6 municipality on land owned by that municipality; and
- 7 (4) on an Indian reservation or pueblo grant
- 8 in an area that is contiguous to that municipality and in
- 9 which the municipality performs services pursuant to a
- 10 contract between the municipality and the Indian tribe or
- 11 Indian pueblo if:

12 (a) the contract describes an area in

13 which the municipality is required to perform services and

14 requires the municipality to perform services that are

15 substantially the same as the services the municipality

16 performs for itself; and

17 (b) the governing body of the

18 municipality has submitted a copy of the contract to the

19 secretary.

20 B. If the reduction made by Laws 1991, Chapter 9,

21 Section 9 to the distribution under this section impairs the

22 ability of a municipality to meet its principal or interest

23 payment obligations for revenue bonds outstanding prior to

24 July 1, 1991 that are secured by the pledge of all or part of

25 the municipality's revenue from the distribution made under

.223540.1

underscored material = new  
[bracketed material] = delete

1 this section, then the amount distributed pursuant to this  
2 section to that municipality shall be increased by an amount  
3 sufficient to meet any required payment, provided that the  
4 distribution amount does not exceed the amount that would have  
5 been due that municipality under this section as it was in  
6 effect on June 30, 1992.

7 C. A distribution pursuant to this section may be  
8 adjusted for a distribution made to a tax increment  
9 development district with respect to a portion of a [~~gross~~  
10 ~~receipts~~] sales tax increment dedicated by a municipality  
11 pursuant to the Tax Increment for Development Act.

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

17 SECTION 53. Section 7-1-6.5 NMSA 1978 (being Laws 1983,  
18 Chapter 211, Section 10 and Laws 1983, Chapter 214, Section 6,  
19 as amended) is amended to read:

20 "7-1-6.5. DISTRIBUTION--SMALL COUNTIES ASSISTANCE  
21 FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978  
22 shall be made to the small counties assistance fund in an  
23 amount equal to ten percent of the net receipts attributable  
24 to the [~~compensating~~] use tax."

25 SECTION 54. Section 7-1-6.7 NMSA 1978 (being Laws 1994,  
.223540.1

underscored material = new  
[bracketed material] = delete

1 Chapter 5, Section 2, as amended) is amended to read:

2 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

3 A. A distribution pursuant to Section 7-1-6.1 NMSA  
4 1978 shall be made to the state aviation fund in an amount  
5 equal to four and seventy-nine hundredths percent of the  
6 taxable gross receipts attributable to the sale of fuel  
7 specially prepared and sold for use in turboprop or jet-type  
8 engines as determined by the department.

9 B. 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 twenty-six hundredths percent of gasoline taxes,  
12 exclusive of penalties and interest, collected pursuant to the  
13 Gasoline Tax Act.

14 C. From July 1, 2013 through June 30, 2031, a  
15 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
16 made to the state aviation fund in an amount equal to forty-  
17 six thousandths percent of the net receipts attributable to  
18 the [~~gross receipts~~] sales tax distributable to the general  
19 fund.

20 D. A distribution pursuant to Section 7-1-6.1 NMSA  
21 1978 shall be made to the state aviation fund from the net  
22 receipts attributable to the [~~gross receipts~~] sales tax  
23 distributable to the general fund in an amount equal to:

24 (1) eighty thousand dollars (\$80,000)  
25 monthly from July 1, 2007 through June 30, 2008;

.223540.1

underscored material = new  
[bracketed material] = delete

1 (2) one hundred sixty-seven thousand dollars  
2 (\$167,000) monthly from July 1, 2008 through June 30, 2009;  
3 and

4 (3) two hundred fifty thousand dollars  
5 (\$250,000) monthly after July 1, 2009."

6 SECTION 55. Section 7-1-6.12 NMSA 1978 (being Laws  
7 1983, Chapter 211, Section 17, as amended) is amended to read:

8 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL  
9 OPTION [~~GROSS RECEIPTS~~] SALES AND [~~COMPENSATING~~] USE TAXES.--

10 A. A transfer pursuant to Section 7-1-6.1 NMSA  
11 1978 shall be made to each municipality for which the  
12 department is collecting a local option [~~gross receipts~~] sales  
13 tax and municipal [~~compensating~~] use tax imposed by that  
14 municipality in an amount, subject to any increase or decrease  
15 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net  
16 receipts attributable to the local option [~~gross receipts~~]  
17 sales tax and municipal [~~compensating~~] use tax imposed by that  
18 municipality, less any deduction for administrative cost  
19 determined and made by the department pursuant to the  
20 provisions of the act authorizing imposition by that  
21 municipality of the local option [~~gross receipts~~] sales tax  
22 and municipal [~~compensating~~] use tax and any additional  
23 administrative fee withheld pursuant to Section 7-1-6.41 NMSA  
24 1978.

25 B. A transfer pursuant to this section may be

.223540.1

underscored material = new  
[bracketed material] = delete

1 adjusted for a distribution made to a tax increment  
2 development district with respect to a portion of a [~~gross~~  
3 ~~receipts~~] sales tax increment dedicated by a municipality  
4 pursuant to the Tax Increment for Development Act.

5 C. A transfer pursuant to this section shall be  
6 adjusted for a distribution made to the Local Economic  
7 Development Act fund pursuant to Section [~~5 of this 2021 act~~]  
8 7-1-6.67 NMSA 1978 and with respect to the amount dedicated by  
9 a municipality pursuant to Subsection B of Section [~~2 of this~~  
10 ~~2021 act~~] 5-10-17 NMSA 1978."

11 SECTION 56. Section 7-1-6.13 NMSA 1978 (being Laws  
12 1983, Chapter 211, Section 18, as amended) is amended to read:

13 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION  
14 [~~GROSS RECEIPTS~~] SALES AND [~~COMPENSATING~~] USE TAXES.--

15 A. A transfer pursuant to Section 7-1-6.1 NMSA  
16 1978 shall be made to each county for which the department is  
17 collecting a local option [~~gross receipts~~] sales tax and  
18 county [~~compensating~~] use tax imposed by that county in an  
19 amount, subject to any increase or decrease made pursuant to  
20 Section 7-1-6.15 NMSA 1978, equal to the net receipts  
21 attributable to the local option [~~gross receipts~~] sales tax  
22 and county [~~compensating~~] use tax imposed by that county, less  
23 any deduction for administrative cost determined and made by  
24 the department pursuant to the provisions of the act  
25 authorizing imposition by that county of the local option

.223540.1



underscored material = new  
[bracketed material] = delete

1     ~~[gross receipts]~~ sales tax and county ~~[compensating]~~ use tax  
2     and any additional administrative fee withheld pursuant to  
3     Section 7-1-6.41 NMSA 1978.

4             B. A transfer pursuant to this section may be  
5     adjusted for a distribution made to a tax increment  
6     development district with respect to a portion of a ~~[gross~~  
7     ~~receipts]~~ sales tax increment dedicated by a county pursuant  
8     to the Tax Increment for Development Act.

9             C. A transfer pursuant to this section shall be  
10    adjusted for a distribution made to the Local Economic  
11    Development Act fund pursuant to Section ~~[5 of this 2021 act]~~  
12    7-1-6.67 NMSA 1978 and with respect to the amount dedicated by  
13    a county pursuant to Subsection B of Section ~~[2 of this 2021~~  
14    ~~act]~~ 5-10-17 NMSA 1978."

15             SECTION 57. Section 7-1-6.15 NMSA 1978 (being Laws  
16    1983, Chapter 211, Section 20, as amended) is amended to read:

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

19             A. The provisions of this section apply to:

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

22                     (2) any transfer to a municipality with  
23    respect to any local option ~~[gross receipts]~~ sales tax imposed  
24    by that municipality;

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

.223540.1

underscored material = new  
[bracketed material] = delete

1 any local option [~~gross receipts~~] sales tax imposed by that  
2 county;

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

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

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

11 (7) any distribution to a county from the  
12 county government road fund pursuant to Section 7-1-6.26 NMSA  
13 1978;

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

16 [~~(9) any distribution to a municipality of~~  
17 ~~compensating taxes pursuant to Section 7-1-6.55 NMSA 1978~~];  
18 and

19 [~~(10)~~] (9) any distribution to a  
20 municipality or a county of cannabis excise taxes pursuant to  
21 the Cannabis Tax Act.

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

.223540.1

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

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

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

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

.223540.1

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

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

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

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

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

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

24 (3) that if the municipality or county takes  
25 no action within the ninety-day period, the department will

.223540.1

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

1 recover the amount from the next six distributions or  
2 transfers following the expiration of the ninety days; and

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

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

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

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

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

25 (2) if, pursuant to Subsection B of this

.223540.1

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

1 section, the secretary determines that the recoverable amount  
2 is more than fifty percent of the average distribution or  
3 transfer of net receipts for that municipality or county, the  
4 secretary:

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

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

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

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

.223540.1

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

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

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

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

.223540.1

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

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

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

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

.223540.1



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

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

20           J. As used in this section:

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

.223540.1

1 obligations due for the current month;

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

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

14 (a) the annual average of the total  
15 amount distributed or transferred to a municipality or county  
16 in each of the three twelve-month periods preceding the  
17 current month;

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

22 (c) if a municipality or county has not  
23 received distributions or transfers of net receipts for twelve  
24 or more months, the monthly average of net receipts  
25 distributed or transferred to the municipality or county

.223540.1

underscored material = new  
[bracketed material] = delete

1 preceding the current month multiplied by twelve;

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

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

13 SECTION 58. Section 7-1-6.16 NMSA 1978 (being Laws  
14 1983, Chapter 213, Section 27, as amended) is amended to read:

15 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

16 A. Beginning on September 15, 1989 and on  
17 September 15 of each year thereafter, the department shall  
18 distribute to any county that has imposed or continued in  
19 effect during the state's preceding fiscal year a county  
20 [~~gross receipts~~] sales tax pursuant to Section 7-20E-9 NMSA  
21 1978 an amount equal to:

22 (1) the product of a fraction, the numerator  
23 of which is the county's population and the denominator of  
24 which is the state's population, multiplied by the annual sum  
25 for the county; less

.223540.1

underscored material = new  
[bracketed material] = delete

1 (2) the net receipts received by the  
2 department during the report year, including any increase or  
3 decrease made pursuant to Section 7-1-6.15 NMSA 1978,  
4 attributable to the county [~~gross receipts~~] sales tax at a  
5 rate of one-eighth percent; provided that for any month in the  
6 report year, if no county [~~gross receipts~~] sales tax was in  
7 effect in the county in the previous month, the net receipts,  
8 for the purposes of this section, for that county for that  
9 month shall be zero.

10 B. If the amount determined by the calculation in  
11 Subsection A of this section is zero or a negative number for  
12 a county, no distribution shall be made to that county.

13 C. As used in this section:

14 (1) "annual sum" means for each county the  
15 sum of the monthly amounts for those months in the report year  
16 that follow a month in which the county had in effect a county  
17 [~~gross receipts~~] sales tax;

18 (2) "monthly amount" means an amount equal  
19 to the product of:

20 (a) the net receipts received by the  
21 department in the month attributable to the state [~~gross~~  
22 ~~receipts~~] sales tax plus five percent of the total amount of  
23 deductions claimed pursuant to Section 7-9-92 NMSA 1978 for  
24 the month plus five percent of the total amount of deductions  
25 claimed pursuant to Section 7-9-93 NMSA 1978 for the month;

underscored material = new  
[bracketed material] = delete

1 and

2 (b) a fraction, the numerator of which  
3 is one-eighth percent and the denominator of which is the tax  
4 rate imposed by Section 7-9-4 NMSA 1978 in effect on the last  
5 day of the previous month;

6 (3) "population" means the most recent  
7 official census or estimate determined by the United States  
8 census bureau for the unit or, if neither is available, the  
9 most current estimated population for the unit provided in  
10 writing by the bureau of business and economic research at the  
11 university of New Mexico; and

12 (4) "report year" means the twelve-month  
13 period ending on the July 31 immediately preceding the date  
14 upon which a distribution pursuant to this section is required  
15 to be made."

16 SECTION 59. Section 7-1-6.36 NMSA 1978 (being Laws  
17 1992, Chapter 50, Section 13 and also Laws 1992, Chapter 67,  
18 Section 13) is amended to read:

19 "7-1-6.36. DISTRIBUTION--INTERSTATE TELECOMMUNICATIONS  
20 [~~GROSS RECEIPTS~~] SALES TAX.--A distribution pursuant to  
21 Section 7-1-6.1 NMSA 1978 shall be made to each municipality  
22 in an amount, subject to any increase or decrease made  
23 pursuant to Section 7-1-6.15 NMSA 1978, equal to the product  
24 of the quotient of one and thirty-five hundredths percent  
25 divided by the tax rate imposed by the Interstate

.223540.1

underscored material = new  
[bracketed material] = delete

1 Telecommunications [~~Gross Receipts~~] Sales Tax Act times the  
2 net receipts for the month attributable to the interstate  
3 telecommunications [~~gross receipts~~] sales tax from business  
4 locations:

5 A. within that municipality;

6 B. on land owned by the state, commonly known as  
7 the "state fairgrounds", within the exterior boundaries of  
8 that municipality;

9 C. outside the boundaries of any municipality on  
10 land owned by that municipality; and

11 D. on an Indian reservation or pueblo grant in an  
12 area that is contiguous to that municipality and in which the  
13 municipality performs services pursuant to a contract between  
14 the municipality and the Indian tribe or Indian pueblo if:

15 (1) the contract describes an area in which  
16 the municipality is required to perform services and requires  
17 the municipality to perform services that are substantially  
18 the same as the services the municipality performs for itself;  
19 and

20 (2) the governing body of the municipality  
21 has submitted a copy of the contract to the secretary."

22 SECTION 60. Section 7-1-6.38 NMSA 1978 (being Laws  
23 1994, Chapter 145, Section 1, as amended) is amended to read:

24 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL [~~GROSS RECEIPTS~~]  
25 SALES TAX.--

.223540.1

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

1           A. A distribution pursuant to Section 7-1-6.1 NMSA  
2 1978 shall be made in amounts equal to the following  
3 percentages of the net receipts attributable to the  
4 governmental [~~gross receipts~~] sales tax, less the net receipts  
5 attributable to a hospital licensed by the department of  
6 health:

7                   (1) seventy-five percent to the public  
8 project revolving fund administered by the New Mexico finance  
9 authority;

10                   (2) twenty-four percent to the energy,  
11 minerals and natural resources department; provided that  
12 forty-one and two-thirds percent of the distribution is  
13 appropriated to the energy, minerals and natural resources  
14 department to implement the provisions of the New Mexico Youth  
15 Conservation Corps Act and fifty-eight and one-third percent  
16 of the distribution is appropriated to the energy, minerals  
17 and natural resources department for state park and recreation  
18 area capital improvements, including the costs of planning,  
19 engineering, design, construction, renovation, repair,  
20 equipment and furnishings; and

21                   (3) one percent to the cultural affairs  
22 department for capital improvements at state museums and  
23 monuments administered by the cultural affairs department.

24           B. The state pledges to and agrees with the  
25 holders of any bonds or notes issued by the New Mexico finance

.223540.1

underscored material = new  
[bracketed material] = delete

1 authority or by the energy, minerals and natural resources  
2 department and payable from the net receipts attributable to  
3 the governmental [~~gross receipts~~] sales tax distributed to the  
4 New Mexico finance authority or the energy, minerals and  
5 natural resources department pursuant to this section that the  
6 state will not limit, reduce or alter the distribution of the  
7 net receipts attributable to the governmental [~~gross receipts~~]  
8 sales tax to the New Mexico finance authority or the energy,  
9 minerals and natural resources department or limit, reduce or  
10 alter the rate of imposition of the governmental [~~gross~~  
11 ~~receipts~~] sales tax until the bonds or notes together with the  
12 interest thereon are fully met and discharged. The New Mexico  
13 finance authority and the energy, minerals and natural  
14 resources department are authorized to include this pledge and  
15 agreement of the state in any agreement with the holders of  
16 the bonds or notes."

17 SECTION 61. Section 7-1-6.42 NMSA 1978 (being Laws  
18 2001, Chapter 199, Section 12, as amended) is amended to read:

19 "7-1-6.42. DISTRIBUTION--STATE BUILDING BONDING FUND--  
20 [~~GROSS RECEIPTS~~] SALES TAX.--A distribution pursuant to  
21 Section 7-1-6.1 NMSA 1978 shall be made to the state building  
22 bonding fund in the amount of six hundred eighty thousand  
23 dollars (\$680,000) from the net receipts attributable to the  
24 [~~gross receipts~~] sales tax [~~imposed by the Gross Receipts and~~  
25 ~~Compensating Tax Act~~]. The distribution shall be made:

.223540.1



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

1           A. after the required distribution pursuant to  
2 Section 7-1-6.4 NMSA 1978;

3           B. contemporaneously with other distributions of  
4 net receipts attributable to the [~~gross receipts~~] sales tax  
5 for payment of debt service on outstanding bonds or to a fund  
6 dedicated for that purpose; and

7           C. prior to any other distribution of net receipts  
8 attributable to the [~~gross receipts~~] sales tax."

9           **SECTION 62.** Section 7-1-6.46 NMSA 1978 (being Laws  
10 2004, Chapter 116, Section 1, as amended) is amended to read:

11           "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR  
12 FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES  
13 DEDUCTION.--

14           A. For a municipality that did not have in effect  
15 on June 30, 2019 a municipal hold harmless gross receipts tax  
16 through an ordinance and that has a population of less than  
17 ten thousand according to the most recent federal decennial  
18 census, a distribution pursuant to Section 7-1-6.1 NMSA 1978  
19 shall be made to the municipality in an amount, subject to any  
20 increase or decrease made pursuant to Section 7-1-6.15 NMSA  
21 1978, equal to the applicable maximum distribution for the  
22 municipality.

23           B. For a municipality that did not have in effect  
24 on June 30, 2019 a municipal hold harmless gross receipts tax  
25 through an ordinance and has a population of at least ten

.223540.1

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

1 thousand according to the most recent federal decennial  
2 census, a distribution pursuant to Section 7-1-6.1 NMSA 1978  
3 shall be made to the municipality in an amount, subject to any  
4 increase or decrease made pursuant to Section 7-1-6.15 NMSA  
5 1978, equal to the following percentages of the applicable  
6 maximum distribution for the municipality:

7 (1) for a municipality that has a municipal  
8 poverty level two percentage points or more above the state  
9 poverty level, eighty percent;

10 (2) for a municipality that has a poverty  
11 level of less than two percentage points above or below the  
12 state poverty level, fifty percent; and

13 (3) for a municipality that has a poverty  
14 level two percentage points or more below the state poverty  
15 level:

16 (a) on or after July 1, 2022 and prior  
17 to July 1, 2023, forty-nine percent;

18 (b) on or after July 1, 2023 and prior  
19 to July 1, 2024, forty-two percent;

20 (c) on or after July 1, 2024 and prior  
21 to July 1, 2025, thirty-five percent; and

22 (d) on or after July 1, 2025, thirty  
23 percent.

24 C. For a municipality not described in Subsection  
25 A or B of this section, a distribution pursuant to Section  
.223540.1

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

1 7-1-6.1 NMSA 1978 shall be made to the municipality in an  
2 amount, subject to any increase or decrease made pursuant to  
3 Section 7-1-6.15 NMSA 1978, equal to the applicable maximum  
4 distribution for the municipality multiplied by the following  
5 percentages:

6 (1) on or after July 1, 2022 and prior to  
7 July 1, 2023, forty-nine percent;

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

10 (3) on or after July 1, 2024 and prior to  
11 July 1, 2025, thirty-five percent;

12 (4) on or after July 1, 2025 and prior to  
13 July 1, 2026, twenty-eight percent;

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

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

18 (7) on or after July 1, 2028 and prior to  
19 July 1, 2029, seven percent; and

20 (8) on and after July 1, 2029, zero percent.

21 D. A distribution pursuant to this section is in  
22 lieu of revenue that would have been received by the  
23 municipality but for the deductions provided by Sections  
24 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be  
25 considered ~~[gross receipts]~~ sales tax revenue and shall be

.223540.1

underscored material = new  
[bracketed material] = delete

1 used by the municipality in the same manner as [~~gross~~  
2 ~~receipts~~] sales tax revenue, including payment of [~~gross~~  
3 ~~receipts~~] sales tax revenue bonds.

4 E. If the changes made by [~~this 2022 act~~] Laws  
5 2022, Chapter 47, Section 1 to the distributions made pursuant  
6 to this section impair the ability of a municipality to meet  
7 its principal or interest payment obligations for revenue  
8 bonds that are outstanding prior to July 1, 2022 and that are  
9 secured by the pledge of all or part of the municipality's  
10 revenue from the distribution made pursuant to this section,  
11 then the amount distributed pursuant to this section to that  
12 municipality shall be increased by an amount sufficient to  
13 meet the required payment; provided that the total amount  
14 distributed to that municipality pursuant to this section does  
15 not exceed the amount that would have been due that  
16 municipality pursuant to this section as it was in effect on  
17 June 30, 2022.

18 F. For the purposes of this section:

19 (1) "business locations attributable to the  
20 municipality" means business locations:

21 (a) within the municipality;  
22 (b) on land owned by the state,  
23 commonly known as the "state fairgrounds", within the exterior  
24 boundaries of the municipality;

25 (c) outside the boundaries of the

underscored material = new  
[bracketed material] = delete

1 municipality on land owned by the municipality; and

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

12 (2) "maximum distribution" means:

13 (a) for a municipality that did not  
14 have in effect on June 30, 2019 a municipal hold harmless  
15 gross receipts tax, the total deductions claimed pursuant to  
16 Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by  
17 taxpayers from business locations attributable to the  
18 municipality multiplied by the sum of the combined rate of all  
19 municipal local option [~~gross receipts~~] sales taxes in effect  
20 in the municipality for the month plus one and two hundred  
21 twenty-five thousandths percent; and

22 (b) for a municipality not described in  
23 Subparagraph (a) of this paragraph, the total deductions  
24 claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for  
25 the month by taxpayers from business locations attributable to

.223540.1

underscored material = new  
[bracketed material] = delete

1 the municipality multiplied by the sum of the combined rate of  
2 all municipal local option gross receipts taxes in effect in  
3 the municipality on January 1, 2007 plus one and two hundred  
4 twenty-five thousandths percent; and

5 (3) "poverty level" means the percentage of  
6 persons in poverty, according to the most recent five-year  
7 American community survey, as published by the United States  
8 census bureau. For the purposes of determining the poverty  
9 level of a municipality, "poverty level" means the percentage  
10 of persons in poverty in a municipality, according to the most  
11 recent five-year American community survey, as published by  
12 the United States census bureau, that includes adequate data  
13 to make a determination as to the poverty level of the  
14 municipality.

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

20 SECTION 63. Section 7-1-6.47 NMSA 1978 (being Laws  
21 2004, Chapter 116, Section 2, as amended) is amended to read:

22 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD  
23 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

24 A. For a county that did not have in effect on  
25 June 30, 2019 a county hold harmless gross receipts tax

.223540.1

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

1 through an ordinance and that has a population of less than  
2 forty-eight thousand according to the most recent federal  
3 decennial census, a distribution pursuant to Section 7-1-6.1  
4 NMSA 1978 shall be made to the county in an amount, subject to  
5 any increase or decrease made pursuant to Section 7-1-6.15  
6 NMSA 1978, equal to the applicable maximum distribution for  
7 the county.

8 B. For a county not described in Subsection A of  
9 this section, a distribution pursuant to Section 7-1-6.1 NMSA  
10 1978 shall be made to the county in an amount, subject to any  
11 increase or decrease made pursuant to Section 7-1-6.15 NMSA  
12 1978, equal to the applicable maximum distribution multiplied  
13 by the following percentages:

14 (1) on or after July 1, 2021 and prior to  
15 July 1, 2022, fifty-six percent;

16 (2) on or after July 1, 2022 and prior to  
17 July 1, 2023, forty-nine percent;

18 (3) on or after July 1, 2023 and prior to  
19 July 1, 2024, forty-two percent;

20 (4) on or after July 1, 2024 and prior to  
21 July 1, 2025, thirty-five percent;

22 (5) on or after July 1, 2025 and prior to  
23 July 1, 2026, twenty-eight percent;

24 (6) on or after July 1, 2026 and prior to  
25 July 1, 2027, twenty-one percent;

.223540.1

underscored material = new  
[bracketed material] = delete

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

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

5 (9) on and after July 1, 2029, zero percent.

6 C. A distribution pursuant to this section is in  
7 lieu of revenue that would have been received by the county  
8 but for the deductions provided by Sections 7-9-92 and 7-9-93  
9 NMSA 1978. The distribution shall be considered [~~gross~~  
10 ~~receipts~~] sales tax revenue and shall be used by the county in  
11 the same manner as [~~gross receipts~~] sales tax revenue,  
12 including payment of [~~gross receipts~~] sales tax revenue bonds.

13 D. If the changes made by [~~this 2022 act~~] Laws  
14 2022, Chapter 47, Section 2 to the distributions made pursuant  
15 to this section impair the ability of a county to meet its  
16 principal or interest payment obligations for revenue bonds  
17 that are outstanding prior to July 1, 2022 and that are  
18 secured by the pledge of all or part of the county's revenue  
19 from the distribution made pursuant to this section, then the  
20 amount distributed pursuant to this section to that county  
21 shall be increased by an amount sufficient to meet the  
22 required payment; provided that the total amount distributed  
23 to that county pursuant to this section does not exceed the  
24 amount that would have been due that county pursuant to this  
25 section as it was in effect on June 30, 2022.

.223540.1



underscored material = new  
[bracketed material] = delete

1           E. A distribution pursuant to this section may be  
2 adjusted for a distribution made to a tax increment  
3 development district with respect to a portion of a [~~gross~~  
4 ~~receipts~~] sales tax increment dedicated by a county pursuant  
5 to the Tax Increment for Development Act.

6           F. For the purposes of this section, "maximum  
7 distribution" means:

8                   (1) for a county that did not have in effect  
9 on June 30, 2019 a county hold harmless gross receipts tax and  
10 that has a population of less than forty-eight thousand  
11 according to the most recent federal decennial census, the sum  
12 of:

13                           (a) 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 within a municipality in  
16 the county multiplied by the combined rate of all county local  
17 option [~~gross receipts~~] sales taxes in effect for the month  
18 that are imposed throughout the county; and

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

.223540.1

underscored material = new  
[bracketed material] = delete

1 (2) for a county not described in Paragraph  
2 (1) of this subsection, the sum of:

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

9 (b) the total deductions claimed  
10 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month  
11 by taxpayers from business locations in the county but not  
12 within a municipality multiplied by the combined rate of all  
13 county local option gross receipts taxes in effect on January  
14 1, 2007 that are imposed in the county area not within a  
15 municipality."

16 SECTION 64. Section 7-1-6.52 NMSA 1978 (being Laws  
17 2005, Chapter 104, Section 1) is amended to read:

18 "7-1-6.52. DISTRIBUTION ADJUSTMENT--TAX ADMINISTRATION  
19 SUSPENSE FUND--CREDIT FOR CERTAIN SALES OF SERVICES FOR  
20 RESALE.--Distributions from the tax administration suspense  
21 fund to the general fund of revenue attributable to the [~~gross~~  
22 ~~receipts~~] sales tax or to the governmental [~~gross receipts~~]  
23 sales tax shall be adjusted for credits issued pursuant to the  
24 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act for  
25 receipts from the sale of services for resale."

.223540.1

underscored material = new  
[bracketed material] = delete

1           SECTION 65. Section 7-1-6.53 NMSA 1978 (being Laws  
2 2005, Chapter 176, Section 11) is amended to read:

3           "7-1-6.53. DISTRIBUTION--ENERGY EFFICIENCY AND  
4 RENEWABLE ENERGY BONDING FUND--~~[GROSS RECEIPTS]~~ SALES TAX.--A  
5 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
6 made to the energy efficiency and renewable energy bonding  
7 fund from the net receipts attributable to the [~~gross~~  
8 ~~receipts~~] sales tax imposed by the [~~Gross Receipts and~~  
9 ~~Compensating~~] Sales and Use Tax Act in an amount necessary to  
10 make the required bond debt service payments pursuant to the  
11 Energy Efficiency and Renewable Energy Bonding Act as  
12 determined by the New Mexico finance authority. The  
13 distribution shall be made:

14           A. after the required distribution pursuant to  
15 Section 7-1-6.4 NMSA 1978;

16           B. contemporaneously with other distributions of  
17 net receipts attributable to the [~~gross receipts~~] sales tax  
18 for payment of debt service on outstanding bonds or to a fund  
19 dedicated for that purpose; and

20           C. prior to any other distribution of net receipts  
21 attributable to the [~~gross receipts~~] sales tax."

22           SECTION 66. Section 7-1-6.54 NMSA 1978 (being Laws  
23 2006, Chapter 75, Section 29, as amended) is amended to read:

24           "7-1-6.54. DISTRIBUTIONS--TAX INCREMENT DEVELOPMENT  
25 DISTRICTS.--A distribution for a tax increment development  
.223540.1

underscored material = new  
[bracketed material] = delete

1 district shall be made by the department to a special fund of  
2 the district, in accordance with a notice that is filed  
3 pursuant to Section 5-15-27 NMSA 1978 with respect to a  
4 dedication of a [~~gross receipts~~] sales tax increment, to a  
5 special fund of the tax increment development district."

6 SECTION 67. Section 7-1-6.67 NMSA 1978 (being Laws 2021  
7 (1st S.S.), Chapter 2, Section 5) is amended to read:

8 "7-1-6.67. DISTRIBUTION--LOCAL ECONOMIC DEVELOPMENT ACT  
9 FUND.--

10 A. A distribution pursuant to Section 7-1-6.1 NMSA  
11 1978 shall be made to the Local Economic Development Act fund  
12 equal to the following amounts of the following taxes imposed  
13 and paid on the expenses related to the construction of the  
14 qualifying entity's economic development project, as  
15 determined pursuant to Section [~~2 of this 2021 act~~] 5-10-17  
16 NMSA 1978:

17 (1) fifty percent of the net receipts  
18 attributable to state [~~gross receipts~~] sales tax and the state  
19 [~~compensating~~] use tax; and

20 (2) fifty percent of the net receipts  
21 attributable to the local option [~~gross receipts~~] sales tax  
22 and county [~~compensating~~] use tax imposed by a county and  
23 local option [~~gross receipts~~] sales tax and municipal  
24 [~~compensating~~] use tax imposed by a municipality.

25 B. As used in this section:

.223540.1

underscored material = new  
[bracketed material] = delete

1 (1) "economic development project" means  
2 "economic development project" as used in the Local Economic  
3 Development Act; and

4 (2) "qualifying entity" means "qualifying  
5 entity" as used in the Local Economic Development Act."

6 SECTION 68. Section 7-1-6.70 NMSA 1978 (being Laws  
7 2022, Chapter 32, Section 1) is amended to read:

8 "7-1-6.70. DISTRIBUTION--LAND GRANT-MERCED ASSISTANCE  
9 FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978  
10 shall be made to the land grant-merced assistance fund in an  
11 amount equal to five-hundredths percent of the net receipts  
12 attributable to the [~~gross receipts~~] sales tax after  
13 distributions have been made pursuant to Sections 7-1-6.46 and  
14 7-1-6.47 NMSA 1978."

15 SECTION 69. Section 7-1-8.8 NMSA 1978 (being Laws 2019,  
16 Chapter 87, Section 2, as amended) is amended to read:

17 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER  
18 STATE AND LEGISLATIVE AGENCIES.--An employee of the department  
19 may reveal confidential return information to the following  
20 agencies; provided that a person who receives the information  
21 on behalf of the agency shall be subject to the penalties in  
22 Section 7-1-76 NMSA 1978 if the person fails to maintain the  
23 confidentiality required:

24 A. a committee of the legislature for a valid  
25 legislative purpose, return information concerning any tax or  
.223540.1

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

1 fee imposed pursuant to the Cigarette Tax Act;

2 B. the attorney general, return information  
3 acquired pursuant to the Cigarette Tax Act for purposes of  
4 Section 6-4-13 NMSA 1978 and the master settlement agreement  
5 defined in Section 6-4-12 NMSA 1978;

6 C. the commissioner of public lands, return  
7 information for use in auditing that pertains to rentals,  
8 royalties, fees and other payments due the state under land  
9 sale, land lease or other land use contracts;

10 D. the secretary of human services or the  
11 secretary's delegate under a written agreement with the  
12 department:

13 (1) the last known address with date of all  
14 names certified to the department as being absent parents of  
15 children receiving public financial assistance, but only for  
16 the purpose of enforcing the support liability of the absent  
17 parents by the child support enforcement division or any  
18 successor organizational unit;

19 (2) return information needed for reports  
20 required to be made to the federal government concerning the  
21 use of federal funds for low-income working families;

22 (3) return information of low-income taxpayers  
23 for the limited purpose of outreach to those taxpayers;  
24 provided that the human services department shall pay the  
25 department for expenses incurred by the department to derive

.223540.1

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

1 the information requested by the human services department if  
2 the information requested is not readily available in reports  
3 for which the department's information systems are programmed;

4 (4) return information required to administer  
5 the Health Care Quality Surcharge Act; and

6 (5) return information in accordance with the  
7 provisions of the Easy Enrollment Act;

8 E. the department of information technology, by  
9 electronic media, a database updated quarterly that contains  
10 the names, addresses, county of address and taxpayer  
11 identification numbers of New Mexico personal income tax  
12 filers, but only for the purpose of producing the random jury  
13 list for the selection of petit or grand jurors for the state  
14 courts pursuant to Section 38-5-3 NMSA 1978;

15 F. the state courts, the random jury lists produced  
16 by the department of information technology under Subsection E  
17 of this section;

18 G. the director of the New Mexico department of  
19 agriculture or the director's authorized representative, upon  
20 request of the director or representative, the names and  
21 addresses of all gasoline or special fuel distributors,  
22 wholesalers and retailers;

23 H. the public regulation commission, return  
24 information with respect to the Corporate Income and Franchise  
25 Tax Act required to enable the commission to carry out its

.223540.1

underscoring material = new  
[bracketed material] = delete

1 duties;

2 I. the state racing commission, return information  
3 with respect to the state, municipal and county [~~gross~~  
4 ~~receipts~~] sales taxes paid by racetracks;

5 J. the gaming control board, tax returns of license  
6 applicants and their affiliates as provided in Subsection E of  
7 Section 60-2E-14 NMSA 1978;

8 K. the director of the workers' compensation  
9 administration or to the director's representatives authorized  
10 for this purpose, return information to facilitate the  
11 identification of taxpayers that are delinquent or noncompliant  
12 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA  
13 1978;

14 L. the secretary of workforce solutions or the  
15 secretary's delegate, return information for use in enforcement  
16 of unemployment insurance collections pursuant to the terms of  
17 a written reciprocal agreement entered into by the department  
18 with the secretary of workforce solutions for exchange of  
19 information;

20 M. the New Mexico finance authority, information  
21 with respect to the amount of municipal and county [~~gross~~  
22 ~~receipts~~] sales taxes collected by municipalities and counties  
23 pursuant to any local option municipal or county [~~gross~~  
24 ~~receipts~~] sales taxes imposed, and information with respect to  
25 the amount of governmental [~~gross receipts~~] sales taxes paid by

.223540.1



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

1 every agency, institution, instrumentality or political  
2 subdivision of the state pursuant to Section 7-9-4.3 NMSA 1978;

3 N. the superintendent of insurance, return  
4 information with respect to the premium tax and the health  
5 insurance premium surtax;

6 O. the secretary of finance and administration or  
7 the secretary's designee, return information concerning a  
8 credit pursuant to the Film Production Tax Credit Act;

9 P. the secretary of economic development or the  
10 secretary's designee, return information concerning a credit  
11 pursuant to the Film Production Tax Credit Act;

12 Q. the secretary of public safety or the  
13 secretary's designee, return information concerning the Weight  
14 Distance Tax Act;

15 R. the secretary of transportation or the  
16 secretary's designee, return information concerning the Weight  
17 Distance Tax Act;

18 S. the secretary of energy, minerals and natural  
19 resources or the secretary's designee, return information  
20 concerning tax credits or deductions for which eligibility is  
21 certified or otherwise determined by the secretary or the  
22 secretary's designee; and

23 T. the secretary of environment or the secretary's  
24 designee, return information concerning tax credits for which  
25 eligibility is certified or otherwise determined by the

.223540.1

underscored material = new  
[bracketed material] = delete

1 secretary or the secretary's designee."

2 SECTION 70. Section 7-1-8.9 NMSA 1978 (being Laws 2009,  
3 Chapter 243, Section 11, as amended by Laws 2015, Chapter 89,  
4 Section 2 and by Laws 2015, Chapter 100, Section 2) is amended  
5 to read:

6 "7-1-8.9. INFORMATION THAT MAY BE REVEALED TO LOCAL  
7 GOVERNMENTS AND THEIR AGENCIES.--

8 A. An employee of the department may reveal to:

9 (1) the officials or employees of a  
10 municipality of this state authorized in a written request by  
11 the municipality for a period specified in the request within  
12 the twelve months preceding the request; provided that the  
13 municipality receiving the information has entered into a  
14 written agreement with the department that the information  
15 shall be used for tax purposes only and specifying that the  
16 municipality is subject to the confidentiality provisions of  
17 Section 7-1-8 NMSA 1978 and the penalty provisions of Section  
18 7-1-76 NMSA 1978:

19 (a) the names, taxpayer identification  
20 numbers and addresses of registered [~~gross receipts~~] sales  
21 taxpayers reporting gross receipts for that municipality [~~under~~  
22 ~~the Gross Receipts and Compensating~~] pursuant to the Sales and  
23 Use Tax Act or a local option [~~gross receipts~~] sales tax  
24 imposed by that municipality. The department may also reveal  
25 the information described in this subparagraph quarterly or

.223540.1

underscored material = new  
[bracketed material] = delete

1 upon such other periodic basis as the secretary and the  
2 municipality may agree in writing;

3 (b) a range of taxable gross receipts of  
4 registered gross receipts paid by taxpayers from business  
5 locations attributable to that municipality [~~under the Gross~~  
6 ~~Receipts and Compensating~~] pursuant to the Sales and Use Tax  
7 Act or a local option [~~gross receipts~~] sales tax imposed by  
8 that municipality; provided that authorization from the federal  
9 internal revenue service to reveal such information has been  
10 received. The department may also reveal the information  
11 described in this subparagraph quarterly or upon such other  
12 periodic basis as the secretary and the municipality may agree  
13 in writing; and

14 (c) information indicating whether  
15 persons shown on a list of businesses located within that  
16 municipality furnished by the municipality have reported gross  
17 receipts to the department but have not reported gross receipts  
18 for that municipality [~~under the Gross Receipts and~~  
19 ~~Compensating~~] pursuant to the Sales and Use Tax Act or a local  
20 option [~~gross receipts~~] sales tax imposed by that municipality;

21 (2) the officials or employees of a county of  
22 this state authorized in a written request by the county for a  
23 period specified in the request within the twelve months  
24 preceding the request; provided that the county receiving the  
25 information has entered into a written agreement with the

.223540.1

underscored material = new  
[bracketed material] = delete

1 department that the information shall be used for tax purposes  
2 only and specifying that the county is subject to the  
3 confidentiality provisions of Section 7-1-8 NMSA 1978 and the  
4 penalty provisions of Section 7-1-76 NMSA 1978:

5 (a) the names, taxpayer identification  
6 numbers and addresses of registered [~~gross receipts~~] sales  
7 taxpayers reporting gross receipts either for that county in  
8 the case of a local option [~~gross receipts~~] sales tax imposed  
9 on a countywide basis or only for the areas of that county  
10 outside of any incorporated municipalities within that county  
11 in the case of a county local option [~~gross receipts~~] sales tax  
12 imposed only in areas of the county outside of any incorporated  
13 municipalities. The department may also reveal the information  
14 described in this subparagraph quarterly or upon such other  
15 periodic basis as the secretary and the county may agree in  
16 writing;

17 (b) a range of taxable gross receipts of  
18 registered gross receipts paid by taxpayers from business  
19 locations attributable either to that county in the case of a  
20 local option [~~gross receipts~~] sales tax imposed on a countywide  
21 basis or only to the areas of that county outside of any  
22 incorporated municipalities within that county in the case of a  
23 county local option [~~gross receipts~~] sales tax imposed only in  
24 areas of the county outside of any incorporated municipalities;  
25 provided that authorization from the federal internal revenue

.223540.1

underscored material = new  
[bracketed material] = delete

1 service to reveal such information has been received. The  
2 department may also reveal the information described in this  
3 subparagraph quarterly or upon such other periodic basis as the  
4 secretary and the county may agree in writing;

5 (c) in the case of a local option [~~gross~~  
6 ~~receipts~~] sales tax imposed by a county on a countywide basis,  
7 information indicating whether persons shown on a list of  
8 businesses located within the county furnished by the county  
9 have reported gross receipts to the department but have not  
10 reported gross receipts for that county [~~under the Gross~~  
11 ~~Receipts and Compensating~~] pursuant to the Sales and Use Tax  
12 Act or a local option [~~gross receipts~~] sales tax imposed by  
13 that county on a countywide basis; and

14 (d) in the case of a local option [~~gross~~  
15 ~~receipts~~] sales tax imposed by a county only on persons  
16 engaging in business in that area of the county outside of  
17 incorporated municipalities, information indicating whether  
18 persons on a list of businesses located in that county outside  
19 of the incorporated municipalities but within that county  
20 furnished by the county have reported gross receipts to the  
21 department but have not reported gross receipts for that county  
22 outside of the incorporated municipalities within that county  
23 [~~under the Gross Receipts and Compensating~~] pursuant to the  
24 Sales and Use Tax Act or a local option [~~gross receipts~~] sales  
25 tax imposed by the county only on persons engaging in business

.223540.1

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

1 in that county outside of the incorporated municipalities; and  
2 (3) officials or employees of a municipality  
3 or county of this state, authorized in a written request of the  
4 municipality or county, for purposes of inspection, the records  
5 of the department pertaining to an increase or decrease to a  
6 distribution or transfer made pursuant to Section 7-1-6.15 NMSA  
7 1978 for the purpose of reviewing the basis for the increase or  
8 decrease; provided that the municipality or county receiving  
9 the information has entered into a written agreement with the  
10 department that the information shall be used for tax purposes  
11 only and specifying that the municipality or county is subject  
12 to the confidentiality provisions of Section 7-1-8 NMSA 1978  
13 and the penalty provisions of Section 7-1-76 NMSA 1978. The  
14 authorized officials or employees may only reveal the  
15 information provided in this paragraph to another authorized  
16 official or employee, to an employee of the department, or a  
17 district court, an appellate court or a federal court in a  
18 proceeding relating to a disputed distribution and in which  
19 both the state and the municipality or county are parties.

20 B. The department may require that a municipal or  
21 county official or employee satisfactorily complete appropriate  
22 training on protecting confidential information prior to  
23 receiving the information pursuant to Subsection A of this  
24 section."

25 SECTION 71. Section 7-1-8.11 NMSA 1978 (being Laws 2017,  
.223540.1

underscoring material = new  
[bracketed material] = delete

1 Chapter 63, Section 20) is amended to read:

2 "7-1-8.11. INFORMATION THAT MAY BE REVEALED TO A WATER  
3 AND SANITATION DISTRICT.--

4 A. An employee of the department may reveal to the  
5 officials and employees of a water and sanitation district of  
6 this state that has in effect a water and sanitation [~~gross~~  
7 ~~receipts~~] sales tax imposed by the water and sanitation  
8 district upon its request for a period specified by that water  
9 and sanitation district within the twelve months preceding the  
10 request for the information by those officials and employees:

11 (1) the names, taxpayer identification numbers  
12 and addresses of registered [~~gross receipts~~] taxpayers  
13 reporting gross receipts for that water and sanitation  
14 district; the department may also release the information  
15 described in this paragraph quarterly or upon any other  
16 periodic basis to which the secretary and the district agree;  
17 and

18 (2) information indicating whether the persons  
19 shown on a list of businesses within the water and sanitation  
20 district have reported gross receipts to the department but  
21 have not reported gross receipts for that water and sanitation  
22 district.

23 B. The officials and employees of water and  
24 sanitation districts receiving information as provided in this  
25 section shall be subject to the confidentiality provisions of

.223540.1

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

1 Section 7-1-8 NMSA 1978 and the penalty provisions of Section  
2 7-1-76 NMSA 1978."

3 SECTION 72. Section 7-1-10 NMSA 1978 (being Laws 1965,  
4 Chapter 248, Section 15, as amended) is amended to read:

5 "7-1-10. RECORDS REQUIRED BY STATUTE--TAXPAYER  
6 RECORDS--ACCOUNTING METHODS--REPORTING METHODS--INFORMATION  
7 RETURNS.--

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

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

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

24 D. Prior to changing the method of reporting taxes,  
25 other than for changes required by law, a taxpayer shall first

.223540.1



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

1 secure the consent of the secretary or the secretary's  
2 delegate. Consent shall be granted or withheld pursuant to the  
3 provisions of Section 7-4-19 NMSA 1978. If consent is not  
4 secured, the secretary or the secretary's delegate upon audit  
5 may require the taxpayer to compute the amount of tax due on  
6 the basis of the reporting method earlier used.

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

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

25 (2) the agreement must:

.223540.1

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

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

4 (b) state the term of the agreement and  
5 the procedures for terminating the agreement prior to its  
6 expiration;

7 (c) be signed by the taxpayer or the  
8 taxpayer's representative and the secretary or the secretary's  
9 delegate; and

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

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

20 SECTION 73. Section 7-1-11 NMSA 1978 (being Laws 1965,  
21 Chapter 248, Section 16, as amended) is amended to read:

22 "7-1-11. INSPECTION OF BOOKS OF TAXPAYERS--EXCEPTION FOR  
23 MARKETPLACE PROVIDERS AND MARKETPLACE SELLERS--CREDENTIALS.--

24 A. To determine the correct amount of tax due, the  
25 department shall cause the records and books of account of

.223540.1

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

1 taxpayers to be inspected or audited at such times as the  
2 department deems necessary for the effective execution of the  
3 department's responsibilities.

4 B. The department shall audit a marketplace  
5 provider, but not a marketplace seller, with respect to gross  
6 receipts from transactions facilitated by a marketplace  
7 provider and for which the marketplace seller may claim a  
8 deduction pursuant to Section [~~36 of this 2019 act~~] 7-9-117  
9 NMSA 1978, unless an audit of the marketplace seller is  
10 necessary to determine the correct amount of tax due, including  
11 examining the marketplace seller:

12 (1) to determine compliance with Section [~~36~~  
13 ~~of this 2019 act~~] 7-9-117 NMSA 1978;

14 (2) to determine if the marketplace provider  
15 should be relieved of liability pursuant to Subsection C of  
16 Section 7-9-5 NMSA 1978; or

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

19 C. Auditors and other officials of the department  
20 designated by the secretary are authorized to request and  
21 require the production for examination of the records and books  
22 of account of a taxpayer. Auditors and officials of the  
23 department designated by the secretary shall be furnished with  
24 credentials identifying them as such, which they shall display  
25 to any taxpayer whose books are sought to be examined.

.223540.1

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

1           D. Taxpayers shall upon request make their records  
2 and books of account available for inspection at reasonable  
3 hours to the secretary or the secretary's delegate who presents  
4 proper identification to the taxpayer.

5           E. If the taxpayer's records and books of account  
6 do not exist or are insufficient to determine the taxpayer's  
7 tax liability, if any, the department may use any reasonable  
8 method of estimating the tax liability, including using  
9 information about similar persons, businesses or industries to  
10 estimate the taxpayer's liability.

11           F. The secretary or the secretary's delegate shall  
12 develop and maintain written audit policies and procedures for  
13 all audit programs in which the department routinely conducts  
14 field audits of taxpayers, including policies and procedures  
15 concerning audit notification, scheduling, records that may be  
16 examined, analysis that may be done, sampling procedures,  
17 gathering information or evidence from third parties, policies  
18 concerning the rights of taxpayers under audit and related  
19 matters. Department audit policies and procedures shall be  
20 made available to a person who requests them, at a reasonable  
21 charge to defray the cost of preparing and distributing those  
22 policies and procedures.

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

25                   (1) information that is confidential pursuant

1 to Section 7-1-8 NMSA 1978; or

2 (2) methods, techniques and analysis used to  
3 select taxpayers for audit, including the use of:

- 4 (a) data analytics;
- 5 (b) data mining;
- 6 (c) a scoring model;
- 7 (d) internal controls; and
- 8 (e) metadata used to detect fraud and  
9 noncompliance.

10 H. For purposes of this section:

11 (1) "data analytics" means the science of  
12 examining data with the purpose of drawing conclusions about  
13 the information;

14 (2) "data mining" means the process of  
15 analyzing data from different perspectives and summarizing it  
16 into useful information by collecting data into data sets for  
17 the purpose of discovering patterns;

18 (3) "scoring model" means a predictive model  
19 that can predict the chance of occurring of a fact and its  
20 occurrence;

21 (4) "methods, techniques and analysis" means a  
22 systematic way to accomplish a tactic, qualitative or  
23 quantitative component of research and the use of a specific  
24 method;

25 (5) "internal controls" means a process of

.223540.1

underscored material = new  
[bracketed material] = delete

1 assuring achievement of an organization's objectives in  
2 operational effectiveness and efficiency, reliable financial  
3 reporting and compliance with laws, regulations and policies;

4 (6) "marketplace provider" means a  
5 "marketplace provider", as that term is used in the [~~Gross~~  
6 ~~Receipts and Compensating~~] Sales and Use Tax Act;

7 (7) "marketplace seller" means a "marketplace  
8 seller", as that term is used in the [~~Gross Receipts and~~  
9 ~~Compensating~~] Sales and Use Tax Act; and

10 (8) "metadata" means data that provides  
11 information about other data."

12 SECTION 74. Section 7-1-13.1 NMSA 1978 (being Laws 1988,  
13 Chapter 99, Section 3, as amended) is amended to read:

14 "7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

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

22 (1) Group 1: all taxes due under the  
23 Withholding Tax Act, the [~~Gross Receipts and Compensating~~]  
24 Sales and Use Tax Act, local option [~~gross receipts~~] sales and  
25 use tax acts, the Interstate Telecommunications [~~Gross~~

.223540.1

underscored material = new  
[bracketed material] = delete

1 ~~Receipts]~~ Sales Tax Act and the Leased Vehicle [~~Gross Receipts]~~  
2 Sales Tax Act;

3 (2) Group 2: all taxes due under the Oil and  
4 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,  
5 the Oil and Gas Emergency School Tax Act and the Oil and Gas Ad  
6 Valorem Production Tax Act;

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

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

12 For taxpayers who have more than one identification  
13 number issued by the department, the average tax payment shall  
14 be computed by combining the amounts paid under the several  
15 identification numbers.

16 B. Taxpayers who are required to make payment in  
17 accordance with the provisions of this section shall make  
18 payment by one or more of the following means on or before the  
19 due date so that funds are immediately available to the state  
20 on or before the due date:

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

24 (2) currency of the United States;

25 (3) check drawn on and payable at any New

.223540.1

underscoring material = new  
[bracketed material] = delete

1 Mexico financial institution provided that the check is  
2 received by the department at the place and time required by  
3 the department at least one banking day prior to the due date;  
4 or

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

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

13 D. For the purposes of this section, "average tax  
14 payment" means the total amount of taxes paid with respect to a  
15 group of taxes listed under Subsection A of this section during  
16 a calendar year divided by the number of months in that  
17 calendar year containing a due date on which the taxpayer was  
18 required to pay one or more taxes in the group."

19 SECTION 75. Section 7-1-14 NMSA 1978 (being Laws 2020,  
20 Chapter 80, Section 1) is amended to read:

21 "7-1-14. BUSINESS LOCATION INSTRUCTIONS FOR PURPOSES OF  
22 REPORTING GROSS RECEIPTS AND USE--LOCATION-CODE DATABASE AND  
23 LOCATION-RATE DATABASE.--

24 A. For purposes of the [~~Gross Receipts and~~  
25 ~~Compensating~~] Sales and Use Tax Act, Interstate

.223540.1



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

1 Telecommunications [~~Gross Receipts~~] Sales Tax Act, Leased  
2 Vehicle [~~Gross Receipts~~] Sales Tax Act and any act authorizing  
3 the imposition of a local option [~~gross receipts~~] sales or  
4 [~~compensating~~] use tax, a person that has gross receipts and a  
5 person using property or services in New Mexico in a taxable  
6 manner shall report the gross receipts to the proper business  
7 location as provided in this section.

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

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

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

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

22 (3) if Paragraphs (1) and (2) of this  
23 subsection do not apply, the location indicated by an address  
24 for the purchaser available from the business records of the  
25 seller that are maintained in the ordinary course of business;

.223540.1

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

1 provided that use of the address does not constitute bad faith;

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

8 (5) if Paragraphs (1) through (4) of this  
9 subsection do not apply, including a circumstance in which the  
10 seller is without sufficient information to apply those  
11 standards, the location from which the property was shipped or  
12 transmitted.

13 D. The business location for gross receipts from  
14 the lease of tangible personal property, including vehicles,  
15 other transportation equipment and other mobile tangible  
16 personal property, and any related deductions, shall be the  
17 location of primary use of the property, as indicated by the  
18 address for the property provided by the lessee that is  
19 available to the lessor from the lessor's records maintained in  
20 the ordinary course of business; provided that use of this  
21 address does not constitute bad faith. The primary business  
22 location shall not be altered by intermittent use at different  
23 locations, such as use of business property that accompanies  
24 employees on business trips and service calls.

25 E. The business location for gross receipts from

.223540.1

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

1 the sale, lease or license of franchises, and any related  
2 deductions, shall be where the franchise is used.

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

6 (1) for professional services performed in New  
7 Mexico, other than construction-related services, or performed  
8 outside New Mexico when the product of the service is initially  
9 used in New Mexico, the location of the performer of the  
10 service or seller of the product of the service, as  
11 appropriate;

12 (2) for construction services and  
13 construction-related services performed for a construction  
14 project in New Mexico, the location of the construction site;

15 (3) for services with respect to the selling  
16 of real estate located in New Mexico, the location of the real  
17 estate;

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

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

24 G. Except as provided in Subsection H of this  
25 section, uses of property or services subject to the

.223540.1

1     ~~[compensating]~~ use tax shall be reported at the business  
2     location at which gross receipts would have been required to be  
3     reported had the transaction been subject to the ~~[gross~~  
4     ~~receipts]~~ sales tax.

5             H. If a person subject to the ~~[compensating]~~ use  
6     tax can demonstrate that the first use upon which  
7     ~~[compensating]~~ use tax is imposed occurred at a time and place  
8     different from the time and place of the purchase, then  
9     ~~[compensating]~~ use tax shall be reported at the business  
10    location of the first use.

11            I. The secretary shall designate codes to identify  
12    the business locations for a person's gross receipts, or use  
13    for purchases subject to the ~~[compensating]~~ use tax, and  
14    deductions related to those receipts or that use shall be  
15    reported.

16            J. The secretary shall develop a location-code  
17    database that provides the business location codes designated  
18    pursuant to Subsection I of this section. The secretary shall  
19    also develop and provide to taxpayers a location-rate database  
20    that sets out the tax rates applicable to business locations  
21    within the state, by address, and sellers who properly rely on  
22    this database shall not be liable for any additional tax due to  
23    the use of an incorrect rate.

24            K. As used in this section:

25                    (1) "business location" means the code

.223540.1

underscored material = new  
[bracketed material] = delete

1 designated by the department to identify business locations and  
2 required to be used to report the gross receipts, or use for  
3 purchases subject to the [~~compensating~~] use tax, and deductions  
4 related to those receipts or that use;

5 (2) "gross receipts" means, as applicable,  
6 "gross receipts" as used in the [~~Gross Receipts and~~  
7 ~~Compensating~~] Sales and Use Tax Act and the Leased Vehicle  
8 [~~Gross Receipts~~] Sales Tax Act and "interstate  
9 telecommunications gross receipts" in the Interstate  
10 Telecommunications [~~Gross Receipts~~] Sales Tax Act;

11 (3) "in-person service" means a service  
12 physically provided in person by the service provider, where  
13 the customer or the customer's real or tangible personal  
14 property upon which the service is performed is in the same  
15 location as the service provider at the time the service is  
16 performed; and

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

21 SECTION 76. Section 7-1-15 NMSA 1978 (being Laws 1969,  
22 Chapter 31, Section 1, as amended) is amended to read:

23 "7-1-15. SECRETARY MAY SET TAX REPORTING AND PAYMENT  
24 INTERVALS.--The secretary may, pursuant to regulation, allow  
25 taxpayers with an anticipated tax liability of less than two

.223540.1

underscoring material = new  
[bracketed material] = delete

1 hundred dollars (\$200) a month to report and pay taxes at  
2 intervals which the secretary may specify. However, unless  
3 specifically permitted by law, an interval shall not exceed six  
4 months. The secretary may also allow direct marketers who have  
5 entered into an agreement with the department to collect and  
6 remit [~~compensating~~] use tax to report and pay on a quarterly  
7 or semi-annual basis."

8 SECTION 77. Section 7-1-15.2 NMSA 1978 (being Laws 1998,  
9 Chapter 105, Section 1) is amended to read:

10 "7-1-15.2. AGREEMENTS--COLLECTION OF [~~COMPENSATING~~] USE  
11 TAX.--The department may enter into agreements with direct  
12 marketers for purposes of enforcing collection of the  
13 [~~compensating~~] use tax."

14 SECTION 78. Section 7-1-21.1 NMSA 1978 (being Laws 2013,  
15 Chapter 87, Section 1) is amended to read:

16 "7-1-21.1. SPECIAL AGREEMENTS--ALTERNATIVE [~~GROSS~~  
17 RECEIPTS] SALES TAXPAYER.--

18 A. To allow the payment of [~~gross receipts~~] sales  
19 tax by a person who is not the liable taxpayer, the secretary  
20 may approve a request by a person to assume the liability for  
21 [~~gross receipts~~] sales tax or governmental [~~gross receipts~~]  
22 sales tax owed by another provided that the person requesting  
23 approval agrees to assume the rights and responsibilities as  
24 taxpayer pursuant to the Tax Administration Act for:

- 25 (1) an agreement to collect and pay over taxes

underscored material = new  
[bracketed material] = delete

1 for persons in a business relationship, which is an agreement  
2 that may be entered into by persons who wish to remit [~~gross~~  
3 ~~receipts~~] sales tax on behalf of another person with whom the  
4 taxpayer has a business relationship;

5 (2) an agreement to collect and pay over taxes  
6 for a direct sales company:

7 (a) which agreement may be entered into  
8 by a direct sales company that has distributors of tangible  
9 personal property in New Mexico; and

10 (b) in which the direct sales company  
11 agrees to pay the [~~gross receipts~~] sales tax liability of the  
12 distributor at the same time the company remits its own [~~gross~~  
13 ~~receipts~~] sales tax; and

14 (3) a manufacturer's agreement to pay [~~gross~~  
15 ~~receipts~~] sales tax or governmental [~~gross receipts~~] sales tax  
16 on behalf of a utility company, which agreement:

17 (a) allows a person engaged in  
18 manufacturing in New Mexico to pay [~~gross receipts~~] sales tax  
19 or governmental [~~gross receipts~~] sales tax on behalf of a  
20 utility company on receipts from sales of utilities that are:  
21 1) not consumed in the manufacturing process; or 2) not  
22 otherwise deductible; and

23 (b) is only applicable to transactions  
24 between a manufacturer and a utility company that are  
25 associated with the [~~gross receipts~~] sales tax deduction

.223540.1

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

1 pursuant to Subsection B of Section 7-9-46 NMSA 1978.

2 B. To enter into the agreements authorized in this  
3 section, a person shall complete a form prescribed by the  
4 secretary and provide any additional information or  
5 documentation required by department rules or instructions that  
6 will assist in the approval of agreements listed in Subsection  
7 A of this section.

8 C. Once approved, an agreement shall be effective  
9 only for the period of time specified in each agreement. Any  
10 person entering into an agreement to pay tax on behalf of  
11 another person shall fulfill all of the requirements set out in  
12 the agreement. Failure to fulfill all of the requirements set  
13 out in the agreement may result in the revocation of the  
14 agreement by the department. An approved agreement may only be  
15 revoked prior to expiration by written notification to all  
16 persons who are party to the agreement and shall be applied  
17 beginning on the first day of a month that occurs at least one  
18 month following the date on which the agreement is revoked.

19 D. A person approved by the secretary to pay the  
20 ~~[gross receipts]~~ sales tax or governmental ~~[gross receipts]~~  
21 sales tax pursuant to Subsection A of this section shall be  
22 deemed to be the taxpayer with respect to that tax pursuant to  
23 the Tax Administration Act with respect to all rights and  
24 responsibilities related to that tax, except that:

25 (1) the person shall not be entitled to take

.223540.1



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

1 any credit against the tax for which the person has assumed  
2 liability pursuant to this section; and

3 (2) the person shall not claim a refund of tax  
4 on the basis that the person is not statutorily liable to pay  
5 the tax.

6 E. The department shall relieve from liability and  
7 hold harmless from the payment of a tax assumed by another  
8 person pursuant to an agreement approved pursuant to this  
9 section a taxpayer that would otherwise be liable for that  
10 tax."

11 SECTION 79. Section 7-1-29 NMSA 1978 (being Laws 1965,  
12 Chapter 248, Section 31, as amended) is amended to read:

13 "7-1-29. AUTHORITY TO MAKE REFUNDS OR CREDITS.--

14 A. In response to a claim for refund, credit or  
15 rebate made as provided in Section 7-1-26 NMSA 1978, but before  
16 a court acquires jurisdiction of the matter, the secretary or  
17 the secretary's delegate may authorize payment to a person in  
18 the amount of the credit or rebate claimed or refund an  
19 overpayment of tax determined by the secretary or the  
20 secretary's delegate to have been erroneously made by the  
21 person, together with allowable interest. A payment of a  
22 credit rebate claimed or a refund of tax and interest  
23 erroneously paid amounting to twenty thousand dollars (\$20,000)  
24 or more shall be made with the prior approval of the attorney  
25 general, except that the secretary or the secretary's delegate

.223540.1

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

1 may make refunds with respect to the Oil and Gas Severance Tax  
2 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas  
3 Emergency School Tax Act, the Oil and Gas Ad Valorem Production  
4 Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas  
5 Production Equipment Ad Valorem Tax Act, Section 7-13-17 NMSA  
6 1978 and the Cigarette Tax Act without the prior approval of  
7 the attorney general regardless of the amount.

8 B. Pursuant to the final order of the district  
9 court, the court of appeals, the supreme court of New Mexico or  
10 a federal court, from which order, appeal or review is not  
11 successfully taken, adjudging that a person has properly  
12 claimed a credit, rebate or a refund of overpaid tax, the  
13 secretary shall authorize the payment to the person of the  
14 amount thereof. After a court acquires jurisdiction but before  
15 it issues a final order, the secretary may authorize payment of  
16 a credit, rebate or refund pursuant to a closing agreement  
17 pursuant to Section 7-1-20 NMSA 1978.

18 C. In the discretion of the secretary, any amount  
19 of credit or rebate to be paid or tax to be refunded may be  
20 offset against any amount of tax for which the person due to  
21 receive the credit, rebate payment or refund is liable. The  
22 secretary or the secretary's delegate shall give notice to the  
23 taxpayer that the credit, rebate payment or refund will be made  
24 in this manner, and the taxpayer shall be entitled to interest  
25 pursuant to Section 7-1-68 NMSA 1978 until the tax liability is

.223540.1

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

1 credited with the credit, rebate or refund amount.

2 D. In an audit by the department or a managed audit  
3 covering multiple reporting periods in which both underpayments  
4 and overpayments of a tax have been made in different reporting  
5 periods, the department shall credit the tax overpayments  
6 against the underpayments; provided that the taxpayer files a  
7 claim for refund of the overpayments. An overpayment shall be  
8 applied as a credit first to the earliest underpayment and then  
9 to succeeding underpayments. An underpayment of tax to which  
10 an overpayment is credited pursuant to this section shall be  
11 deemed paid in the period in which the overpayment was made or  
12 the period to which the overpayment was credited against an  
13 underpayment, whichever is later. If the overpayments credited  
14 pursuant to this section exceed the underpayments of a tax, the  
15 amount of the net overpayment for the periods covered in the  
16 audit shall be refunded to the taxpayer.

17 E. When a taxpayer makes a payment identified to a  
18 particular return or assessment, and the department determines  
19 that the payment exceeds the amount due pursuant to that return  
20 or assessment, the secretary may apply the excess to the  
21 taxpayer's other liabilities pursuant to the tax acts to which  
22 the return or assessment applies, without requiring the  
23 taxpayer to file a claim for a refund. The liability to which  
24 an overpayment is applied pursuant to this section shall be  
25 deemed paid in the period in which the overpayment was made or

.223540.1

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

1 the period to which the overpayment was applied, whichever is  
2 later.

3 F. If the department determines, upon review of an  
4 original or amended income tax return, corporate income and  
5 franchise tax return, estate tax return, special fuels excise  
6 tax return or oil and gas tax return, that there has been an  
7 overpayment of tax for the taxable period to which the return  
8 or amended return relates in excess of the amount due to be  
9 refunded to the taxpayer pursuant to the provisions of  
10 Subsection K of Section 7-1-26 NMSA 1978, the department may  
11 refund that excess amount to the taxpayer without requiring the  
12 taxpayer to file a refund claim.

13 G. Records of refunds and credits made in excess of  
14 ten thousand dollars (\$10,000) shall be available for  
15 inspection by the public. The department shall keep such  
16 records for a minimum of three years from the date of the  
17 refund or credit.

18 H. In response to a timely refund claim pursuant to  
19 Section 7-1-26 NMSA 1978 and notwithstanding any other  
20 provision of the Tax Administration Act, the secretary or the  
21 secretary's delegate may refund or credit a portion of an  
22 assessment of tax paid, including applicable penalties and  
23 interest representing the amount of tax previously paid by  
24 another person on behalf of the taxpayer on the same  
25 transaction; provided that the requirements of equitable

.223540.1

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

1       recoupment are met. For purposes of this subsection, the  
2       refund claim may be filed by the taxpayer to whom the  
3       assessment was issued or by another person who claims to have  
4       previously paid the tax on behalf of the taxpayer. Prior to  
5       granting the refund or credit, the secretary may require a  
6       waiver of all rights to claim a refund or credit of the tax  
7       previously paid by another person paying a tax on behalf of the  
8       taxpayer.

9               I. If, as a result of an audit by the department or  
10       a managed audit, a person is determined to owe [~~gross receipts~~]  
11       sales tax on receipts from the sale of property or services,  
12       the department may credit against the amount owed an amount of  
13       [~~compensating~~] use tax paid by the purchaser if the person can  
14       demonstrate that the purchaser timely paid the [~~compensating~~]  
15       use tax on the same property or services. The credit provided  
16       by this subsection shall not be denied solely because the  
17       purchaser cannot timely file for a refund of the [~~compensating~~]  
18       use tax paid and, if the credit is to be granted, the  
19       department shall require, for the purpose of granting the  
20       credit, that the purchaser give up any right to claim a refund  
21       of that tax."

22               SECTION 80. Section 7-1-55 NMSA 1978 (being Laws 1975,  
23       Chapter 251, Section 3, as amended) is amended to read:

24               "7-1-55. CONTRACTOR'S BOND FOR GROSS RECEIPTS--TAX--  
25       PENALTY.--

.223540.1

underscored material = new  
[bracketed material] = delete

1           A. A person engaged in the construction business  
2 who does not have a principal place of business in New Mexico  
3 and who enters into a prime construction contract to be  
4 performed in this state shall, at the time such contract is  
5 entered into, furnish the secretary or the secretary's delegate  
6 with a surety bond, or other acceptable security, in a sum  
7 equivalent to the gross receipts to be paid under the contract  
8 multiplied by the sum of the applicable rate of the [~~gross~~  
9 ~~receipts~~] sales tax imposed by Section 7-9-4 NMSA 1978 plus the  
10 applicable rate or rates of tax imposed pursuant to local  
11 option [~~gross receipts~~] sales taxes to secure payment of the  
12 tax imposed on the gross receipts from the contract and shall  
13 obtain a certificate from the secretary or the secretary's  
14 delegate that the requirements of this subsection have been  
15 met.

16           B. If the total sum to be paid under the contract  
17 is changed by ten percent or more subsequent to the date the  
18 surety bond or other acceptable security is furnished to the  
19 secretary or the secretary's delegate, such person shall  
20 increase or decrease, as the case may be, the amount of the  
21 bond or security within fourteen days after the change.

22           C. If a person fails to comply with Subsection A or  
23 B of this section, the secretary or the secretary's delegate:

24                   (1) may demand of the person by certified mail  
25 or in person that the person comply. Upon the failure of the

.223540.1

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

1 person to comply within ten days of the date of the mailing of  
2 such demand, the secretary may institute a proceeding to enjoin  
3 the person from doing business as provided in Section 7-1-53  
4 NMSA 1978; or

5 (2) may, when a serious and immediate risk  
6 exists that an amount of tax due or reasonably expected to  
7 become due from the person on gross receipts from a prime  
8 construction contract will not be paid, request the person to  
9 comply with Subsections A and B of this section, and, upon  
10 failure immediately to comply, the secretary may, without  
11 further notice of any kind, apply to any district court of the  
12 state for an injunction as provided in Section 7-1-53 NMSA  
13 1978.

14 D. Subsections A, B and C of this section shall not  
15 apply if the total gross receipts to be paid under the  
16 construction contract, including any change in such amount, are  
17 less than fifty thousand dollars (\$50,000).

18 E. As used in this section, "construction" shall  
19 have the meaning set forth in Section 7-9-3.4 NMSA 1978 and  
20 "engaging in business" shall have the meaning set forth in  
21 Section 7-9-3.3 NMSA 1978.

22 F. A municipality or other political subdivision of  
23 the state or any agency of the state shall not issue a building  
24 or other construction permit to any person subject to the  
25 requirements of Subsection A of this section without first

.223540.1

underscored material = new  
[bracketed material] = delete

1 having been furnished by the construction contractor with the  
2 certificate from the secretary or the secretary's delegate  
3 specified in Subsection A of this section. Any person who  
4 issues any such permit before receiving the certificate shall  
5 be deemed guilty of a misdemeanor and, upon conviction, be  
6 fined not less than fifty dollars (\$50.00) nor more than one  
7 hundred dollars (\$100) for each offense."

8 SECTION 81. Section 7-1-69.2 NMSA 1978 (being Laws 2016  
9 (2nd S.S.), Chapter 3, Section 3) is amended to read:

10 "7-1-69.2. CIVIL PENALTY FOR FAILURE TO CORRECTLY FILE  
11 CERTAIN DEDUCTIONS.--In the case of a taxpayer that deducts  
12 gross receipts pursuant to Section 7-9-92 or 7-9-93 NMSA 1978  
13 instead of deducting or exempting gross receipts pursuant to  
14 another applicable provision of the [~~Gross Receipts and~~  
15 ~~Compensating~~] Sales and Use Tax Act as required by those  
16 sections, there shall be assessed a penalty on the taxpayer in  
17 an amount equal to twenty percent of the value of the hold  
18 harmless distribution resulting from the incorrect deduction."

19 SECTION 82. Section 7-2-18.25 NMSA 1978 (being Laws  
20 2009, Chapter 279, Section 1) is amended to read:

21 "7-2-18.25. ADVANCED ENERGY INCOME TAX CREDIT.--

22 A. The tax credit that may be claimed pursuant to  
23 this section may be referred to as the "advanced energy income  
24 tax credit".

25 B. A taxpayer who holds an interest in a qualified

.223540.1



1 generating facility located in New Mexico and who files an  
2 individual New Mexico income tax return may claim an advanced  
3 energy income tax credit in an amount equal to six percent of  
4 the eligible generation plant costs of a qualified generating  
5 facility, subject to the limitations imposed in this section.  
6 The tax credit claimed shall be verified and approved by the  
7 department.

8 C. An entity that holds an interest in a qualified  
9 generating facility may request a certificate of eligibility  
10 from the department of environment to enable the requester to  
11 apply for an advanced energy income tax credit. The department  
12 of environment:

13 (1) shall determine if the facility is a  
14 qualified generating facility;

15 (2) shall require that the requester provide  
16 the department of environment with the information necessary to  
17 assess whether the requester's facility meets the criteria to  
18 be a qualified generating facility;

19 (3) shall issue a certificate to the requester  
20 stating that the facility is or is not a qualified generating  
21 facility within one hundred eighty days after receiving all  
22 information necessary to make a determination;

23 (4) shall:

24 (a) issue a schedule of fees in which no  
25 fee exceeds one hundred fifty thousand dollars (\$150,000); and

.223540.1

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

1 (b) deposit fees collected pursuant to  
2 this paragraph in the state air quality permit fund created  
3 pursuant to Section 74-2-15 NMSA 1978; and

4 (5) shall report annually to the appropriate  
5 interim legislative committee information that will allow the  
6 legislative committee to analyze the effectiveness of the  
7 advanced energy tax credits, including the identity of  
8 qualified generating facilities, the energy production means  
9 used, the amount of emissions identified in this section  
10 reduced and removed by those qualified generating facilities  
11 and whether any requests for certificates of eligibility could  
12 not be approved due to program limits.

13 D. A taxpayer who holds an interest in a qualified  
14 generating facility may be allocated the right to claim the  
15 advanced energy income tax credit without regard to the  
16 taxpayer's relative interest in the qualified generating  
17 facility if:

18 (1) the business entity making the allocation  
19 provides notice of the allocation and the taxpayer's interest  
20 in the qualified generating facility to the department on forms  
21 prescribed by the department;

22 (2) allocations to the taxpayer and all other  
23 taxpayers allocated a right to claim the advanced energy tax  
24 credit shall not exceed one hundred percent of the advanced  
25 energy tax credit allowed for the qualified generating

.223540.1

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

1 facility; and

2 (3) the taxpayer and all other taxpayers  
3 allocated a right to claim the advanced energy tax credits  
4 collectively own at least a five percent interest in the  
5 qualified generating facility.

6 E. To claim the advanced energy income tax credit,  
7 a taxpayer shall submit with the taxpayer's New Mexico income  
8 tax return a certificate of eligibility from the department of  
9 environment stating that the taxpayer may be eligible for  
10 advanced energy tax credits. The taxation and revenue  
11 department shall provide credit claims forms. A credit claim  
12 form shall accompany any return in which the taxpayer wishes to  
13 apply for an approved credit, and the claim shall specify the  
14 amount of credit intended to apply to each return. The  
15 taxation and revenue department shall determine the amount of  
16 advanced energy income tax credit for which the taxpayer may  
17 apply.

18 F. Upon receipt of the notice of an allocation of  
19 the right to claim all or a portion of the advanced energy  
20 income tax credit, the department shall verify the allocation  
21 due to the recipient.

22 G. ~~[A husband and wife]~~ Married individuals who  
23 file separate returns for a taxable year in which they could  
24 have filed a joint return may each claim only one-half of the  
25 advanced energy income tax credit that would have been allowed

.223540.1

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

1 on a joint return.

2 H. The total amount of all advanced energy tax  
3 credits claimed shall not exceed the total amount determined by  
4 the department to be allowable pursuant to this section, the  
5 Corporate Income and Franchise Tax Act and Section 7-9G-2 NMSA  
6 1978.

7 I. Any balance of the advanced energy income tax  
8 credit that the taxpayer is approved to claim may be claimed by  
9 the taxpayer as an advanced energy combined reporting tax  
10 credit allowed pursuant to Section 7-9G-2 NMSA 1978. If the  
11 advanced energy income tax credit exceeds the amount of the  
12 taxpayer's tax liabilities pursuant to the Income Tax Act and  
13 Section 7-9G-2 NMSA 1978 in the taxable year in which it is  
14 claimed, the balance of the unpaid credit may be carried  
15 forward for ten years and claimed as an advanced energy income  
16 tax credit or an advanced energy combined reporting tax credit.  
17 The advanced energy income tax credit is not refundable.

18 J. A taxpayer claiming the advanced energy income  
19 tax credit pursuant to this section is ineligible for credits  
20 pursuant to the Investment Credit Act or any other credit that  
21 may be taken pursuant to the Income Tax Act or credits that may  
22 be taken against the ~~[gross receipts]~~ sales tax, ~~[compensating]~~  
23 use tax or withholding tax for the same expenditures.

24 K. The aggregate amount of all advanced energy tax  
25 credits that may be claimed with respect to a qualified

.223540.1

1 generating facility shall not exceed sixty million dollars  
2 (\$60,000,000).

3 L. As used in this section:

4 (1) "advanced energy tax credit" means the  
5 advanced energy income tax credit, the advanced energy  
6 corporate income tax credit and the advanced energy combined  
7 reporting tax credit;

8 (2) "coal-based electric generating facility"  
9 means a new or repowered generating facility and an associated  
10 coal gasification facility, if any, that uses coal to generate  
11 electricity and that meets the following specifications:

12 (a) emits the lesser of: 1) what is  
13 achievable with the best available control technology; or 2)  
14 thirty-five thousandths pound per million British thermal units  
15 of sulfur dioxide, twenty-five thousandths pound per million  
16 British thermal units of oxides of nitrogen and one hundredth  
17 pound per million British thermal units of total particulates  
18 in the flue gas;

19 (b) removes the greater of: 1) what is  
20 achievable with the best available control technology; or 2)  
21 ninety percent of the mercury from the input fuel;

22 (c) captures and sequesters or controls  
23 carbon dioxide emissions so that by the later of January 1,  
24 2017 or eighteen months after the commercial operation date of  
25 the coal-based electric generating facility, no more than one

.223540.1

1 thousand one hundred pounds per megawatt-hour of carbon dioxide  
2 is emitted into the atmosphere;

3 (d) all infrastructure required for  
4 sequestration is in place by the later of January 1, 2017 or  
5 eighteen months after the commercial operation date of the  
6 coal-based electric generating facility;

7 (e) includes methods and procedures to  
8 monitor the disposition of the carbon dioxide captured and  
9 sequestered from the coal-based electric generating facility;  
10 and

11 (f) does not exceed a name-plate  
12 capacity of seven hundred net megawatts;

13 (3) "eligible generation plant costs" means  
14 expenditures for the development and construction of a  
15 qualified generating facility, including permitting; site  
16 characterization and assessment; engineering; design; carbon  
17 dioxide capture, treatment, compression, transportation and  
18 sequestration; site and equipment acquisition; and fuel supply  
19 development used directly and exclusively in a qualified  
20 generating facility;

21 (4) "entity" means an individual, estate,  
22 trust, receiver, cooperative association, club, corporation,  
23 company, firm, partnership, limited liability company, limited  
24 liability partnership, joint venture, syndicate or other  
25 association or a gas, water or electric utility owned or

.223540.1

1 operated by a county or municipality;

2 (5) "geothermal electric generating facility"  
3 means a facility with a name-plate capacity of one megawatt or  
4 more that uses geothermal energy to generate electricity,  
5 including a facility that captures and provides geothermal  
6 energy to a preexisting electric generating facility using  
7 other fuels in part;

8 (6) "interest in a qualified generating  
9 facility" means title to a qualified generating facility; a  
10 leasehold interest in a qualified generating facility; an  
11 ownership interest in a business or entity that is taxed for  
12 federal income tax purposes as a partnership that holds title  
13 to or a leasehold interest in a qualified generating facility;  
14 or an ownership interest, through one or more intermediate  
15 entities that are each taxed for federal income tax purposes as  
16 a partnership, in a business that holds title to or a leasehold  
17 interest in a qualified generating facility;

18 (7) "name-plate capacity" means the maximum  
19 rated output of the facility measured as alternating current or  
20 the equivalent direct current measurement;

21 (8) "qualified generating facility" means a  
22 facility that begins construction not later than December 31,  
23 2015 and is:

24 (a) a solar thermal electric generating  
25 facility that begins construction on or after July 1, 2007 and

.223540.1

1 that may include an associated renewable energy storage  
2 facility;

3 (b) a solar photovoltaic electric  
4 generating facility that begins construction on or after July  
5 1, 2009 and that may include an associated renewable energy  
6 storage facility;

7 (c) a geothermal electric generating  
8 facility that begins construction on or after July 1, 2009;

9 (d) a recycled energy project if that  
10 facility begins construction on or after July 1, 2007; or

11 (e) a new or repowered coal-based  
12 electric generating facility and an associated coal  
13 gasification facility;

14 (9) "recycled energy" means energy produced by  
15 a generation unit with a name-plate capacity of not more than  
16 fifteen megawatts that converts the otherwise lost energy from  
17 the exhaust stacks or pipes to electricity without combustion  
18 of additional fossil fuel;

19 (10) "sequester" means to store, or chemically  
20 convert, carbon dioxide in a manner that prevents its release  
21 into the atmosphere and may include the use of geologic  
22 formations and enhanced oil, coalbed methane or natural gas  
23 recovery techniques;

24 (11) "solar photovoltaic electric generating  
25 facility" means an electric generating facility with a name-



1 plate capacity of one megawatt or more that uses solar  
2 photovoltaic energy to generate electricity; and

3 (12) "solar thermal generating facility" means  
4 an electric generating facility with a name-plate capacity of  
5 one megawatt or more that uses solar thermal energy to generate  
6 electricity, including a facility that captures and provides  
7 solar energy to a preexisting electric generating facility  
8 using other fuels in part."

9 SECTION 83. Section 7-2A-25 NMSA 1978 (being Laws 2009,  
10 Chapter 279, Section 2) is amended to read:

11 "7-2A-25. ADVANCED ENERGY CORPORATE INCOME TAX CREDIT.--

12 A. The tax credit that may be claimed pursuant to  
13 this section may be referred to as the "advanced energy  
14 corporate income tax credit".

15 B. A taxpayer that holds an interest in a qualified  
16 generating facility located in New Mexico and that files a New  
17 Mexico corporate income tax return may claim an advanced energy  
18 corporate income tax credit in an amount equal to six percent  
19 of the eligible generation plant costs of a qualified  
20 generating facility, subject to the limitations imposed in this  
21 section. The tax credit claimed shall be verified and approved  
22 by the department.

23 C. An entity that holds an interest in a qualified  
24 generating facility may request a certificate of eligibility  
25 from the department of environment to enable the requester to

.223540.1

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

1 apply for an advanced energy corporate income tax credit. The  
2 department of environment:

3 (1) shall determine if the facility is a  
4 qualified generating facility;

5 (2) shall require that the requester provide  
6 the department of environment with the information necessary to  
7 assess whether the requester's facility meets the criteria to  
8 be a qualified generating facility;

9 (3) shall issue a certificate to the requester  
10 stating that the facility is or is not a qualified generating  
11 facility within one hundred eighty days after receiving all  
12 information necessary to make a determination;

13 (4) shall:

14 (a) issue a schedule of fees in which no  
15 fee exceeds one hundred fifty thousand dollars (\$150,000); and

16 (b) deposit fees collected pursuant to  
17 this paragraph in the state air quality permit fund created  
18 pursuant to Section 74-2-15 NMSA 1978; and

19 (5) shall report annually to the appropriate  
20 interim legislative committee information that will allow the  
21 legislative committee to analyze the effectiveness of the  
22 advanced energy tax credits, including the identity of  
23 qualified generating facilities, the energy production means  
24 used, the amount of emissions identified in this section  
25 reduced and removed by those qualified generating facilities

.223540.1

1 and whether any requests for certificates of eligibility could  
2 not be approved due to program limits.

3 D. A taxpayer that holds an interest in a qualified  
4 generating facility may be allocated the right to claim the  
5 advanced energy corporate income tax credit without regard to  
6 the taxpayer's relative interest in the qualified generating  
7 facility if:

8 (1) the business entity making the allocation  
9 provides notice of the allocation and the taxpayer's interest  
10 in the qualified generating facility to the department on forms  
11 prescribed by the department;

12 (2) allocations to the taxpayer and all other  
13 taxpayers allocated a right to claim the advanced energy tax  
14 credit shall not exceed one hundred percent of the advanced  
15 energy tax credit allowed for the qualified generating  
16 facility; and

17 (3) the taxpayer and all other taxpayers  
18 allocated a right to claim the advanced energy tax credits  
19 collectively own at least a five percent interest in the  
20 qualified generating facility.

21 E. Upon receipt of the notice of an allocation of  
22 the right to claim all or a portion of the advanced energy  
23 corporate income tax credit, the department shall verify the  
24 allocation due to the recipient.

25 F. To claim the advanced energy corporate income

.223540.1

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

1 tax credit, a taxpayer shall submit with the taxpayer's New  
2 Mexico corporate income tax return a certificate of eligibility  
3 from the department of environment stating that the taxpayer  
4 may be eligible for advanced energy tax credits. The taxation  
5 and revenue department shall provide credit claim forms. A  
6 credit claim form shall accompany any return in which the  
7 taxpayer wishes to apply for an approved credit, and the claim  
8 shall specify the amount of credit intended to apply to each  
9 return. The taxation and revenue department shall determine  
10 the amount of advanced energy corporate income tax credit for  
11 which the taxpayer may apply.

12 G. The total amount of all advanced energy tax  
13 credits claimed shall not exceed the total amount determined by  
14 the department to be allowable pursuant to this section, the  
15 Income Tax Act and Section 7-9G-2 NMSA 1978.

16 H. Any balance of the advanced energy corporate  
17 income tax credit that the taxpayer is approved to claim may be  
18 claimed by the taxpayer as an advanced energy combined  
19 reporting tax credit allowed pursuant to Section 7-9G-2 NMSA  
20 1978. If the advanced energy corporate income tax credit  
21 exceeds the amount of the taxpayer's tax liabilities pursuant  
22 to the Corporate Income and Franchise Tax Act and Section  
23 7-9G-2 NMSA 1978 in the taxable year in which it is claimed,  
24 the balance of the unpaid credit may be carried forward for ten  
25 years and claimed as an advanced energy corporate income tax

.223540.1

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

1 credit or an advanced energy combined reporting tax credit.  
2 The advanced energy corporate income tax credit is not  
3 refundable.

4 I. A taxpayer claiming the advanced energy  
5 corporate income tax credit pursuant to this section is  
6 ineligible for credits pursuant to the Investment Credit Act or  
7 any other credit that may be taken pursuant to the Corporate  
8 Income and Franchise Tax Act or credits that may be taken  
9 against the [~~gross receipts~~] sales tax, [~~compensating~~] use tax  
10 or withholding tax for the same expenditures.

11 J. The aggregate amount of all advanced energy tax  
12 credits that may be claimed with respect to a qualified  
13 generating facility shall not exceed sixty million dollars  
14 (\$60,000,000).

15 K. As used in this section:

16 (1) "advanced energy tax credit" means the  
17 advanced energy income tax credit, the advanced energy  
18 corporate income tax credit and the advanced energy combined  
19 reporting tax credit;

20 (2) "coal-based electric generating facility"  
21 means a new or repowered generating facility and an associated  
22 coal gasification facility, if any, that uses coal to generate  
23 electricity and that meets the following specifications:

24 (a) emits the lesser of: 1) what is  
25 achievable with the best available control technology; or 2)

.223540.1

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

1 thirty-five thousandths pound per million British thermal units  
2 of sulfur dioxide, twenty-five thousandths pound per million  
3 British thermal units of oxides of nitrogen and one hundredth  
4 pound per million British thermal units of total particulates  
5 in the flue gas;

6 (b) removes the greater of: 1) what is  
7 achievable with the best available control technology; or 2)  
8 ninety percent of the mercury from the input fuel;

9 (c) captures and sequesters or controls  
10 carbon dioxide emissions so that by the later of January 1,  
11 2017 or eighteen months after the commercial operation date of  
12 the coal-based electric generating facility, no more than one  
13 thousand one hundred pounds per megawatt-hour of carbon dioxide  
14 is emitted into the atmosphere;

15 (d) all infrastructure required for  
16 sequestration is in place by the later of January 1, 2017 or  
17 eighteen months after the commercial operation date of the  
18 coal-based electric generating facility;

19 (e) includes methods and procedures to  
20 monitor the disposition of the carbon dioxide captured and  
21 sequestered from the coal-based electric generating facility;  
22 and

23 (f) does not exceed a name-plate  
24 capacity of seven hundred net megawatts;

25 (3) "eligible generation plant costs" means

.223540.1

1 expenditures for the development and construction of a  
2 qualified generating facility, including permitting; site  
3 characterization and assessment; engineering; design; carbon  
4 dioxide capture, treatment, compression, transportation and  
5 sequestration; site and equipment acquisition; and fuel supply  
6 development used directly and exclusively in a qualified  
7 generating facility;

8 (4) "entity" means an individual, estate,  
9 trust, receiver, cooperative association, club, corporation,  
10 company, firm, partnership, limited liability company, limited  
11 liability partnership, joint venture, syndicate or other  
12 association or a gas, water or electric utility owned or  
13 operated by a county or municipality;

14 (5) "geothermal electric generating facility"  
15 means a facility with a name-plate capacity of one megawatt or  
16 more that uses geothermal energy to generate electricity,  
17 including a facility that captures and provides geothermal  
18 energy to a preexisting electric generating facility using  
19 other fuels in part;

20 (6) "interest in a qualified generating  
21 facility" means title to a qualified generating facility; a  
22 leasehold interest in a qualified generating facility; an  
23 ownership interest in a business or entity that is taxed for  
24 federal income tax purposes as a partnership that holds title  
25 to or a leasehold interest in a qualified generating facility;

.223540.1

1 or an ownership interest, through one or more intermediate  
2 entities that are each taxed for federal income tax purposes as  
3 a partnership, in a business that holds title to or a leasehold  
4 interest in a qualified generating facility;

5 (7) "name-plate capacity" means the maximum  
6 rated output of the facility measured as alternating current or  
7 the equivalent direct current measurement;

8 (8) "qualified generating facility" means a  
9 facility that begins construction not later than  
10 December 31, 2015 and is:

11 (a) a solar thermal electric generating  
12 facility that begins construction on or after  
13 July 1, 2007 and that may include an associated renewable  
14 energy storage facility;

15 (b) a solar photovoltaic electric  
16 generating facility that begins construction on or after  
17 July 1, 2009 and that may include an associated renewable  
18 energy storage facility;

19 (c) a geothermal electric generating  
20 facility that begins construction on or after July 1, 2009;

21 (d) a recycled energy project if that  
22 facility begins construction on or after July 1, 2007; or

23 (e) a new or repowered coal-based  
24 electric generating facility and an associated coal  
25 gasification facility;

.223540.1



1 (9) "recycled energy" means energy produced by  
2 a generation unit with a name-plate capacity of not more than  
3 fifteen megawatts that converts the otherwise lost energy from  
4 the exhaust stacks or pipes to electricity without combustion  
5 of additional fossil fuel;

6 (10) "sequester" means to store, or chemically  
7 convert, carbon dioxide in a manner that prevents its release  
8 into the atmosphere and may include the use of geologic  
9 formations and enhanced oil, coalbed methane or natural gas  
10 recovery techniques;

11 (11) "solar photovoltaic electric generating  
12 facility" means an electric generating facility with a name-  
13 plate capacity of one megawatt or more that uses solar  
14 photovoltaic energy to generate electricity; and

15 (12) "solar thermal electric generating  
16 facility" means an electric generating facility with a  
17 name-plate capacity of one megawatt or more that uses solar  
18 thermal energy to generate electricity, including a facility  
19 that captures and provides solar energy to a preexisting  
20 electric generating facility using other fuels in part."

21 SECTION 84. Section 7-2E-1.1 NMSA 1978 (being Laws 2007,  
22 Chapter 172, Section 2, as amended) is amended to read:

23 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

24 A. The tax credit created by this section may be  
25 referred to as the "rural job tax credit". Every eligible

1 employer may apply for, and the taxation and revenue department  
2 may approve, a tax credit for each qualifying job the employer  
3 creates. The maximum tax credit amount with respect to each  
4 qualifying job is equal to:

5 (1) twenty-five percent of the first sixteen  
6 thousand dollars (\$16,000) in wages paid for the qualifying job  
7 if the job is performed or based at a location in a tier one  
8 area; or

9 (2) twelve and one-half percent of the first  
10 sixteen thousand dollars (\$16,000) in wages paid if the  
11 qualifying job is performed or based at a location in a tier  
12 two area.

13 B. The purpose of the rural job tax credit is to  
14 encourage businesses to start new businesses or expand existing  
15 businesses in rural areas of the state.

16 C. The amount of the rural job tax credit shall be  
17 six and one-fourth percent of the first sixteen thousand  
18 dollars (\$16,000) in wages paid for the qualifying job in a  
19 qualifying period. The rural job tax credit may be claimed for  
20 each qualifying job for a maximum of:

21 (1) four qualifying periods for each  
22 qualifying job performed or based at a location in a tier one  
23 area; and

24 (2) two qualifying periods for each qualifying  
25 job performed or based at a location in a tier two area.

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

1           D. With respect to each qualifying job for which an  
2 eligible employer seeks the rural job tax credit, the employer  
3 shall certify:

4                   (1) the amount of wages paid to each eligible  
5 employee during each qualifying period;

6                   (2) the number of weeks during the qualifying  
7 period the position was occupied;

8                   (3) whether the qualifying job was in a tier  
9 one or tier two area;

10                   (4) whether the application pertains to the  
11 first, second, third or fourth qualifying period, depending on  
12 whether the taxpayer is in a tier one or tier two area;

13                   (5) the total number of employees employed by  
14 the employer at the job location on the day prior to the  
15 qualifying period and on the last day of the qualifying period;

16                   (6) whether the eligible employer is receiving  
17 or is eligible to receive development training program  
18 assistance pursuant to Section 21-19-7 NMSA 1978; and

19                   (7) whether the eligible employer has ceased  
20 business operations at any of its business locations in New  
21 Mexico.

22           E. The economic development department shall  
23 determine which employers are eligible employers and shall  
24 report the listing of eligible businesses to the taxation and  
25 revenue department in a manner and at times the departments

.223540.1

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

1 shall agree upon.

2 F. To receive a rural job tax credit with respect  
3 to any qualifying period, an eligible employer shall apply to  
4 the taxation and revenue department once per calendar year on  
5 forms and in the manner the department may prescribe. The  
6 annual application shall include a certification made pursuant  
7 to Subsection D of this section and contain all qualifying  
8 periods that closed during the calendar year for which the  
9 application is made. Any qualifying period that did not close  
10 in the calendar year for which the application is made shall be  
11 denied by the department. The application for a calendar year  
12 shall be filed no later than December 31 of the following  
13 calendar year. If a taxpayer fails to file the annual  
14 application within the time limits provided in this section,  
15 the department shall deny the application. If all the  
16 requirements of this section have been complied with, the  
17 taxation and revenue department shall issue to the applicant a  
18 document granting a tax credit for the appropriate qualifying  
19 period. The tax credit document shall be numbered for  
20 identification and declare its date of issuance and the amount  
21 of rural job tax credit allowed for the respective jobs  
22 created. The tax credit documents may be sold, exchanged or  
23 otherwise transferred and may be carried forward for a period  
24 of three years from the date of issuance. The parties to such  
25 a transaction to sell, exchange or transfer a rural job tax

.223540.1

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

1 credit document shall notify the department of the transaction  
2 within ten days of the sale, exchange or transfer.

3 G. The holder of the tax credit document may claim  
4 all or a portion of the rural job tax credit granted by the  
5 document against the holder's modified combined tax liability,  
6 personal income tax liability or corporate income tax  
7 liability. Any balance of rural job tax credit granted by the  
8 document may be carried forward for up to three years from the  
9 date of issuance of the tax credit document. No amount of  
10 rural job tax credit may be applied against a [~~gross receipts~~]  
11 sales tax or [~~compensating~~] use tax imposed by a municipality  
12 or county.

13 H. Notwithstanding the provisions of Section 7-1-8  
14 NMSA 1978, the taxation and revenue department may disclose to  
15 any person the balance of rural job tax credit remaining on any  
16 tax credit document and the balance of credit remaining on that  
17 document for any period.

18 I. The secretary of economic development, the  
19 secretary of taxation and revenue and the secretary of  
20 workforce solutions or their designees shall annually evaluate  
21 the effectiveness of the rural job tax credit in stimulating  
22 economic development in the rural areas of New Mexico and make  
23 a joint report of their findings to each session of the  
24 legislature so long as the rural job tax credit is in effect.

25 J. A qualifying job shall not be eligible for a

.223540.1

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

1 rural job tax credit pursuant to this section if:

2 (1) the job is created due to a business  
3 merger, acquisition or other change in organization;

4 (2) the eligible employee was terminated from  
5 employment in New Mexico by another employer involved in the  
6 merger, acquisition or other change in organization; or

7 (3) the job is performed by:

8 (a) the person who performed the job or  
9 its functional equivalent prior to the business merger,  
10 acquisition or other change in organization; or

11 (b) a person replacing the person who  
12 performed the job or its functional equivalent prior to the  
13 business merger, acquisition or other change in organization.

14 K. Notwithstanding Subsection J of this section, a  
15 qualifying job that was created by another employer and for  
16 which the rural job tax credit application was received by the  
17 taxation and revenue department prior to July 1, 2013 and is  
18 under review or has been approved shall remain eligible for the  
19 rural job tax credit for the balance of the qualifying periods  
20 for which the job qualifies by the new employer that results  
21 from a business merger, acquisition or other change in the  
22 organization.

23 L. A job shall not be eligible for a rural job tax  
24 credit pursuant to this section if the job is created due to an  
25 eligible employer entering into a contract or becoming a

.223540.1

1 subcontractor to a contract with a governmental entity that  
2 replaces one or more entities performing functionally  
3 equivalent services for the governmental entity in New Mexico  
4 unless the job is a qualifying job that was not being performed  
5 by an employee of the replaced entity.

6 M. As used in this section:

7 (1) "dependent" means "dependent" as defined  
8 in 26 U.S.C. 152(a), as that section may be amended or  
9 renumbered;

10 (2) "eligible employee" means any individual  
11 other than an individual who:

12 (a) is a dependent of the employer;

13 (b) if the employer is an estate or  
14 trust, is a grantor, beneficiary or fiduciary of the estate or  
15 trust or is a dependent of a grantor, beneficiary or fiduciary  
16 of the estate or trust;

17 (c) if the employer is a corporation, is  
18 a dependent of an individual who owns, directly or indirectly,  
19 more than fifty percent in value of the outstanding stock of  
20 the corporation;

21 (d) if the employer is an entity other  
22 than a corporation, estate or trust, is a dependent of an  
23 individual who owns, directly or indirectly, more than fifty  
24 percent of the capital and profits interests in the entity; or

25 (e) is working or has worked as an

.223540.1

underscored material = new  
[bracketed material] = delete

1 employee or as an independent contractor for an entity that,  
2 directly or indirectly, owns stock in a corporation of the  
3 eligible employer or other interest of the eligible employer  
4 that represents fifty percent or more of the total voting power  
5 of that entity or has a value equal to fifty percent or more of  
6 the capital and profits interests in the entity;

7 (3) "eligible employer" means an employer who  
8 is eligible for in-plant training assistance pursuant to  
9 Section 21-19-7 NMSA 1978;

10 (4) "metropolitan statistical area" means a  
11 metropolitan statistical area in New Mexico as determined by  
12 the United States census bureau [~~of the census~~];

13 (5) "modified combined tax liability" means  
14 the total liability for the reporting period for the [~~gross~~  
15 ~~receipts~~] sales tax imposed by Section 7-9-4 NMSA 1978 together  
16 with any tax collected at the same time and in the same manner  
17 as [~~that gross receipts~~] the sales tax, such as the  
18 [~~compensating~~] use tax, the withholding tax, the interstate  
19 telecommunications [~~gross receipts~~] sales tax, the surcharges  
20 imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed  
21 by Section 63-9F-11 NMSA 1978, minus the amount of any credit  
22 other than the rural job tax credit applied against any or all  
23 of these taxes or surcharges; but "modified combined tax  
24 liability" excludes all amounts collected with respect to a  
25 [~~gross receipts~~] sales tax or [~~compensating~~] use tax imposed by

.223540.1



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

1 a municipality or county;

2 (6) "new job" means a job that is occupied by  
3 an employee who has not been employed in New Mexico by the  
4 eligible employer in the three years prior to the date of hire;

5 (7) "qualifying job" means a new job that was  
6 created after July 1, 2000 and that was not created due to a  
7 change in organizational structure established by the employer  
8 that is occupied by an eligible employee for at least forty-  
9 four weeks of a qualifying period;

10 (8) "qualifying period" means the period of  
11 twelve months beginning on the day an eligible employee begins  
12 working in a qualifying job or the period of twelve months  
13 beginning on the anniversary of the day an eligible employee  
14 began working in a qualifying job;

15 (9) "rural area" means any part of the state  
16 other than:

17 (a) an H class county;

18 (b) the state fairgrounds;

19 (c) an incorporated municipality within  
20 a metropolitan statistical area if the municipality's  
21 population is thirty thousand or more according to the most  
22 recent federal decennial census; and

23 (d) any area within ten miles of the  
24 exterior boundaries of a municipality described in Subparagraph  
25 (c) of this paragraph;

.223540.1

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

1 (10) "tier one area" means:

2 (a) any municipality within the rural  
3 area if the municipality's population according to the most  
4 recent federal decennial census is fifteen thousand or less; or

5 (b) any part of the rural area that is  
6 not within the exterior boundaries of a municipality;

7 (11) "tier two area" means any municipality  
8 within the rural area if the municipality's population  
9 according to the most recent federal decennial census is more  
10 than fifteen thousand; and

11 (12) "wages" means all compensation paid by an  
12 eligible employer to an eligible employee through the  
13 employer's payroll system, including those wages the employee  
14 elects to defer or redirect, such as the employee's  
15 contribution to 401(k) or cafeteria plan programs, but not  
16 including benefits or the employer's share of payroll taxes."

17 SECTION 85. Section 7-2F-1 NMSA 1978 (being Laws 2002,  
18 Chapter 36, Section 1, as amended) is amended to read:

19 "7-2F-1. FILM PRODUCTION TAX CREDIT--FILM PRODUCTION  
20 COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY PRIOR TO JANUARY  
21 1, 2016.--

22 A. The tax credit created by this section may be  
23 referred to as the "film production tax credit".

24 B. Except as otherwise provided in this section, an  
25 eligible film production company may apply for, and the

.223540.1

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

1 taxation and revenue department may allow, subject to the  
2 limitation in this section, a tax credit in an amount equal to  
3 twenty-five percent of:

4 (1) direct production expenditures made in New  
5 Mexico that:

6 (a) are directly attributable to the  
7 production in New Mexico of a film or commercial audiovisual  
8 product;

9 (b) are subject to taxation by the state  
10 of New Mexico;

11 (c) exclude direct production  
12 expenditures for which another taxpayer claims the film  
13 production tax credit; and

14 (d) do not exceed the usual and  
15 customary cost of the goods or services acquired when purchased  
16 by unrelated parties. The secretary of taxation and revenue  
17 may determine the value of the goods or services for purposes  
18 of this section when the buyer and seller are affiliated  
19 persons or the sale or purchase is not an arm's length  
20 transaction; and

21 (2) postproduction expenditures made in New  
22 Mexico that:

23 (a) are directly attributable to the  
24 production of a commercial film or audiovisual product;

25 (b) are for services performed in New

1 Mexico;

2 (c) are subject to taxation by the state  
3 of New Mexico;

4 (d) exclude postproduction expenditures  
5 for which another taxpayer claims the film production tax  
6 credit; and

7 (e) do not exceed the usual and  
8 customary cost of the goods or services acquired when purchased  
9 by unrelated parties. The secretary of taxation and revenue  
10 may determine the value of the goods or services for purposes  
11 of this section when the buyer and seller are affiliated  
12 persons or the sale or purchase is not an arm's length  
13 transaction.

14 C. In addition to the percentage applied pursuant  
15 to Subsection B of this section, another five percent shall be  
16 applied in calculating the amount of the film production tax  
17 credit to direct production expenditures:

18 (1) on a standalone pilot intended for series  
19 television in New Mexico or on series television productions  
20 intended for commercial distribution with an order for at least  
21 six episodes in a single season; provided that the New Mexico  
22 budget for each of those six episodes is fifty thousand dollars  
23 (\$50,000) or more; or

24 (2) on a production with a total New Mexico  
25 budget of the following amounts; provided that the expenditures

.223540.1

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

1 are directly attributable and paid to a New Mexico resident who  
2 is hired as industry crew, or who is hired as a producer,  
3 writer or director working directly with the physical  
4 production and has filed a New Mexico income tax return as a  
5 resident in the two previous taxable years:

6 (a) not more than thirty million dollars  
7 (\$30,000,000) that shoots at least ten principal photography  
8 days in New Mexico at a qualified production facility; provided  
9 that a film production company in principal photography on or  
10 after April 10, 2015 shall: 1) shoot at least seven of those  
11 days at a sound stage that is a qualified production facility  
12 and the remaining number of required days, if any, at a  
13 standing set that is a qualified production facility; and 2)  
14 for each of the ten days, include industry crew working on the  
15 premises of those facilities for a minimum of eight hours  
16 within a twenty-four-hour period; or

17 (b) thirty million dollars (\$30,000,000)  
18 or more that shoots at least fifteen principal photography days  
19 in New Mexico at a qualified production facility; provided that  
20 a film production company in principal photography on or after  
21 April 10, 2015 shall: 1) shoot at least ten of those days at a  
22 sound stage that is a qualified production facility and the  
23 remaining number of required days, if any, at a standing set  
24 that is a qualified production facility; and 2) for each day of  
25 the fifteen days, include industry crew working on the premises

.223540.1

underscoring material = new  
[bracketed material] = delete

1 of the facility for a minimum of eight hours within a twenty-  
2 four-hour period.

3 D. With respect to expenditures attributable to a  
4 production for which the film production company receives a tax  
5 credit pursuant to the federal new markets tax credit program,  
6 the percentage to be applied in calculating the film production  
7 tax credit is twenty percent.

8 E. A claim for film production tax credits shall be  
9 filed as part of a return filed pursuant to the Income Tax Act  
10 or the Corporate Income and Franchise Tax Act. The date a  
11 credit claim is received by the taxation and revenue department  
12 shall determine the order that a credit claim is authorized for  
13 payment by the department.

14 F. Except as otherwise provided in this section and  
15 [~~Section 10 of this 2019 act~~] Laws 2019, Chapter 87, Section  
16 10, credit claims authorized for payment pursuant to the Film  
17 Production Tax Credit Act shall be paid pursuant to provisions  
18 of the Tax Administration Act to the taxpayer as follows:

19 (1) a credit claim amount of less than two  
20 million dollars (\$2,000,000) per taxable year shall be paid  
21 immediately upon authorization for payment of the credit claim;

22 (2) a credit claim amount of two million  
23 dollars (\$2,000,000) or more but less than five million dollars  
24 (\$5,000,000) per taxable year shall be divided into two equal  
25 payments, with the first payment to be made immediately upon

.223540.1

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

1 authorization of the payment of the credit claim and the second  
2 payment to be made twelve months following the date of the  
3 first payment; and

4 (3) a credit claim amount of five million  
5 dollars (\$5,000,000) or more per taxable year shall be divided  
6 into three equal payments, with the first payment to be made  
7 immediately upon authorization of payment of the credit claim,  
8 the second payment to be made twelve months following the date  
9 of the first payment and the third payment to be made twenty-  
10 four months following the date of the first payment.

11 G. For a fiscal year in which the amount of total  
12 credit claims authorized for payment is less than the aggregate  
13 amount of credit claims that may be authorized for payment  
14 pursuant to Section 7-2F-12 NMSA 1978, the next scheduled  
15 payments for credit claims authorized for payment pursuant to  
16 Subsection F of this section shall be accelerated for payment  
17 for that fiscal year and shall be paid to a taxpayer pursuant  
18 to the Tax Administration Act and in the order in which  
19 outstanding payments are scheduled in the queue established  
20 pursuant to Section 7-2F-12 NMSA 1978; provided that the total  
21 credit claims authorized for payment shall not exceed the  
22 aggregate amount of credit claims that may be authorized for  
23 payment pursuant to this section. If a partial payment is made  
24 pursuant to this subsection, the difference owed shall retain  
25 its original position in the queue.

.223540.1

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

1           H. Any amount of a credit claim that is carried  
2 forward pursuant to Subsection F of this section shall be  
3 subject to the limit on the aggregate amount of credit claims  
4 that may be authorized for payment pursuant to Section 7-2F-12  
5 NMSA 1978.

6           I. A credit claim shall only be considered received  
7 by the taxation and revenue department if the credit claim is  
8 made on a complete return filed after the close of the taxable  
9 year. All direct production expenditures and postproduction  
10 expenditures incurred during the taxable year by a film  
11 production company shall be submitted as part of the same  
12 income tax return and paid pursuant to this section. A credit  
13 claim shall not be divided and submitted with multiple returns  
14 or in multiple years.

15           J. For purposes of determining the payment of  
16 credit claims pursuant to this section, the secretary of  
17 taxation and revenue may require that credit claims of  
18 affiliated persons be combined into one claim if necessary to  
19 accurately reflect closely integrated activities of affiliated  
20 persons.

21           K. The film production tax credit shall not be  
22 claimed with respect to direct production expenditures or  
23 postproduction expenditures for which the film production  
24 company has delivered a nontaxable transaction certificate  
25 pursuant to Section 7-9-86 NMSA 1978.

.223540.1



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

1           L. A production for which the film production tax  
2 credit is claimed pursuant to Paragraph (1) of Subsection B of  
3 this section shall contain an acknowledgment to the state of  
4 New Mexico in the end screen credits that the production was  
5 filmed in New Mexico, and a state logo provided by the division  
6 shall be included and embedded in the end screen credits of  
7 long-form narrative film productions and television episodes,  
8 unless otherwise agreed upon in writing by the film production  
9 company and the division.

10           M. To be eligible for the film production tax  
11 credit, a film production company shall submit to the division  
12 information required by the division to demonstrate conformity  
13 with the requirements of the Film Production Tax Credit Act,  
14 including detailed information on each direct production  
15 expenditure and each postproduction expenditure. A film  
16 production company shall make reasonable efforts, as determined  
17 by the division, to contract with a specialized vendor that  
18 provides goods and services, inventory or services directly  
19 related to that vendor's ordinary course of business. A film  
20 production company shall provide to the division a projection  
21 of the film production tax credit claim the film production  
22 company plans to submit in the fiscal year. In addition, the  
23 film production company shall agree in writing:

24                   (1) to pay all obligations the film production  
25 company has incurred in New Mexico;

.223540.1

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

1 (2) to post a notice at completion of  
2 principal photography on the website of the division that:

3 (a) contains production company  
4 information, including the name of the production, the address  
5 of the production company and contact information that includes  
6 a working phone number, fax number and email address for both  
7 the local production office and the permanent production office  
8 to notify the public of the need to file creditor claims  
9 against the film production company; and

10 (b) remains posted on the website until  
11 all financial obligations incurred in the state by the film  
12 production company have been paid;

13 (3) that outstanding obligations are not  
14 waived should a creditor fail to file;

15 (4) to delay filing of a claim for the film  
16 production tax credit until the division delivers written  
17 notification to the taxation and revenue department that the  
18 film production company has fulfilled all requirements for the  
19 credit; and

20 (5) to submit a completed application for the  
21 film production tax credit and supporting documentation to the  
22 division within one year of making the final expenditures in  
23 New Mexico that were incurred for the registered project and  
24 that are included in the credit claim.

25 N. The division shall determine the eligibility of  
.223540.1

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

1 the company and shall report this information to the taxation  
2 and revenue department in a manner and at times the economic  
3 development department and the taxation and revenue department  
4 shall agree upon. The division shall also post on its website  
5 all information provided by the film production company that  
6 does not reveal revenue, income or other information that may  
7 jeopardize the confidentiality of income tax returns, including  
8 that the division shall report quarterly the projected amount  
9 of credit claims for the fiscal year.

10 O. To provide guidance to film production companies  
11 regarding the amount of credit capacity remaining in the fiscal  
12 year, the taxation and revenue department shall post monthly on  
13 that department's website the aggregate amount of credits  
14 claimed and processed for the fiscal year.

15 P. To receive a film production tax credit, a film  
16 production company shall apply to the taxation and revenue  
17 department on forms and in the manner the department may  
18 prescribe. The application shall include a certification of  
19 the amount of direct production expenditures or postproduction  
20 expenditures made in New Mexico with respect to the film  
21 production for which the film production company is seeking the  
22 film production tax credit; provided that for the film  
23 production tax credit, the application shall be submitted  
24 within one year of the date of the last direct production  
25 expenditure in New Mexico or the last postproduction

.223540.1

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

1 expenditure in New Mexico. If the amount of the requested tax  
2 credit exceeds five million dollars (\$5,000,000), the  
3 application shall also include the results of an audit,  
4 conducted by a certified public accountant licensed to practice  
5 in New Mexico, verifying that the expenditures have been made  
6 in compliance with the requirements of this section. If the  
7 requirements of this section have been complied with, the  
8 taxation and revenue department shall approve the film  
9 production tax credit and issue a document granting the tax  
10 credit.

11 Q. The film production company may apply all or a  
12 portion of the film production tax credit granted against  
13 personal income tax liability or corporate income tax  
14 liability. If the amount of the film production tax credit  
15 claimed exceeds the film production company's tax liability for  
16 the taxable year in which the credit is being claimed, the  
17 excess shall be refunded.

18 R. That amount of a film production tax credit for  
19 total payments as applied to direct production expenditures for  
20 the services of performing artists shall not exceed five  
21 million dollars (\$5,000,000) for services rendered by  
22 nonresident performing artists and featured resident principal  
23 performing artists in a production. This limitation shall not  
24 apply to the services of background artists and resident  
25 performing artists who are not cast in industry standard

.223540.1

underscored material = new  
[bracketed material] = delete

1 featured principal performer roles.

2 S. As used in this section, "direct production  
3 expenditure" means a transaction that is subject to taxation in  
4 New Mexico:

5 (1) including an expenditure for:

6 (a) payment of wages, fringe benefits or  
7 fees for talent, management or labor to a person who is a New  
8 Mexico resident;

9 (b) payment for wages and per diem for a  
10 performing artist who is not a New Mexico resident and who is  
11 directly employed by the film production company; provided that  
12 the film production company deducts and remits, or causes to be  
13 deducted and remitted, income tax from the first day of  
14 services rendered in New Mexico at the maximum rate pursuant to  
15 the Withholding Tax Act;

16 (c) payment to a personal services  
17 business for the services of a performing artist if: 1) the  
18 personal services business pays [~~gross receipts~~] sales tax in  
19 New Mexico on the portion of those payments qualifying for the  
20 tax credit; and 2) the film production company deducts and  
21 remits, or causes to be deducted and remitted, income tax at  
22 the maximum rate in New Mexico pursuant to Subsection H of  
23 Section 7-3A-3 NMSA 1978 on the portion of those payments  
24 qualifying for the tax credit paid to a personal services  
25 business where the performing artist is a full or part owner of

.223540.1

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

1 that business or subcontracts with a personal services business  
2 where the performing artist is a full or part owner of that  
3 business; and

4 (d) any of the following provided by a  
5 vendor: 1) the story and scenario to be used for a film; 2)  
6 set construction and operations, wardrobe, accessories and  
7 related services; 3) photography, sound synchronization,  
8 lighting and related services; 4) editing and related services;  
9 5) rental of facilities and equipment; 6) leasing of vehicles,  
10 not including the chartering of aircraft for out-of-state  
11 transportation; however, New Mexico-based chartered aircraft  
12 for in-state transportation directly attributable to the  
13 production shall be considered a direct production expenditure;  
14 provided that only the first one hundred dollars (\$100) of the  
15 daily expense of leasing a vehicle for passenger transportation  
16 on roadways in the state may be claimed as a direct production  
17 expenditure; 7) food or lodging; provided that only the first  
18 one hundred fifty dollars (\$150) of lodging per individual per  
19 day is eligible to be claimed as a direct production  
20 expenditure; 8) commercial airfare if purchased through a New  
21 Mexico-based travel agency or travel company for travel to and  
22 from New Mexico or within New Mexico that is directly  
23 attributable to the production; 9) insurance coverage and  
24 bonding if purchased through a New Mexico-based insurance  
25 agent, broker or bonding agent; 10) services for an external

.223540.1

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

1 audit upon submission of an application for a film production  
2 tax credit by an accounting firm that submits the application  
3 pursuant to this section; and 11) other direct costs of  
4 producing a film in accordance with generally accepted  
5 entertainment industry practice; and

6 (2) does not include an expenditure for:

7 (a) a gift with a value greater than  
8 twenty-five dollars (\$25.00);

9 (b) artwork or jewelry, except that a  
10 work of art or a piece of jewelry may be a direct production  
11 expenditure if: 1) it is used in the film production; and 2)  
12 the expenditure is less than two thousand five hundred dollars  
13 (\$2,500);

14 (c) entertainment, amusement or  
15 recreation;

16 (d) subcontracted goods or services  
17 provided by a vendor when subcontractors are not subject to  
18 state taxation, such as equipment and locations provided by the  
19 military, government and religious organizations; or

20 (e) a service provided by a person who  
21 is not a New Mexico resident and employed in an industry crew  
22 position, excluding a performing artist, where it is the  
23 standard entertainment industry practice for the film  
24 production company to employ a person for that industry crew  
25 position, except when the person who is not a New Mexico

.223540.1

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

1 resident is hired or subcontracted by a vendor; and when the  
2 film production company, as determined by the division and when  
3 applicable in consultation with industry, provides: 1)  
4 reasonable efforts to hire resident crew; and 2) financial or  
5 promotional contributions toward education or workforce  
6 development efforts in New Mexico, including at least one of  
7 the following: a payment to a New Mexico public education  
8 institution that administers at least one industry-recognized  
9 film or multimedia program, as determined by the division, in  
10 an amount equal to two and one-half percent of payments made to  
11 nonresidents in approved positions employed by the vendor;  
12 promotion of the New Mexico film industry by directors, actors  
13 or executive producers affiliated with the production company's  
14 project through social media that is managed by the state;  
15 radio interviews facilitated by the division; enhanced screen  
16 credit acknowledgments; or related events that are facilitated,  
17 conducted or sponsored by the division.

18 T. As used in this section, "film production  
19 company" means a person that produces one or more films or any  
20 part of a film and that commences principal photography prior  
21 to January 1, 2016.

22 U. As used in this section, "vendor" means a person  
23 who sells or leases goods or services that are related to  
24 standard industry craft inventory, who has a physical presence  
25 in New Mexico and is subject to [~~gross receipts~~] sales tax

.223540.1



underscored material = new  
[bracketed material] = delete

1 pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use  
2 Tax Act and income tax pursuant to the Income Tax Act or  
3 corporate income tax pursuant to the Corporate Income and  
4 Franchise Tax Act but excludes a personal services business and  
5 services provided by nonresidents hired or subcontracted if the  
6 tasks and responsibilities are associated with:

- 7 (1) the standard industry job position of:
- 8 (a) a director;
  - 9 (b) a writer;
  - 10 (c) a producer;
  - 11 (d) an associate producer;
  - 12 (e) a co-producer;
  - 13 (f) an executive producer;
  - 14 (g) a production supervisor;
  - 15 (h) a director of photography;
  - 16 (i) a motion picture driver whose sole  
17 responsibility is driving;
  - 18 (j) a production or personal assistant;
  - 19 (k) a designer;
  - 20 (l) a still photographer; or
  - 21 (m) a carpenter and utility technician  
22 at an entry level; and

23 (2) nonstandard industry job positions and  
24 personal support services."

25 SECTION 86. Section 7-2F-2 NMSA 1978 (being Laws 2003,

.223540.1

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

1 Chapter 127, Section 2, as amended) is amended to read:

2 "7-2F-2. DEFINITIONS.--As used in the Film Production  
3 Tax Credit Act:

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

10 B. "background artist" means a person who is not a  
11 performing artist but is a person of atmospheric business whose  
12 work includes atmospheric noise, normal actions, gestures and  
13 facial expressions of that person's assignment; or a person of  
14 atmospheric business whose work includes special abilities that  
15 are not stunts; or a substitute for another actor, whether  
16 photographed as a double or acting as a stand-in;

17 C. "below-the-line crew" means a person in a  
18 position that is off-camera and who provides technical services  
19 during the physical production of a film. "Below-the-line  
20 crew" does not include a person who is a writer, director,  
21 producer or background artist or performing artist for the  
22 film;

23 D. "commercial audiovisual product" means a film or  
24 a video game intended for commercial exploitation;

25 E. "direct production expenditure" means a

underscored material = new  
[bracketed material] = delete

1 transaction that is subject to taxation in New Mexico and is  
2 certified pursuant to Subsection A of Section 7-2F-12 NMSA  
3 1978:

4 (1) including an expenditure for:

5 (a) payment of wages, fringe benefits or  
6 fees for talent, management or labor to a person who is a New  
7 Mexico resident;

8 (b) payment for standard industry craft  
9 inventory when provided by a below-the-line crew that is a New  
10 Mexico resident in addition to its below-the-line crew  
11 services;

12 (c) payment for wages and per diem for a  
13 performing artist who is not a New Mexico resident and who is  
14 directly employed by the film production company; provided that  
15 the film production company deducts and remits, or causes to be  
16 deducted and remitted, income tax from the first day of  
17 services rendered in New Mexico at the maximum rate pursuant to  
18 the Withholding Tax Act;

19 (d) payment to a personal services  
20 business for the services of a performing artist if: 1) the  
21 personal services business pays [~~gross receipts~~] sales tax in  
22 New Mexico on the portion of those payments qualifying for the  
23 tax credit; and 2) the film production company deducts and  
24 remits, or causes to be deducted and remitted, income tax at  
25 the maximum rate in New Mexico pursuant to Subsection H of

.223540.1

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

1 Section 7-3A-3 NMSA 1978 on the portion of those payments  
2 qualifying for the tax credit paid to a personal services  
3 business where the performing artist is a full or part owner of  
4 that business or subcontracts with a personal services business  
5 where the performing artist is a full or part owner of that  
6 business; and

7 (e) any of the following provided by a  
8 vendor: 1) the story and scenario to be used for a film; 2)  
9 set construction and operations, wardrobe, accessories and  
10 related services; 3) photography, sound synchronization,  
11 lighting and related services; 4) editing and related services;  
12 5) rental of facilities and equipment; 6) the first one hundred  
13 fifty dollars (\$150) of the daily expense of leasing of  
14 vehicles, not including the chartering of aircraft for out-of-  
15 state transportation; however, New Mexico-based chartered  
16 aircraft for in-state transportation directly attributable to  
17 the production shall be considered a direct production  
18 expenditure; 7) food; 8) the first three hundred dollars (\$300)  
19 of lodging per individual, per day; 9) commercial airfare if  
20 purchased through a New Mexico-based travel agency or travel  
21 company for travel to and from New Mexico or within New Mexico  
22 that is directly attributable to the production; 10) insurance  
23 coverage and bonding if purchased through a New Mexico-based  
24 insurance agent, broker or bonding agent; 11) subcontracted  
25 goods and services from businesses; provided that the ordinary

.223540.1

1 course of business of the vendor procuring the goods and  
2 services from the subcontractor directly relates to standard  
3 film industry goods and services; and 12) other direct costs of  
4 producing a film in accordance with generally accepted  
5 entertainment industry practice; and

6 (2) does not include an expenditure for:

7 (a) a gift with a value greater than one  
8 hundred dollars (\$100);

9 (b) artwork or jewelry, except that a  
10 work of art or a piece of jewelry may be a direct production  
11 expenditure if: 1) it is used in the film production; and 2)  
12 the expenditure is less than two thousand five hundred dollars  
13 (\$2,500);

14 (c) entertainment, amusement or  
15 recreation;

16 (d) subcontracted goods or services  
17 provided by a vendor when the subcontractors providing those  
18 goods or services to the vendor are not subject to state  
19 taxation, such as equipment and locations provided by the  
20 military, government and organizations that demonstrate to the  
21 taxation and revenue department that they have been granted  
22 exemption from the federal income tax by the United States  
23 commissioner of internal revenue as organizations described in  
24 Section 501(c)(3) of the United States Internal Revenue Code of  
25 1986, as amended or renumbered;

.223540.1

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

1 (e) subcontracted services provided by a  
2 vendor when the subcontracted services are provided by a person  
3 who is below-the-line crew and is not a New Mexico resident;

4 (f) hidden or other indirect service  
5 fees, costs, commissions or other remuneration received by  
6 third parties and that are not directly paid by the film  
7 production company or expressly enumerated on a film production  
8 company's filing to claim a new film production tax credit;

9 (g) wages for a person who is not a  
10 New Mexico resident and who falsely claims to be a New Mexico  
11 resident. The wages of such person shall not be considered an  
12 eligible expense for two years from the date in which the  
13 person is determined by the taxation and revenue department as  
14 having made a false claim, regardless of whether the person  
15 becomes a New Mexico resident within that time frame; or

16 (h) which the film production company  
17 receives funding pursuant to Section 21-19-7.1 NMSA 1978;

18 F. "division" means the New Mexico film division of  
19 the economic development department;

20 G. "federal new markets tax credit program" means  
21 the tax credit program codified as Section 45D of the United  
22 States Internal Revenue Code of 1986, as amended;

23 H. "film" means a single medium or multimedia  
24 program, including television programs but excluding  
25 advertising messages other than national or regional

.223540.1

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

1 advertising messages intended for exhibition, that:

2 (1) is fixed on film, a digital medium,  
3 videotape, computer disc, laser disc or other similar delivery  
4 medium;

5 (2) can be viewed or reproduced;

6 (3) is not intended to and does not violate a  
7 provision of Chapter 30, Article 37 NMSA 1978; and

8 (4) is intended for reasonable commercial  
9 exploitation for the delivery medium used;

10 I. "film production company" means a person that  
11 produces one or more films or commercial audiovisual products  
12 or any part of a film or commercial audiovisual product;

13 J. "fiscal year" means the state fiscal year  
14 beginning on July 1;

15 K. "New Mexico resident" means an individual who is  
16 domiciled in this state during any part of the taxable year or  
17 an individual who is physically present in this state for one  
18 hundred eighty-five days or more during the taxable year; but  
19 any individual, other than someone who was physically present  
20 in the state for one hundred eighty-five days or more during  
21 the taxable year and who, on or before the last day of the  
22 taxable year, changed the individual's place of abode to a  
23 place without this state with the bona fide intention of  
24 continuing actually to abide permanently without this state is  
25 not a resident for the purposes of the Film Production Tax

.223540.1

1 Credit Act for periods after that change of abode;

2 L. "performing artist" means an actor, on-camera  
3 stuntperson, puppeteer, pilot who is a stuntperson or actor,  
4 specialty foreground performer or narrator; and who speaks a  
5 line of dialogue, is identified with the product or reacts to  
6 narration as assigned. "Performing artist" does not include a  
7 background artist;

8 M. "personal services business" means a business  
9 organization, with or without physical presence, that receives  
10 payments pursuant to the Film Production Tax Credit Act for the  
11 services of a performing artist;

12 N. "physical presence" means a physical address in  
13 New Mexico from which a vendor conducts business, stores  
14 inventory or otherwise creates, assembles or offers for sale  
15 the product purchased or leased by a film production company  
16 and the vendor or an employee of the vendor is a resident;

17 O. "postproduction expenditure" means an  
18 expenditure, certified pursuant to Subsection A of Section  
19 7-2F-12 NMSA 1978, for editing, Foley recording, automatic  
20 dialogue replacement, sound editing, special effects, including  
21 computer-generated imagery or other effects, scoring and music  
22 editing, beginning and end credits, negative cutting,  
23 soundtrack production, dubbing, subtitling or addition of sound  
24 or visual effects; but not including an expenditure for  
25 advertising, marketing, distribution or expense payments;

.223540.1



underscored material = new  
[bracketed material] = delete

1 P. "principal photography" means the production of  
2 a film during which the main visual elements are created;

3 Q. "qualified production facility" means a  
4 building, or complex of buildings, building improvements and  
5 associated back-lot facilities in which films are or are  
6 intended to be regularly produced and that contain at least  
7 one:

8 (1) sound stage with contiguous floor space of  
9 at least seven thousand square feet and a ceiling height of no  
10 less than eighteen feet; or

11 (2) standing set that includes at least one  
12 interior, and at least five exteriors, built or re-purposed for  
13 film production use on a continual basis and is located on at  
14 least fifty acres of contiguous space designated for film  
15 production use; and

16 R. "vendor" means a person who sells or leases  
17 goods or services that are related to standard industry craft  
18 inventory, who has a physical presence in New Mexico and is  
19 subject to [~~gross receipts~~] the sales tax pursuant to the  
20 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act or  
21 income tax pursuant to the Income Tax Act or corporate income  
22 tax pursuant to the Corporate Income and Franchise Tax Act but  
23 excludes a personal services business and services provided by  
24 nonresidents hired or subcontracted if the tasks and  
25 responsibilities are associated with the standard industry job

.223540.1

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

1 position of director, writer or producer."

2 SECTION 87. Section 7-2F-2.1 NMSA 1978 (being Laws 2015,  
3 Chapter 143, Section 4, as amended) is amended to read:

4 "7-2F-2.1. ADDITIONAL DEFINITIONS.--As used in Sections  
5 7-2F-6 through 7-2F-12 NMSA 1978:

6 A. "direct production expenditure":

7 (1) except as provided in Paragraph (2) of  
8 this subsection, means a transaction that is subject to  
9 taxation in New Mexico, including:

10 (a) payment of wages, fringe benefits or  
11 fees for talent, management or labor to a person who is a New  
12 Mexico resident;

13 (b) payment for standard industry craft  
14 inventory when provided by a resident industry crew in addition  
15 to its industry crew services;

16 (c) payment for wages and per diem for a  
17 performing artist who is not a New Mexico resident and who is  
18 directly employed by a film production company; provided that  
19 the film production company deducts and remits, or causes to be  
20 deducted and remitted, income tax from the first day of  
21 services rendered in New Mexico at the maximum rate pursuant to  
22 the Withholding Tax Act;

23 (d) payment to a personal services  
24 business on the wages and per diem paid to a performing artist  
25 of the personal services business if: 1) the personal services

.223540.1

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

1 business pays [~~gross receipts~~] sales tax in New Mexico on the  
2 portion of those payments qualifying for the tax credit; and 2)  
3 the film production company deducts and remits, or causes to be  
4 deducted and remitted, income tax at the maximum rate in New  
5 Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on  
6 the portion of those payments qualifying for the tax credit  
7 paid to a personal services business where the performing  
8 artist is a full or part owner of that business or subcontracts  
9 with a personal services business where the performing artist  
10 is a full or part owner of that business; and

11 (e) any of the following provided by a  
12 vendor: 1) the story and scenario to be used for a film; 2)  
13 set construction and operations, wardrobe, accessories and  
14 related services; 3) photography, sound synchronization,  
15 lighting and related services; 4) editing and related services;  
16 5) rental of facilities and equipment; 6) leasing of vehicles,  
17 not including the chartering of aircraft for out-of-state  
18 transportation; however, New Mexico-based chartered aircraft  
19 for in-state transportation directly attributable to the  
20 production shall be considered a direct production expenditure;  
21 provided that only the first one hundred dollars (\$100) of the  
22 daily expense of leasing a vehicle for passenger transportation  
23 on roadways in the state may be claimed as a direct production  
24 expenditure; 7) food or lodging; provided that only the first  
25 one hundred fifty dollars (\$150) of lodging per individual per

.223540.1

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

1 day is eligible to be claimed as a direct production  
2 expenditure; 8) commercial airfare if purchased through a New  
3 Mexico-based travel agency or travel company for travel to and  
4 from New Mexico or within New Mexico that is directly  
5 attributable to the production; 9) insurance coverage and  
6 bonding if purchased through a New Mexico-based insurance  
7 agent, broker or bonding agent; 10) services for an external  
8 audit upon submission of an application for a film production  
9 tax credit by an accounting firm that submits the application  
10 pursuant to Subsection I of Section 7-2F-6 NMSA 1978; and 11)  
11 other direct costs of producing a film in accordance with  
12 generally accepted entertainment industry practice; and

13 (2) does not include an expenditure for:

14 (a) a gift with a value greater than  
15 twenty-five dollars (\$25.00);

16 (b) artwork or jewelry, except that a  
17 work of art or a piece of jewelry may be a direct production  
18 expenditure if: 1) it is used in the film production; and 2)  
19 the expenditure is less than two thousand five hundred dollars  
20 (\$2,500);

21 (c) entertainment, amusement or  
22 recreation; or

23 (d) subcontracted goods or services  
24 provided by a vendor when subcontractors are not subject to  
25 state taxation, such as equipment and locations provided by the

.223540.1

underscoring material = new  
[bracketed material] = delete

1 military, government and religious organizations;

2 B. "film production company" means a person that  
3 produces one or more films or any part of a film and that  
4 commences principal photography on or after January 1, 2016;  
5 and

6 C. "vendor" means a person who sells or leases  
7 goods or services that are related to standard industry craft  
8 inventory, who has a physical presence in New Mexico and is  
9 subject to [~~gross receipts~~] the sales tax pursuant to the  
10 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act and  
11 income tax pursuant to the Income Tax Act or corporate income  
12 tax pursuant to the Corporate Income and Franchise Tax Act but  
13 excludes a personal services business."

14 SECTION 88. Section 7-2F-4 NMSA 1978 (being Laws 2011,  
15 Chapter 165, Section 5, as amended) is amended to read:

16 "7-2F-4. REPORTING--ACCOUNTABILITY.--

17 A. The economic development department shall:

18 (1) collect data to be used in an econometric  
19 tool that objectively assesses the effectiveness of the credits  
20 provided by the Film Production Tax Credit Act;

21 (2) track the direct expenditures for the  
22 credits;

23 (3) with the support and assistance of the  
24 legislative finance committee staff and the taxation and  
25 revenue department, review and assess the analysis developed in

.223540.1

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

1 Paragraph (1) of this subsection and create a report for  
2 presentation to the revenue stabilization and tax policy  
3 committee and the legislative finance committee that provides  
4 an objective assessment of the effectiveness of the credits;  
5 and

6 (4) report annually to the revenue  
7 stabilization and tax policy committee and the legislative  
8 finance committee on aggregate approved tax credits made  
9 pursuant to the Film Production Tax Credit Act and the past  
10 performance of and current outlook for the Film Production Tax  
11 Credit Act, including:

12 (a) the aggregate amount of credits paid  
13 subject to the aggregate amount allowed pursuant to Subsection  
14 B of Section 7-2F-12 NMSA 1978 in the prior fiscal year and the  
15 current amount of claims in the queue pursuant to Subsection C  
16 of Section 7-2F-12 NMSA 1978;

17 (b) the aggregate amount of approved  
18 credits paid in the prior fiscal year for expenditures by  
19 certain film production companies that are not subject to the  
20 aggregate amount of claims allowed pursuant to Section 7-2F-12  
21 NMSA 1978;

22 (c) the number of applicants receiving  
23 the additional credit for television pilots and series pursuant  
24 to Section 7-2F-7 NMSA 1978;

25 (d) the number of applicants receiving

.223540.1

underscoring material = new  
[bracketed material] = delete

1 the additional amount for expenditures made in certain areas of  
2 the state pursuant to Section [~~8 of this 2019 act~~] 7-2F-14 NMSA  
3 1978;

4 (e) the aggregate amount of direct  
5 production expenditures and post production expenditures in New  
6 Mexico during the prior fiscal year, shown by county;

7 (f) the total number and wages of  
8 New Mexico residents employed by film production companies in  
9 the prior fiscal year; and

10 (g) any other relevant information, as  
11 determined by the division.

12 B. The division shall develop a form on which the  
13 taxpayer claiming a credit pursuant to the Film Production Tax  
14 Credit Act shall submit a report to accompany the taxpayer's  
15 application for that credit.

16 C. With respect to the production on which the  
17 application for a credit is based, the film production company  
18 shall report to the division at a minimum the following  
19 information:

20 (1) the total aggregate wages of the members  
21 of the New Mexico resident crew;

22 (2) the number of New Mexico residents  
23 employed;

24 (3) the total amount of [~~gross receipts~~] sales  
25 taxes paid;

.223540.1

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

1 (4) the total number of hours worked by New  
2 Mexico residents;

3 (5) the total expenditures made in New Mexico  
4 that do not qualify for the credit;

5 (6) the aggregate wages paid to the members of  
6 the nonresident crew while working in New Mexico;

7 (7) the aggregate amount of direct production  
8 expenditures and postproduction expenditures in New Mexico in  
9 the prior fiscal year, shown by county; and

10 (8) other information deemed necessary by the  
11 division and economic development department to determine the  
12 effectiveness of the credit.

13 D. For purposes of assessing the effectiveness of a  
14 credit, the inability of the economic development department to  
15 aggregate data due to sample size shall not relieve the  
16 department of the requirement to report all relevant data to  
17 the legislature. The division shall provide notice to a film  
18 production company applying for a credit that information  
19 provided to the division may be revealed by the department in  
20 reports to the legislature."

21 SECTION 89. Section 7-5A-3 NMSA 1978 (being Laws 2005,  
22 Chapter 225, Section 3) is amended to read:

23 "7-5A-3. DEFINITIONS.--As used in the Streamlined Sales  
24 and Use Tax Administration Act:

25 A. "agreement" means the streamlined sales and use

.223540.1



underscoring material = new  
[bracketed material] = delete

1 tax agreement;

2 B. "certified automated system" means software  
3 certified jointly by member states to:

4 (1) calculate the sales tax imposed by each  
5 jurisdiction on a transaction;

6 (2) determine the amount of tax to remit to  
7 the appropriate state; and

8 (3) maintain a record of the transaction;

9 C. "certified service provider" means an agent that  
10 performs all of the sales tax functions of a seller and that is  
11 certified jointly by member states to perform all of the sales  
12 tax functions of the seller;

13 D. "member state" means a state of the United  
14 States that enters into the agreement with another state and  
15 the District of Columbia if it enters into the agreement with  
16 another state;

17 E. "person" means an individual, trust, estate,  
18 fiduciary, partnership, limited liability company, limited  
19 liability partnership, corporation and any other legal entity;

20 F. "sales tax" means the [~~gross receipts~~] sales tax  
21 levied pursuant to the [~~Gross Receipts and Compensating~~] Sales  
22 and Use Tax Act or a tax imposed by a state on the sale of  
23 goods or services;

24 G. "seller" means a person making sales, leases and  
25 rentals of personal property and services; and

.223540.1

underscored material = new  
[bracketed material] = delete

1           H. "use tax" means the [~~compensating~~] use tax  
2 levied pursuant to the [~~Gross Receipts and Compensating~~] Sales  
3 and Use Tax Act."

4           SECTION 90. Section 7-9-1 NMSA 1978 (being Laws 1966,  
5 Chapter 47, Section 1, as amended) is amended to read:

6           "7-9-1. SHORT TITLE.--Chapter 7, Article 9 NMSA 1978 may  
7 be cited as the "[~~Gross Receipts and Compensating~~] Sales and  
8 Use Tax Act."

9           SECTION 91. Section 7-9-2 NMSA 1978 (being Laws 1966,  
10 Chapter 47, Section 2) is amended to read:

11           "7-9-2. PURPOSE.--The purpose of the [~~Gross Receipts and~~  
12 ~~Compensating~~] Sales and Use Tax Act is to provide revenue for  
13 public purposes by levying a tax on the privilege of engaging  
14 in certain activities within New Mexico and to protect New  
15 Mexico [~~businessmen~~] businesses from the unfair competition  
16 that would otherwise result from the importation into the state  
17 of property without payment of a similar tax."

18           SECTION 92. Section 7-9-3 NMSA 1978 (being Laws 1978,  
19 Chapter 46, Section 1, as amended) is amended to read:

20           "7-9-3. DEFINITIONS.--As used in the [~~Gross Receipts and~~  
21 ~~Compensating~~] Sales and Use Tax Act:

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

25           B. "department" means the taxation and revenue

1 department, the secretary of taxation and revenue or an  
2 employee of the department exercising authority lawfully  
3 delegated to that employee by the secretary;

4 C. "digital good" means a digital product delivered  
5 electronically, including software, music, photography, video,  
6 reading material, an application and a ringtone;

7 D. "disclosed agency" means an agent receiving  
8 money on behalf of a principal if the agent or the agent's  
9 principal disclosed the agency relationship to a third party  
10 from which the agent receives money, or if the third party  
11 otherwise has actual knowledge that the agent receives money on  
12 behalf of the principal;

13 E. "financial corporation" means a savings and loan  
14 association or an incorporated savings and loan company, trust  
15 company, mortgage banking company, consumer finance company or  
16 other financial corporation;

17 F. "initial use" or "initially used" means the  
18 first employment for the intended purpose and does not include  
19 the following activities:

20 (1) observation of tests conducted by the  
21 performer of services;

22 (2) participation in progress reviews,  
23 briefings, consultations and conferences conducted by the  
24 performer of services;

25 (3) review of preliminary drafts, drawings and

1 other materials prepared by the performer of services;

2 (4) inspection of preliminary prototypes  
3 developed by the performer of services; or

4 (5) similar activities;

5 G. "lease" or "leasing" means an arrangement  
6 whereby, for a consideration, the owner of property grants  
7 another person the exclusive right to possess and use the  
8 property for a definite term;

9 H. "licensing" or "license" means an arrangement  
10 whereby, for a consideration, the owner of property grants  
11 another person a revocable, non-exclusive right to use the  
12 property;

13 I. "local option [~~gross receipts~~] sales tax" means  
14 a tax authorized to be imposed by a county or municipality upon  
15 a taxpayer's gross receipts and required to be collected by the  
16 department at the same time and in the same manner as the  
17 [~~gross receipts~~] sales tax;

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

23 K. "manufacturing" means combining or processing  
24 components or materials to increase their value for sale in the  
25 ordinary course of business, but does not include construction

1 services; farming; electric power generation; processing of  
2 natural resources, including hydrocarbons; or the processing or  
3 preparation of meals for immediate consumption;

4 L. "manufacturing service" means the service of  
5 combining or processing components or materials owned by  
6 another, but does not include construction services; farming;  
7 electric power generation; processing of natural resources,  
8 including hydrocarbons; or the processing or preparation of  
9 meals for immediate consumption;

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

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

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

25 N. "marketplace seller" means a person who sells,

1 leases or licenses tangible personal property or services or  
2 who licenses the use of real property through a marketplace  
3 provider;

4 O. "person" means:

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

12 (2) a national, federal, state, Indian or  
13 other governmental unit or subdivision, or an agency,  
14 department or instrumentality of any of the foregoing;

15 P. "property" means:

16 (1) real property;  
17 (2) tangible personal property, including  
18 electricity and manufactured homes;  
19 (3) licenses, including licenses of digital  
20 goods, but not including the licenses of copyrights, trademarks  
21 or patents; and

22 (4) franchises;

23 Q. "research and development services" means an  
24 activity engaged in for other persons for consideration, for  
25 one or more of the following purposes:

.223540.1

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

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

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

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

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

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

22 R. "secretary" means the secretary of taxation and  
23 revenue or the secretary's delegate;

24 S. "service" means all activities engaged in for  
25 other persons for a consideration, which activities involve

underscored material = new  
[bracketed material] = delete

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

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

19 SECTION 93. Section 7-9-3.2 NMSA 1978 (being Laws 1991,  
20 Chapter 8, Section 1, as amended) is amended to read:

21 "7-9-3.2. ADDITIONAL DEFINITION.--

22 A. As used in the [~~Gross Receipts and Compensating~~]  
23 Sales and Use Tax Act, "governmental gross receipts" means  
24 receipts of the state or an agency, institution,  
25 instrumentality or political subdivision from:

.223540.1



underscored material = new  
[bracketed material] = delete

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

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

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

8 (4) sewage services;

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

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

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

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

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

23 (1) cash discounts taken and allowed;

24 (2) governmental [~~gross receipts~~] sales tax  
25 payable on transactions reportable for the period; and

.223540.1

underscored material = new  
[bracketed material] = delete

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

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

10 SECTION 94. Section 7-9-3.3 NMSA 1978 (being Laws 2003,  
11 Chapter 272, Section 4, as amended) is amended to read:

12 "7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in  
13 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act,  
14 "engaging in business" means carrying on or causing to be  
15 carried on any activity with the purpose of direct or indirect  
16 benefit. For a person who lacks physical presence in this  
17 state, including a marketplace provider, "engaging in business"  
18 means having, in the previous calendar year, total taxable  
19 gross receipts from sales, leases and licenses of tangible  
20 personal property, sales of licenses and sales of services and  
21 licenses for use of real property sourced to this state  
22 pursuant to Section 7-1-14 NMSA 1978, of at least one hundred  
23 thousand dollars (\$100,000)."

24 SECTION 95. Section 7-9-3.4 NMSA 1978 (being Laws 2003,  
25 Chapter 272, Section 5, as amended) is amended to read:

.223540.1

underscored material = new  
[bracketed material] = delete

1 "7-9-3.4. DEFINITIONS--CONSTRUCTION, CONSTRUCTION  
2 MATERIALS AND CONSTRUCTION-RELATED SERVICES.--As used in the  
3 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act:

4 A. "construction" means:

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

7 (a) road, highway, bridge, parking area  
8 or related project;

9 (b) building, stadium or other  
10 structure;

11 (c) airport, subway or similar facility;

12 (d) park, trail, athletic field, golf  
13 course or similar facility;

14 (e) dam, reservoir, canal, ditch or  
15 similar facility;

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

20 (g) sewerage, water, gas or other  
21 pipeline;

22 (h) transmission line;

23 (i) radio, television or other tower;

24 (j) water, oil or other storage tank;

25 (k) shaft, tunnel or other mining

.223540.1

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

1 appurtenance;

2 (1) microwave station or similar  
3 facility;

4 (m) retaining wall, wall, fence, gate or  
5 similar structure; or

6 (n) similar work;

7 (2) the leveling or clearing of land;

8 (3) the excavating of earth;

9 (4) the drilling of wells of any type,  
10 including seismograph shot holes or core drilling; or

11 (5) similar work;

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

18 C. "construction-related service" means a service  
19 directly contracted for or billed to a specific construction  
20 project, including design, architecture, drafting, surveying,  
21 engineering, environmental and structural testing, security,  
22 sanitation and services required to comply with governmental  
23 construction-related rules. "Construction-related service"  
24 does not include general business services, such as legal or  
25 accounting services, equipment maintenance or real estate sales

.223540.1

underscored material = new  
[bracketed material] = delete

1 commissions."

2 SECTION 96. Section 7-9-3.5 NMSA 1978 (being Laws 2003,  
3 Chapter 272, Section 3, as amended) is amended to read:

4 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

5 A. As used in the [~~Gross Receipts and Compensating~~]  
6 Sales and Use Tax Act:

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

18 (2) "gross receipts" includes:

19 (a) any receipts from sales of tangible  
20 personal property handled on consignment;

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

.223540.1

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

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

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

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

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

.223540.1

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

9 (3) "gross receipts" excludes:

10 (a) cash discounts allowed and taken;

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

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

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

.223540.1

underscored material = new  
[bracketed material] = delete

1 political subdivisions;

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

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

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

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

21 SECTION 97. Section 7-9-4 NMSA 1978 (being Laws 1966,  
22 Chapter 47, Section 4, as amended) is amended to read:

23 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
24 "[~~GROSS RECEIPTS~~] SALES TAX"---

25 A. For the privilege of engaging in business, an

.223540.1



underscored material = new  
[bracketed material] = delete

1 excise tax equal to the following percentages of gross receipts  
2 is imposed on any person engaging in business in New Mexico:

- 3 (1) prior to July 1, 2023, five percent; and  
4 (2) beginning July 1, 2023, four and seven-  
5 eighths percent, except as provided in Subsection C of this  
6 section.

7 B. The tax imposed by this section shall be  
8 referred to as the "[~~gross receipts~~] sales tax".

9 C. If, for any single fiscal year occurring after  
10 fiscal year 2025 and prior to fiscal year 2030, [~~gross~~  
11 ~~receipts~~] sales tax revenues are less than ninety-five percent  
12 of the [~~gross receipts~~] sales tax revenues for the previous  
13 fiscal year, as determined by the secretary of finance and  
14 administration, the rate of the [~~gross receipts~~] sales tax  
15 shall be five and one-eighth percent beginning on the July 1  
16 following the determination made by the secretary of finance  
17 and administration.

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

.223540.1

underscored material = new  
[bracketed material] = delete

1 be five and one-eighth percent, effective on the following July  
2 1.

3 E. As used in this section, "~~[gross receipts]~~ sales  
4 tax revenues" means the net receipts attributable to the ~~[gross~~  
5 ~~receipts]~~ sales tax and distributed to the general fund."

6 SECTION 98. Section 7-9-4.3 NMSA 1978 (being Laws 1991,  
7 Chapter 8, Section 2, as amended) is amended to read:

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

18 SECTION 99. Section 7-9-5 NMSA 1978 (being Laws 1966,  
19 Chapter 47, Section 5, as amended) is amended to read:

20 "7-9-5. PRESUMPTION OF TAXABILITY.--

21 A. To prevent evasion of the ~~[gross receipts]~~ sales  
22 tax and to aid in its administration, it is presumed that all  
23 receipts of a person engaging in business are subject to the  
24 ~~[gross receipts]~~ sales tax. A person engaged solely in  
25 transactions specifically exempt under the provisions of the

.223540.1

underscored material = new  
[bracketed material] = delete

1     ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act shall  
2     not be required to register or file a return under that act.

3             B. If receipts from nontaxable charges for mobile  
4     telecommunications services are aggregated with and not  
5     separately stated from taxable charges for mobile  
6     telecommunications services, the charges for nontaxable mobile  
7     telecommunications services shall be subject to ~~[gross~~  
8     ~~receipts]~~ sales tax unless the home service provider can  
9     reasonably identify nontaxable charges in its books and records  
10    that are kept in the regular course of business. For the  
11    purposes of this subsection, "charges for mobile  
12    telecommunications services", "home service provider" and  
13    "mobile telecommunications services" have the meanings given in  
14    the federal Mobile Telecommunications Sourcing Act.

15            C. A marketplace provider engaging in business in  
16    this state is not liable for amounts of ~~[gross receipts]~~ sales  
17    tax collected incorrectly due to the marketplace provider  
18    reasonably relying on erroneous information provided by the  
19    seller."

20            SECTION 100. Section 7-9-6 NMSA 1978 (being Laws 1966,  
21    Chapter 47, Section 6, as amended) is amended to read:

22            "7-9-6. SEPARATELY STATING THE ~~[GROSS RECEIPTS]~~ SALES  
23    TAX.--

24            A. Taxpayers subject to the ~~[Gross Receipts and~~  
25    ~~Compensating]~~ Sales and Use Tax Act, when billing a customer,

.223540.1

underscoring material = new  
[bracketed material] = delete

1 shall separately state the amount of tax associated with the  
2 transaction or provide a statement affirmatively indicating  
3 that the [~~gross receipts~~] sales tax is included in the amount  
4 billed.

5 B. When the [~~gross receipts~~] sales tax is stated  
6 separately on the books of the seller or lessor, and if the  
7 total amount of tax that is stated separately on transactions  
8 reportable within one reporting period is in excess of the  
9 amount of [~~gross receipts~~] sales tax otherwise payable on the  
10 transactions on which the tax was stated separately, the excess  
11 amount of tax stated on the transactions within that reporting  
12 period shall be included in gross receipts."

13 SECTION 101. Section 7-9-7 NMSA 1978 (being Laws 1966,  
14 Chapter 47, Section 7, as amended) is amended to read:

15 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
16 "[~~COMPENSATING~~] USE TAX".--

17 A. For the privilege of making taxable use of  
18 tangible personal property in New Mexico, there is imposed on  
19 the person using the property an excise tax equal to five  
20 percent prior to July 1, 2023 and four and seven-eighths  
21 percent beginning July 1, 2023, except as provided in  
22 Subsection G of this section, of the value of tangible property  
23 that was:

24 (1) manufactured by the person using the  
25 property in the state; or

.223540.1

underscored material = new  
[bracketed material] = delete

1 (2) acquired in a transaction for which the  
2 seller's receipts were not subject to the [~~gross receipts~~]  
3 sales tax.

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

12 C. For the privilege of making taxable use of a  
13 license or franchise in New Mexico, there is imposed on the  
14 person using the license or franchise an excise tax equal to  
15 the rate provided in Subsection A or G of this section, as  
16 applicable, against the value of the license or franchise in  
17 its use in this state. The department by rule, ruling or  
18 instruction shall fairly apportion, where appropriate, the  
19 value of a license or franchise to its value in use in New  
20 Mexico. The tax shall apply only to the value of a license or  
21 franchise used in New Mexico where the license or franchise was  
22 acquired in a transaction the receipts from which were not  
23 subject to the [~~gross receipts~~] sales tax.

24 D. For the privilege of making taxable use of  
25 services in New Mexico, there is imposed on the person using

.223540.1

underscored material = new  
[bracketed material] = delete

1 the services an excise tax equal to the rate provided in  
2 Subsection A or G of this section, as applicable, against the  
3 value of the services at the time the services were performed  
4 or the product of the service was acquired. For use of  
5 services to be a taxable use pursuant to this subsection, the  
6 services shall have been acquired in a transaction the receipts  
7 from which were not subject to the [~~gross receipts~~] sales tax.

8 E. For purposes of this section, receipts are not  
9 subject to the [~~gross receipts~~] sales tax if the person  
10 responsible for the [~~gross receipts~~] sales tax on those  
11 receipts lacked nexus in New Mexico or the receipts were exempt  
12 or allowed to be deducted pursuant to the [~~Gross Receipts and~~  
13 ~~Compensating~~] Sales and Use Tax Act.

14 F. The tax imposed by this section shall be  
15 referred to as the "[~~compensating~~] use tax".

16 G. If the [~~gross receipts~~] sales tax is increased  
17 to five and one-eighth percent pursuant to Subsection C of  
18 Section 7-9-4 NMSA 1978, the rate of the [~~compensating~~] use tax  
19 shall be five and one-eighth percent.

20 H. As used in this section, "taxable use" means use  
21 by a person who acquires tangible personal property, a license,  
22 a franchise or a service, and the use of which would not have  
23 qualified for an exemption or deduction pursuant to the [~~Gross~~  
24 ~~Receipts and Compensating~~] Sales and Use Tax Act."

25 SECTION 102. Section 7-9-8 NMSA 1978 (being Laws 1966,

.223540.1

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

1 Chapter 47, Section 8, as amended) is amended to read:

2 "7-9-8. PRESUMPTION OF TAXABILITY AND VALUE.--

3 A. To prevent evasion of the [~~compensating~~] use tax  
4 and the duty to collect it, it is presumed that property bought  
5 or sold by any person for delivery into this state is bought or  
6 sold for a taxable use in this state.

7 B. In determining the amount of [~~compensating~~] use  
8 tax due on the use of property, it is presumed, in the absence  
9 of preponderant evidence of another value, that the value means  
10 the total amount of money or the reasonable value of other  
11 consideration paid for property exclusive of any type of time-  
12 price differential. However, in an exchange in which the  
13 amount of money paid does not represent the value of the  
14 property or property and service purchased, the [~~compensating~~]  
15 use tax shall be imposed on the reasonable value of the  
16 property or property and service purchased.

17 C. In determining the amount of [~~compensating~~] use  
18 tax due on the use of a service, it is presumed, in the absence  
19 of preponderant evidence of another value, that the value means  
20 the total amount of money or the reasonable value of other  
21 consideration paid for the service exclusive of any type of  
22 time-price differential. However, in an exchange in which the  
23 amount paid does not represent the value of the service  
24 purchased, the [~~compensating~~] use tax shall be imposed on the  
25 reasonable value of the service purchased."

.223540.1

underscored material = new  
[bracketed material] = delete

1           SECTION 103. Section 7-9-9 NMSA 1978 (being Laws 1966,  
2 Chapter 47, Section 9, as amended) is amended to read:

3           "7-9-9. LIABILITY OF USER FOR PAYMENT OF [~~COMPENSATING~~  
4 USE TAX.--Any person in New Mexico using property on the value  
5 of which [~~compensating~~] use tax is payable but has not been  
6 paid is liable to the state for payment of the [~~compensating~~]  
7 use tax, but this liability is discharged if the buyer has paid  
8 the [~~compensating~~] use tax to the seller for payment over to  
9 the department."

10           SECTION 104. Section 7-9-10 NMSA 1978 (being Laws 1966,  
11 Chapter 47, Section 10, as amended) is amended to read:

12           "7-9-10. AGENTS FOR COLLECTION OF [~~COMPENSATING~~] USE  
13 TAX--DUTIES.--

14           A. Every person carrying on or causing to be  
15 carried on any activity within this state attempting to exploit  
16 New Mexico's markets who sells property or sells property and  
17 service for use in this state and who is not subject to the  
18 [~~gross receipts~~] sales tax on receipts from these sales shall  
19 collect the [~~compensating~~] use tax from the buyer and pay the  
20 tax collected to the department. "Activity", for the purposes  
21 of this section, includes but is not limited to engaging in any  
22 of the following in New Mexico: maintaining an office or other  
23 place of business; soliciting orders through employees or  
24 independent contractors; soliciting orders through  
25 advertisements placed in newspapers or magazines published in

.223540.1



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

1 New Mexico or advertisements broadcast by New Mexico radio or  
2 television stations; soliciting orders through programs  
3 broadcast by New Mexico radio or television stations or  
4 transmitted by cable systems in New Mexico; and canvassing,  
5 demonstrating, collecting money, warehousing or storing  
6 merchandise or delivering or distributing products as a  
7 consequence of an advertising or other sales program directed  
8 at potential customers. "Activity", for the purposes of this  
9 section, does not include having a ~~[world wide web site]~~  
10 website as a third-party provider on a computer physically  
11 located in New Mexico but owned by another nonaffiliated  
12 person, and "activity" does not include using a nonaffiliated  
13 third-party call center to accept and process telephone or  
14 electronic orders of tangible personal property or licenses  
15 primarily from non-New Mexico buyers, which orders are  
16 forwarded to a location outside New Mexico for filling, or to  
17 provide services primarily to non-New Mexico customers.

18 B. To ensure orderly and efficient collection of  
19 the public revenue, if any application of this section is held  
20 invalid, the section's application to other situations or  
21 persons shall not be affected."

22 SECTION 105. Section 7-9-11 NMSA 1978 (being Laws 1966,  
23 Chapter 47, Section 11, as amended) is amended to read:

24 "7-9-11. DATE PAYMENT DUE.--The taxes imposed by the  
25 ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act are to  
.223540.1

underscoring material = new  
[bracketed material] = delete

1 be paid on or before the twenty-fifth day of the month  
2 following the month in which the taxable event occurs."

3 SECTION 106. Section 7-9-12 NMSA 1978 (being Laws 1969,  
4 Chapter 144, Section 5, as amended) is amended to read:

5 "7-9-12. EXEMPTIONS.--Exemptions from either the [~~gross~~  
6 ~~receipts~~] sales tax or the [~~compensating~~] use tax are not  
7 exemptions from both taxes unless explicitly stated otherwise  
8 by law."

9 SECTION 107. Section 7-9-13 NMSA 1978 (being Laws 1969,  
10 Chapter 144, Section 6, as amended) is amended to read:

11 "7-9-13. EXEMPTION--[~~GROSS RECEIPTS~~] SALES TAX--  
12 GOVERNMENTAL AGENCIES.--

13 A. Except as otherwise provided in this section,  
14 exempted from the [~~gross receipts~~] sales tax are receipts of:

15 (1) the United States or any agency,  
16 department or instrumentality thereof;

17 (2) the state of New Mexico or any political  
18 subdivision thereof;

19 (3) any Indian nation, tribe or pueblo from  
20 activities or transactions occurring on its sovereign  
21 territory; or

22 (4) any foreign nation or agency,  
23 instrumentality or political subdivision thereof, but only when  
24 required by a treaty in force to which the United States is a  
25 party.

.223540.1

underscored material = new  
[bracketed material] = delete

1           B. Receipts from the sale of gas or electricity by  
2 a utility owned or operated by a county, municipality or other  
3 political subdivision of a state are not exempted from the  
4 [~~gross receipts~~] sales tax.

5           C. Receipts from the operation of a cable  
6 television system owned or operated by a municipality are not  
7 exempted from the [~~gross receipts~~] sales tax."

8           **SECTION 108.** Section 7-9-13.1 NMSA 1978 (being Laws  
9 1989, Chapter 262, Section 4, as amended) is amended to read:

10           "7-9-13.1. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
11 CERTAIN SERVICES.--

12           A. Exempted from the [~~gross receipts~~] sales tax are  
13 the receipts from selling research and development services  
14 performed outside New Mexico the product of which is initially  
15 used in New Mexico and that are sold:

16                   (1) between affiliated corporations;

17                   (2) to the United States by persons, other  
18 than organizations described in Subsection A of Section 7-9-29  
19 NMSA 1978, who are prime contractors operating facilities in  
20 New Mexico designated as national laboratories by act of  
21 congress; or

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

.223540.1

underscored material = new  
[bracketed material] = delete

1           B. An "affiliated corporation" means a corporation  
2 that directly or indirectly, through one or more intermediaries  
3 controls, is controlled by or is under common control with the  
4 subject corporation. "Control" means ownership of stock in a  
5 corporation that represents at least eighty percent of the  
6 total voting power of that corporation and has a stated or par  
7 value equal to at least eighty percent of the total stated or  
8 par value of the stock of that corporation."

9           SECTION 109. Section 7-9-13.2 NMSA 1978 (being Laws  
10 1992, Chapter 100, Section 3, as amended) is amended to read:

11           "7-9-13.2. EXEMPTION--GOVERNMENTAL [~~GROSS RECEIPTS~~]  
12 SALES TAX--RECEIPTS SUBJECT TO CERTAIN OTHER TAXES.--Exempted  
13 from the governmental [~~gross receipts~~] sales tax are receipts  
14 from transactions involving tangible personal property or  
15 services on which receipts or transactions the [~~gross receipts~~]  
16 sales tax, [~~compensating~~] use tax, motor vehicle excise tax,  
17 gasoline tax, [~~special fuel tax~~] special fuel excise tax, oil  
18 and gas emergency school tax, resources tax, processors tax,  
19 service tax or the excise tax imposed under Section 66-12-6.1  
20 NMSA 1978 is imposed."

21           SECTION 110. Section 7-9-13.3 NMSA 1978 (being Laws  
22 2001, Chapter 231, Section 12) is amended to read:

23           "7-9-13.3. EXEMPTION--[~~GROSS RECEIPTS~~] SALES TAX AND  
24 GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX--STADIUM SURCHARGE.--  
25 Exempted from the [~~gross receipts~~] sales tax and from the

.223540.1

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

1 governmental [~~gross receipts~~] sales tax are the receipts from  
2 selling tickets, parking, souvenirs, concessions, programs,  
3 advertising, merchandise, corporate suites or boxes, broadcast  
4 revenues and all other products, services or activities sold  
5 at, related to or occurring at a minor league baseball stadium  
6 on which a stadium surcharge is imposed pursuant to the Minor  
7 League Baseball Stadium Funding Act."

8 SECTION 111. Section 7-9-13.4 NMSA 1978 (being Laws  
9 2002, Chapter 20, Section 1) is amended to read:

10 "7-9-13.4. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE  
11 OF TEXTBOOKS FROM CERTAIN BOOKSTORES TO ENROLLED STUDENTS.--  
12 Exempted from the [~~gross receipts~~] sales tax are the receipts  
13 from the sale of textbooks and other materials that are  
14 required for courses at a public post-secondary educational  
15 institution if the sale is by a bookstore located on the campus  
16 of the institution and operated pursuant to a contractual  
17 agreement with that institution and the sale is to a student  
18 enrolled at the institution who displays a valid student  
19 identification card."

20 SECTION 112. Section 7-9-13.5 NMSA 1978 (being Laws  
21 2005, Chapter 351, Section 2) is amended to read:

22 "7-9-13.5. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX AND  
23 GOVERNMENTAL [~~GROSS RECEIPTS]~~ SALES TAX--EVENT CENTER  
24 SURCHARGE.--Exempted from the [~~gross receipts~~] sales tax and  
25 from the governmental [~~gross receipts~~] sales tax are the

.223540.1

underscored material = new  
[bracketed material] = delete

1 receipts from selling tickets, parking, souvenirs, concessions,  
2 programs, advertising, merchandise, corporate suites or boxes,  
3 broadcast revenues and all other products or services sold at  
4 or related to a municipal event center or related to activities  
5 occurring at the event center on which an event center  
6 surcharge is imposed pursuant to the Municipal Event Center  
7 Funding Act."

8 SECTION 113. Section 7-9-14 NMSA 1978 (being Laws 1969,  
9 Chapter 144, Section 7, as amended) is amended to read:

10 "7-9-14. EXEMPTION--~~[COMPENSATING]~~ USE TAX--GOVERNMENTAL  
11 AGENCIES--INDIANS.--

12 A. Except as otherwise provided in this subsection,  
13 there is exempted from the ~~[compensating]~~ use tax the use of  
14 property by the United States or the state of New Mexico or any  
15 governmental unit or subdivision, agency, department or  
16 instrumentality thereof. The exemption provided by this  
17 subsection does not apply to:

18 (1) the use of property that is or will be  
19 incorporated into a metropolitan redevelopment project under  
20 the Metropolitan Redevelopment Code; or

21 (2) the use of construction material.

22 B. Exempted from the ~~[compensating]~~ use tax is the  
23 use of property by any Indian nation, tribe or pueblo or any  
24 governmental unit, subdivision, agency, department or  
25 instrumentality thereof on Indian reservations or pueblo

.223540.1

underscoring material = new  
[bracketed material] = delete

1 grants."

2 SECTION 114. Section 7-9-15 NMSA 1978 (being Laws 1970,  
3 Chapter 12, Section 1, as amended) is amended to read:

4 "7-9-15. EXEMPTION--~~[COMPENSATING]~~ USE TAX--CERTAIN  
5 ORGANIZATIONS.--Exempted from the ~~[compensating]~~ use tax is the  
6 use of property by organizations that demonstrate to the  
7 department that they have been granted exemption from the  
8 federal income tax by the United States commissioner of  
9 internal revenue as organizations described in Section  
10 501(c)(3) of the United States Internal Revenue Code of 1954,  
11 as amended or renumbered, in the conduct of functions described  
12 in Section 501(c)(3). The use of property as an ingredient or  
13 component part of a construction project is not a use in the  
14 conduct of functions described in Section 501(c)(3). This  
15 section does not apply to the use of property in an unrelated  
16 trade or business as defined in Section 513 of the United  
17 States Internal Revenue Code of 1954, as amended or  
18 renumbered."

19 SECTION 115. Section 7-9-16 NMSA 1978 (being Laws 1969,  
20 Chapter 144, Section 9, as amended) is amended to read:

21 "7-9-16. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--CERTAIN  
22 NONPROFIT FACILITIES.--Exempted from the ~~[gross receipts]~~ sales  
23 tax are the receipts of nonprofit entities from the operation  
24 of facilities designed and used for providing accommodations  
25 for retired elderly persons."

.223540.1

underscored material = new  
[bracketed material] = delete

1           SECTION 116. Section 7-9-17 NMSA 1978 (being Laws 1969,  
2 Chapter 144, Section 10) is amended to read:

3           "7-9-17. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--WAGES.--  
4 Exempted from the ~~[gross receipts]~~ sales tax are the receipts  
5 of employees from wages, salaries, commissions or from any  
6 other form of remuneration for personal services."

7           SECTION 117. Section 7-9-18 NMSA 1978 (being Laws 1969,  
8 Chapter 144, Section 11, as amended) is amended to read:

9           "7-9-18. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX AND  
10 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--AGRICULTURAL  
11 PRODUCTS.--

12           A. Exempted from the ~~[gross receipts]~~ sales tax and  
13 from the governmental ~~[gross receipts]~~ sales tax are the  
14 receipts from selling livestock and receipts of growers,  
15 producers, trappers or nonprofit marketing associations from  
16 selling livestock, live poultry, unprocessed agricultural  
17 products, hides or pelts. Persons engaged in the business of  
18 buying and selling wool or mohair or of buying and selling  
19 livestock on their own account are producers for the purposes  
20 of this section.

21           B. Receipts from selling dairy products at retail  
22 are not exempted from the ~~[gross receipts]~~ sales tax.

23           C. As used in this section, "livestock" means all  
24 domestic or domesticated animals that are used or raised on a  
25 farm or ranch, including the carcasses thereof, and also

.223540.1



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

1 includes horses, asses, mules, cattle, sheep, goats, swine,  
2 bison, poultry, ostriches, emus, rheas, camelids and farmed  
3 cervidae upon any land in New Mexico; provided that for the  
4 purposes of Chapter 77, Article 9 NMSA 1978, "animals" or  
5 "livestock" have the meaning defined in that article.

6 "Animals" or "livestock" does not include canine or feline  
7 animals. For the purpose of the rules governing meat  
8 inspection, wild animals, poultry and birds used for human  
9 consumption shall also be included within the meaning of  
10 "animals" or "livestock".

11 SECTION 118. Section 7-9-18.1 NMSA 1978 (being Laws  
12 1987, Chapter 264, Section 13 and Laws 1987, Chapter 304,  
13 Section 1) is amended to read:

14 "7-9-18.1. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--FOOD  
15 STAMPS.--Exempted from the ~~[gross receipts]~~ sales tax are the  
16 receipts of a taxpayer who is approved for participation in the  
17 food stamp program authorized by U.S.C. Title 7, Chapter 51, as  
18 that chapter may be amended or renumbered, from the lawful  
19 acceptance and deposit with a financial institution of food  
20 stamps issued by the United States department of agriculture  
21 pursuant to the food stamp program."

22 SECTION 119. Section 7-9-19 NMSA 1978 (being Laws 1969,  
23 Chapter 144, Section 12, as amended) is amended to read:

24 "7-9-19. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
25 LIVESTOCK FEEDING.--

.223540.1

underscored material = new  
[bracketed material] = delete

1           A. Exempted from the [~~gross receipts~~] sales tax are  
2 the receipts of any person derived from feeding or pasturing  
3 livestock.

4           B. Receipts derived from penning or handling  
5 livestock prior to sale are receipts derived from feeding  
6 livestock for the purposes of this section.

7           C. Receipts derived from training livestock are  
8 receipts derived from feeding livestock for the purposes of  
9 this section."

10           SECTION 120. Section 7-9-20 NMSA 1978 (being Laws 1988,  
11 Chapter 82, Section 1) is amended to read:

12           "7-9-20. EXEMPTION--[~~GROSS RECEIPTS~~] SALES TAX--CERTAIN  
13 RECEIPTS OF HOMEOWNERS ASSOCIATIONS.--Exempted from the [~~gross~~  
14 ~~receipts~~] sales tax are those receipts of homeowners  
15 associations defined in Section 528(c)(1) (A thru D), (2), (3)  
16 and (4) (A, B and D) of the Internal Revenue Code, as amended,  
17 which are received as membership fees, dues or assessments from  
18 members who are owners of residential units, residences or  
19 residential lots, except for owners of time-share interests,  
20 for payment of taxes, insurance, utility expenses, management  
21 and improvement, maintenance or rehabilitation of those common  
22 areas, elements or facilities appurtenant thereto which are for  
23 the sole use of the owners and their guests."

24           SECTION 121. Section 7-9-22 NMSA 1978 (being Laws 1969,  
25 Chapter 144, Section 15, as amended) is amended to read:

.223540.1

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

1           "7-9-22. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
2 VEHICLES.--Exempted from the ~~[gross receipts]~~ sales tax are the  
3 receipts from selling vehicles on which a tax is imposed by the  
4 Motor Vehicle Excise Tax Act, vehicles subject to registration  
5 under Section 66-3-16 NMSA 1978 and vehicles exempt from the  
6 motor vehicle excise tax pursuant to Subsection F of Section  
7 7-14-6 NMSA 1978."

8           **SECTION 122.** Section 7-9-22.1 NMSA 1978 (being Laws  
9 1987, Chapter 247, Section 1) is amended to read:

10           "7-9-22.1. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
11 BOATS.--Exempted from the ~~[gross receipts]~~ sales tax are the  
12 receipts from selling boats on which a tax is imposed by  
13 Section 66-12-6.1 NMSA 1978."

14           **SECTION 123.** Section 7-9-23 NMSA 1978 (being Laws 1969,  
15 Chapter 144, Section 16, as amended) is amended to read:

16           "7-9-23. EXEMPTION--~~[COMPENSATING]~~ USE TAX--VEHICLES.--  
17 Exempted from the ~~[compensating]~~ use tax ~~[is]~~ are the use of  
18 vehicles on which the tax imposed by the Motor Vehicle Excise  
19 Tax Act has been paid, the use of vehicles subject to  
20 registration under Section 66-3-16 NMSA 1978 and the use of  
21 vehicles exempt from the motor vehicle excise tax pursuant to  
22 Subsection F of Section 7-14-6 NMSA 1978."

23           **SECTION 124.** Section 7-9-23.1 NMSA 1978 (being Laws  
24 1987, Chapter 247, Section 2) is amended to read:

25           "7-9-23.1. EXEMPTION--~~[COMPENSATING]~~ USE TAX--BOATS.--  
.223540.1

underscored material = new  
[bracketed material] = delete

1 Exempted from the [~~compensating~~] use tax is the use of boats on  
2 which the tax imposed by Section 66-12-6.1 NMSA 1978 has been  
3 paid."

4 SECTION 125. Section 7-9-24 NMSA 1978 (being Laws 1969,  
5 Chapter 144, Section 17, as amended) is amended to read:

6 "7-9-24. EXEMPTION--[~~GROSS RECEIPTS~~] SALES TAX--  
7 INSURANCE COMPANIES.--Exempted from the [~~gross receipts~~] sales  
8 tax are the receipts of insurance companies or any agent  
9 thereof from premiums and any consideration received by a  
10 property bondsman, as that person is defined in Section  
11 59A-51-2 NMSA 1978, as security or surety for a bail bond in  
12 connection with a judicial proceeding."

13 SECTION 126. Section 7-9-25 NMSA 1978 (being Laws 1969,  
14 Chapter 144, Section 18) is amended to read:

15 "7-9-25. EXEMPTION--[~~GROSS RECEIPTS~~] SALES TAX--  
16 DIVIDENDS AND INTEREST.--Exempted from the [~~gross receipts~~]  
17 sales tax are the receipts received as interest on money loaned  
18 or deposited, receipts received as dividends or interest from  
19 stocks, bonds or securities or receipts from the sale of  
20 stocks, bonds or securities."

21 SECTION 127. Section 7-9-26 NMSA 1978 (being Laws 1969,  
22 Chapter 144, Section 19, as amended) is amended to read:

23 "7-9-26. EXEMPTION--[~~GROSS RECEIPTS~~] SALES AND  
24 [~~COMPENSATING~~] USE TAX--FUEL.--Exempted from the [~~gross~~  
25 receipts] sales tax and [~~compensating~~] the use tax are the

.223540.1

underscored material = new  
[bracketed material] = delete

1 receipts from selling and the use of gasoline, special fuel or  
2 alternative fuel on which the tax imposed by Section 7-13-3,  
3 [~~7-16-3 or~~] 7-16A-3 or 7-16B-4 NMSA 1978 [~~or the Alternative~~  
4 ~~Fuel Tax Act~~] has been paid and not refunded."

5 SECTION 128. Section 7-9-26.1 NMSA 1978 (being Laws  
6 2003, Chapter 62, Section 1) is amended to read:

7 "7-9-26.1. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX AND  
8 ~~[COMPENSATING]~~ USE TAX--FUEL FOR SPACE VEHICLES.--

9 A. Exempted from the ~~[gross receipts]~~ sales tax are  
10 the receipts from selling fuel, oxidizer or a substance that  
11 combines fuel and oxidizer to propel space vehicles or to  
12 operate space vehicle launchers.

13 B. Exempted from the ~~[compensating]~~ use tax is the  
14 use of fuel, oxidizer or a substance that combines fuel and  
15 oxidizer to propel space vehicles or to operate space vehicle  
16 launchers."

17 SECTION 129. Section 7-9-27 NMSA 1978 (being Laws 1969,  
18 Chapter 144, Section 20) is amended to read:

19 "7-9-27. EXEMPTION--~~[COMPENSATING]~~ USE TAX--PERSONAL  
20 EFFECTS.--Exempted from the ~~[compensating]~~ use tax is the use  
21 by an individual of personal or household effects brought into  
22 the state in connection with the establishment by ~~[him]~~ the  
23 individual of an initial residence in this state and the use of  
24 property brought into the state by a nonresident for ~~[his]~~ the  
25 nonresident's own nonbusiness use while temporarily within this

.223540.1

underscored material = new  
[bracketed material] = delete

1 state."

2 SECTION 130. Section 7-9-28 NMSA 1978 (being Laws 1969,  
3 Chapter 144, Section 21) is amended to read:

4 "7-9-28. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
5 OCCASIONAL SALE OF PROPERTY OR SERVICES.--Exempted from the  
6 ~~[gross receipts]~~ sales tax are the receipts from the isolated  
7 or occasional sale of or leasing of property or a service by a  
8 person who is neither regularly engaged nor ~~[holding himself~~  
9 ~~out]~~ making any representation as being as engaged in the  
10 business of selling or leasing the same or similar property or  
11 service."

12 SECTION 131. Section 7-9-29 NMSA 1978 (being Laws 1970,  
13 Chapter 12, Section 3, as amended by Laws 2019, Chapter 44,  
14 Section 1 and by Laws 2019, Chapter 270, Section 33) is amended  
15 to read:

16 "7-9-29. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--CERTAIN  
17 ORGANIZATIONS--EXCEPTIONS.--

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

.223540.1

underscored material = new  
[bracketed material] = delete

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

9           C. This section does not apply to:

10                   (1) receipts derived from an unrelated trade  
11 or business as defined in Section 513 of the United States  
12 Internal Revenue Code of 1986, as that section may be amended  
13 or renumbered;

14                   (2) receipts of a prime contractor that are  
15 derived from operating a facility in New Mexico designated as a  
16 national laboratory by an act of congress; [~~or~~]

17                   (3) receipts of a prime contractor that are  
18 derived from operating a research facility in New Mexico that  
19 is owned by the state; or

20                   (4) receipts of a hospital licensed by the  
21 department of health."

22           SECTION 132. Section 7-9-30 NMSA 1978 (being Laws 1969,  
23 Chapter 144, Section 23, as amended) is amended to read:

24           "7-9-30. EXEMPTION--[COMPENSATING] USE TAX--RAILROAD  
25 EQUIPMENT, AIRCRAFT AND SPACE VEHICLES.--

.223540.1

underscored material = new  
[bracketed material] = delete

1           A. Exempted from the [~~compensating~~] use tax is the  
2 use of railroad locomotives, trailers, containers, tenders or  
3 cars procured or bought for use in railroad transportation.

4           B. Exempted from the [~~compensating~~] use tax is the  
5 use of commercial aircraft bought or leased primarily for use  
6 in the transportation of passengers or property for hire in  
7 interstate commerce.

8           C. Exempted from the [~~compensating~~] use tax is the  
9 use of space vehicles for transportation of persons or property  
10 in, to or from space."

11           SECTION 133. Section 7-9-31 NMSA 1978 (being Laws 1969,  
12 Chapter 144, Section 24) is amended to read:

13           "7-9-31. EXEMPTION--~~[GROSS RECEIPTS AND COMPENSATING]~~  
14 SALES TAX AND USE TAX--RESALE ACTIVITIES OF AN ARMED FORCES  
15 INSTRUMENTALITY.--Exempted from the [~~gross receipts~~] sales tax  
16 and [~~compensating~~] the use tax are the receipts from selling  
17 tangible personal property and the use of property by any  
18 instrumentality of the armed forces of the United States  
19 engaged in resale activities."

20           SECTION 134. Section 7-9-32 NMSA 1978 (being Laws 1969,  
21 Chapter 144, Section 25) is amended to read:

22           "7-9-32. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--OIL AND  
23 GAS OR MINERAL INTERESTS.--Exempted from the [~~gross receipts~~]  
24 sales tax are the receipts from the sale of or leasing of oil,  
25 natural gas or mineral interests."

.223540.1



underscored material = new  
[bracketed material] = delete

1           SECTION 135. Section 7-9-33 NMSA 1978 (being Laws 1969,  
2 Chapter 144, Section 26, as amended) is amended to read:

3           "7-9-33. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--PRODUCTS  
4 SUBJECT TO OIL AND GAS EMERGENCY SCHOOL TAX ACT.--

5           A. Exempted from the ~~[gross receipts]~~ sales tax are  
6 receipts from the sale of products the severance of which is  
7 subject to the tax imposed by the Oil and Gas Emergency School  
8 Tax Act, except that receipts from the sale of products other  
9 than for subsequent resale in the ordinary course of business,  
10 for consumption outside the state or for use as an ingredient  
11 or component part of a manufactured product are subject to the  
12 ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act as well  
13 as to the Oil and Gas Emergency School Tax Act.

14           B. No ~~[gross receipts]~~ sales tax or ~~[compensating]~~  
15 use tax pursuant to the ~~[Gross Receipts and Compensating]~~ Sales  
16 and Use Tax Act shall apply to storing crude oil, natural gas  
17 or liquid hydrocarbons, individually or any combination, or to  
18 the use of such products for fuel in the operation of a  
19 "production unit" as defined by the Oil and Gas Emergency  
20 School Tax Act."

21           SECTION 136. Section 7-9-34 NMSA 1978 (being Laws 1969,  
22 Chapter 144, Section 27, as amended) is amended to read:

23           "7-9-34. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--REFINERS  
24 AND PERSONS SUBJECT TO NATURAL GAS PROCESSORS TAX ACT.--

25           A. Exempted from the ~~[gross receipts]~~ sales tax are

.223540.1

underscored material = new  
[bracketed material] = delete

1 receipts from the sale or processing of products the processing  
2 of which is subject to the privilege tax imposed by the Natural  
3 Gas Processors Tax Act, except that receipts from the sale of  
4 products other than for subsequent resale in the ordinary  
5 course of business, for consumption outside the state or for  
6 use as an ingredient or component part of a manufactured  
7 product are subject to the [~~Gross Receipts and Compensating~~]  
8 Sales and Use Tax Act as well as to the Natural Gas Processors  
9 Tax Act.

10 B. No [~~gross receipts~~] sales tax or [~~compensating~~]  
11 use tax pursuant to the [~~Gross Receipts and Compensating~~] Sales  
12 and Use Tax Act shall apply to receipts from storing or using  
13 crude oil, natural gas or liquid hydrocarbons, individually or  
14 any combination, when stored or used in New Mexico by a  
15 "processor", as defined by the Natural Gas Processors Tax Act,  
16 or by a person engaged in the business of refining oil, natural  
17 gas or liquid hydrocarbons who stores or uses the crude oil,  
18 natural gas or liquid hydrocarbons in the regular course of  
19 [~~his~~] the person's refining business."

20 SECTION 137. Section 7-9-35 NMSA 1978 (being Laws 1969,  
21 Chapter 144, Section 28, as amended) is amended to read:

22 "7-9-35. EXEMPTION--[~~GROSS RECEIPTS~~] SALES TAX--NATURAL  
23 RESOURCES SUBJECT TO RESOURCES EXCISE TAX ACT.--Exempted from  
24 the [~~gross receipts~~] sales tax are receipts from the sale or  
25 processing of natural resources the severance or processing of

.223540.1

underscored material = new  
[bracketed material] = delete

1 which are subject to the taxes imposed by the Resources Excise  
2 Tax Act, except as otherwise provided in Section 7-25-8 NMSA  
3 1978."

4 SECTION 138. Section 7-9-36 NMSA 1978 (being Laws 1969,  
5 Chapter 144, Section 29) is amended to read:

6 "7-9-36. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--OIL AND  
7 GAS CONSUMED IN THE PIPELINE TRANSPORTATION OF OIL AND GAS  
8 PRODUCTS.--Exempted from the ~~[gross receipts]~~ sales tax are  
9 receipts from the sale of oil, natural gas, liquid hydrocarbon  
10 or any combination thereof consumed as fuel in the pipeline  
11 transportation of such products."

12 SECTION 139. Section 7-9-37 NMSA 1978 (being Laws 1969,  
13 Chapter 144, Section 30) is amended to read:

14 "7-9-37. EXEMPTION--~~[COMPENSATING]~~ USE TAX--USE OF OIL  
15 AND GAS IN THE PIPELINE TRANSPORTATION OF OIL AND GAS  
16 PRODUCTS.--Exempted from the ~~[compensating]~~ use tax is the use  
17 of oil, natural gas, liquid hydrocarbon or any combination  
18 thereof as fuel in the pipeline transportation of such  
19 products."

20 SECTION 140. Section 7-9-38 NMSA 1978 (being Laws 1969,  
21 Chapter 144, Section 31, as amended) is amended to read:

22 "7-9-38. EXEMPTION--~~[COMPENSATING]~~ USE TAX--USE OF  
23 ELECTRICITY IN THE PRODUCTION, CONVERSION AND TRANSMISSION OF  
24 ELECTRICITY.--Exempted from the ~~[compensating]~~ use tax is  
25 electricity used in the production and transmission of

.223540.1

underscored material = new  
[bracketed material] = delete

1 electricity, including transmission using voltage source  
2 conversion technology."

3 SECTION 141. Section 7-9-38.1 NMSA 1978 (being Laws  
4 1992, Chapter 50, Section 12 and also Laws 1992, Chapter 67,  
5 Section 12, as amended) is amended to read:

6 "7-9-38.1. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
7 INTERSTATE TELECOMMUNICATIONS SERVICES.--Exempted from the  
8 ~~[gross receipts]~~ sales tax are receipts from the sale or  
9 provision of interstate telecommunications services subject to  
10 the Interstate Telecommunications ~~[Gross Receipts]~~ Sales Tax  
11 Act."

12 SECTION 142. Section 7-9-38.2 NMSA 1978 (being Laws  
13 2002, Chapter 18, Section 2) is amended to read:

14 "7-9-38.2. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE  
15 OF CERTAIN TELECOMMUNICATIONS SERVICES.--Exempted from the  
16 ~~[gross receipts]~~ sales tax are receipts of a home service  
17 provider from providing mobile telecommunications services to  
18 persons whose place of primary use is outside New Mexico,  
19 regardless of where the mobile telecommunications services  
20 originate, terminate or pass through. For the purposes of this  
21 section, "home service provider", "mobile telecommunications  
22 services" and "place of primary use" have the meanings given in  
23 the federal Mobile Telecommunications Sourcing Act."

24 SECTION 143. Section 7-9-39 NMSA 1978 (being Laws 1969,  
25 Chapter 144, Section 32, as amended) is amended to read:

.223540.1

underscored material = new  
[bracketed material] = delete

1           "7-9-39. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--FEES  
2 FROM SOCIAL ORGANIZATIONS.--

3           A. Exempted from the ~~[gross receipts]~~ sales tax are  
4 the receipts from dues and registration fees of nonprofit  
5 social, fraternal, political, trade, labor or professional  
6 organizations and business leagues.

7           B. For the purposes of this section:

8                   (1) "dues" means amounts that a member of an  
9 organization pays at recurring intervals to retain membership  
10 in an organization where such amounts are used for the general  
11 maintenance and upkeep of the organization; and

12                   (2) "registration fees" means amounts paid by  
13 persons to attend a specific event sponsored by an organization  
14 to defray the cost of the event."

15           SECTION 144. Section 7-9-40 NMSA 1978 (being Laws 1970,  
16 Chapter 60, Section 2, as amended) is amended to read:

17           "7-9-40. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--PURSES  
18 AND JOCKEY REMUNERATION AT NEW MEXICO RACETRACKS--RECEIPTS FROM  
19 GROSS AMOUNTS WAGERED.--

20           A. Exempted from the ~~[gross receipts]~~ sales tax are  
21 the receipts of horsemen, jockeys and trainers from race purses  
22 at New Mexico horse racetracks subject to the jurisdiction of  
23 the state racing commission.

24           B. Exempted from the ~~[gross receipts]~~ sales tax are  
25 the receipts of a racetrack from the commissions and other

.223540.1

underscoring material = new  
[bracketed material] = delete

1 amounts authorized by Section [~~60-1-10~~] 60-1A-19 NMSA 1978 to  
2 be retained by a racetrack conducting horse races under the  
3 authority of a license from the state racing commission."

4 SECTION 145. Section 7-9-41 NMSA 1978 (being Laws 1972,  
5 Chapter 61, Section 2) is amended to read:

6 "7-9-41. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
7 RELIGIOUS ACTIVITIES.--Exempted from the [~~gross receipts~~] sales  
8 tax are the receipts of a minister of a religious organization,  
9 which organization has been granted an exemption from federal  
10 income tax by the United States commissioner of internal  
11 revenue as an organization described in Section 501(c)(3) of  
12 the United States Internal Revenue Code of [~~1954~~] 1986, as that  
13 section may be amended or renumbered, from religious services  
14 provided by the minister to an individual recipient of the  
15 service."

16 SECTION 146. Section 7-9-41.1 NMSA 1978 (being Laws  
17 2007, Chapter 117, Section 1) is amended to read:

18 "7-9-41.1. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX AND  
19 GOVERNMENTAL [~~GROSS RECEIPTS]~~ SALES TAX--ATHLETIC FACILITY  
20 SURCHARGE.--Exempted from the [~~gross receipts~~] sales tax and  
21 from the governmental [~~gross receipts~~] sales tax are the  
22 receipts of a university from an athletic facility surcharge  
23 imposed pursuant to the University Athletic Facility Funding  
24 Act."

25 SECTION 147. Section 7-9-41.3 NMSA 1978 (being Laws

.223540.1

underscoring material = new  
[bracketed material] = delete

1 2007, Chapter 45, Section 13 and Laws 2007, Chapter 237,  
2 Section 1) is amended to read:

3 "7-9-41.3. EXEMPTION--SALES TAX--RECEIPTS FROM SALES BY  
4 DISABLED STREET VENDORS.--

5 A. Exempt from payment of the [~~gross receipts~~]  
6 sales tax are receipts from the sale of goods by a disabled  
7 street vendor.

8 B. As used in this section:

9 (1) "disabled" means to be blind or  
10 permanently disabled with medical improvement not expected  
11 pursuant to 42 USCA 421 for purposes of the federal Social  
12 Security Act or to have a permanent total disability pursuant  
13 to the Workers' Compensation Act; and

14 (2) "street vendor" means a person licensed by  
15 a local government to sell items of tangible personal property  
16 by newly setting up a sales site daily or selling the items  
17 from a moveable cart, tray, blanket or other device."

18 SECTION 148. Section 7-9-41.4 NMSA 1978 (being Laws  
19 2009, Chapter 62, Section 1) is amended to read:

20 "7-9-41.4. EXEMPTION--OFFICIATING AT NEW MEXICO  
21 ACTIVITIES ASSOCIATION--SANCTIONED SCHOOL EVENTS.--Exempted from  
22 the [~~gross receipts~~] sales tax are the receipts from  
23 refereeing, umpiring, scoring or other officiating at school  
24 events sanctioned by the New Mexico activities association."

25 SECTION 149. Section 7-9-41.5 NMSA 1978 (being Laws  
.223540.1

underscoring material = new  
[bracketed material] = delete

1 2019, Chapter 270, Section 34) is amended to read:

2 "7-9-41.5. EXEMPTION--NONPROFIT HOSPITALS FROM LOCAL  
3 OPTION [~~GROSS RECEIPTS~~] SALES TAXES.--

4 A. Exempted from any local option [~~gross receipts~~]  
5 sales tax, but not the state [~~gross receipts~~] sales tax, are  
6 receipts of a nonprofit hospital licensed by the department of  
7 health.

8 B. As used in this section, "nonprofit hospital"  
9 means a hospital that has been granted exemption from federal  
10 income tax by the United States commissioner of internal  
11 revenue as an organization described in Section 501(c)(3) of  
12 the Internal Revenue Code."

13 SECTION 150. Section 7-9-41.6 NMSA 1978 (being Laws 2020  
14 (1st S.S.), Chapter 4, Section 3) is amended to read:

15 "7-9-41.6. EXEMPTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
16 CERTAIN HEALTH CARE PROVIDERS FROM FEDERAL CORONAVIRUS AID,  
17 RELIEF, AND ECONOMIC SECURITY ACT PAYMENTS.--Exempted from the  
18 [~~gross receipts~~] sales tax are receipts of health care  
19 providers, other than hospitals licensed by the department of  
20 health, from payments by the United States department of health  
21 and human services from the federal public health and social  
22 services emergency fund to providers eligible to receive the  
23 payments pursuant to the federal Coronavirus Aid, Relief, and  
24 Economic Security Act."

25 SECTION 151. Section 7-9-43 NMSA 1978 (being Laws 1966,  
.223540.1



underscored material = new  
[bracketed material] = delete

1 Chapter 47, Section 13, as amended) is amended to read:

2 "7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER  
3 EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS.--

4 A. Except as provided in Subsection B of this  
5 section, a person may establish entitlement to a deduction from  
6 gross receipts allowed pursuant to the [~~Gross Receipts and~~  
7 ~~Compensating~~] Sales and Use Tax Act by obtaining a properly  
8 executed nontaxable transaction certificate from the purchaser.  
9 Nontaxable transaction certificates shall contain the  
10 information and be in a form prescribed by the department. The  
11 department by [~~regulation~~] rule may deem to be nontaxable  
12 transaction certificates documents issued by other states or  
13 the multistate tax commission to taxpayers not required to be  
14 registered in New Mexico. Only buyers or lessees who have a  
15 registration number or have applied for a registration number  
16 and have not been refused one under Subsection C of Section  
17 7-1-12 NMSA 1978 shall execute nontaxable transaction  
18 certificates issued by the department. If the seller or lessor  
19 has been given an identification number for tax purposes by the  
20 department, the seller or lessor shall disclose that  
21 identification number to the buyer or lessee prior to or upon  
22 acceptance of a nontaxable transaction certificate.

23 B. Except as provided in Subsection C of this  
24 section, a person who does not comply with Subsection A of this  
25 section may establish entitlement to a deduction from gross

.223540.1

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

1 receipts by presenting alternative evidence that demonstrates  
2 the facts necessary to support entitlement to the deduction,  
3 but the burden of proof is on that person. Alternative  
4 evidence includes:

5 (1) invoices or contracts that identify the  
6 nature of the transaction;

7 (2) documentation as to the purchaser's use or  
8 disposition of the property or service;

9 (3) a statement from the purchaser indicating  
10 that the purchaser sold or intends to resell the property or  
11 service purchased from the seller, either by itself or in  
12 combination with other property or services, in the ordinary  
13 course of business. The statement from the purchaser shall  
14 include:

15 (a) the seller's name;

16 (b) the date of the invoice or date of  
17 the transaction;

18 (c) the invoice number or a copy of the  
19 invoice;

20 (d) a copy of the purchase order, if  
21 available;

22 (e) the amount of purchase; and

23 (f) a description of the property or  
24 service purchased or leased; or

25 (4) any other evidence that demonstrates the

.223540.1

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

1 facts necessary to establish entitlement to the deduction.

2 C. Subsection B of this section does not apply to  
3 sellers of electricity or fuels that are parties to an  
4 agreement with the department pursuant to Section 7-1-21.1 NMSA  
5 1978 regarding the deduction pursuant to Subsection B of  
6 Section 7-9-46 NMSA 1978.

7 D. When a person accepts in good faith a properly  
8 executed nontaxable transaction certificate from the purchaser,  
9 the properly executed nontaxable transaction certificate shall  
10 be conclusive evidence that the proceeds from the transaction  
11 are deductible from the person's gross receipts.

12 E. To exercise the privilege of executing  
13 appropriate nontaxable transaction certificates, a buyer or  
14 lessee shall apply to the department for permission to execute  
15 nontaxable transaction certificates, except with respect to  
16 documents issued by other states or the multistate tax  
17 commission that the department has deemed to be nontaxable  
18 transaction certificates.

19 F. If a person has accepted in good faith a  
20 properly executed nontaxable transaction certificate, but the  
21 purchaser has not employed the property or service purchased in  
22 the nontaxable manner or has provided materially false or  
23 inaccurate information on the nontaxable transaction  
24 certificate, the purchaser shall be liable for an amount equal  
25 to any tax, penalty and interest that the seller would have

.223540.1

underscored material = new  
[bracketed material] = delete

1 been required to pay if the seller had not complied with  
2 Subsection A of this section.

3 G. Any person who knowingly or willfully provides  
4 false or inaccurate information on a nontaxable transaction  
5 certificate or as alternative evidence provided in support of a  
6 claim for a deduction may be subject to prosecution under  
7 Sections 7-1-72 and 7-1-73 NMSA 1978."

8 SECTION 152. Section 7-9-43.1 NMSA 1978 (being Laws  
9 1981, Chapter 333, Section 1, as amended) is amended to read:

10 "7-9-43.1. NONTAXABLE TRANSACTION CERTIFICATES NOT  
11 REQUIRED BY LIQUOR WHOLESALERS.--Notwithstanding the provisions  
12 of Section 7-9-43 NMSA 1978, a liquor wholesaler licensed as a  
13 wholesaler by the superintendent of regulation and licensing  
14 pursuant to the Liquor Control Act is not required to obtain a  
15 nontaxable transaction certificate from a person issued a  
16 retailer's, dispenser's, restaurant, public service or  
17 governmental license by the superintendent of regulation and  
18 licensing pursuant to the Liquor Control Act for the purpose of  
19 taking deductions under the [~~Gross Receipts and Compensating~~  
20 Sales and Use Tax Act."]

21 SECTION 153. Section 7-9-45 NMSA 1978 (being Laws 1969,  
22 Chapter 144, Section 35, as amended) is amended to read:

23 "7-9-45. DEDUCTIONS.--

24 A. Receipts may only be deducted once from gross  
25 receipts or governmental gross receipts when computing the

.223540.1

underscored material = new  
[bracketed material] = delete

1 ~~[gross receipts]~~ sales tax or governmental ~~[gross receipts]~~  
2 sales tax due.

3 B. The same receipts shall not be both exempt from  
4 the ~~[gross receipts]~~ sales tax and deducted from gross  
5 receipts.

6 C. The same receipts shall not be both exempt from  
7 the governmental ~~[gross receipts]~~ sales tax and deducted from  
8 governmental gross receipts."

9 SECTION 154. Section 7-9-46 NMSA 1978 (being Laws 1969,  
10 Chapter 144, Section 36, as amended by Laws 2021, Chapter 65,  
11 Section 13 and by Laws 2021, Chapter 66, Section 2) is amended  
12 to read:

13 "7-9-46. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
14 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--SALES TO MANUFACTURERS  
15 AND MANUFACTURING SERVICE PROVIDERS.--

16 A. Receipts from selling tangible personal property  
17 may be deducted from gross receipts or from governmental gross  
18 receipts if the sale is made to a person engaged in the  
19 business of manufacturing who delivers a nontaxable transaction  
20 certificate to the seller or provides alternative evidence  
21 pursuant to Section 7-9-43 NMSA 1978. The buyer ~~[delivering~~  
22 ~~the nontaxable transaction certificate]~~ must incorporate the  
23 tangible personal property as an ingredient or component part  
24 of the product that the buyer is in the business of  
25 manufacturing.

.223540.1

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

1           B. Receipts from selling a manufacturing consumable  
2 to a manufacturer or a manufacturing service provider may be  
3 deducted from gross receipts or from governmental gross  
4 receipts if the buyer delivers a nontaxable transaction  
5 certificate to the seller or provides alternative evidence  
6 pursuant to Section 7-9-43 NMSA 1978; provided that if the  
7 seller is a seller of electricity or fuel and is a party to an  
8 agreement with the department pursuant to Section 7-1-21.1 NMSA  
9 1978, a nontaxable transaction certificate shall be required.

10           C. Receipts from selling or leasing qualified  
11 equipment may be deducted from gross receipts if the sale is  
12 made to, or the lease is entered into with, a person engaged in  
13 the business of manufacturing or a manufacturing service  
14 provider who delivers a nontaxable transaction certificate to  
15 the seller or provides alternative evidence pursuant to Section  
16 7-9-43 NMSA 1978; provided that a manufacturer or manufacturing  
17 service provider delivering a nontaxable transaction  
18 certificate or alternative evidence with respect to the  
19 qualified equipment shall not claim an investment credit  
20 pursuant to the Investment Credit Act for that same equipment.

21           D. The purpose of the deductions provided in this  
22 section is to encourage manufacturing businesses to locate in  
23 New Mexico and to reduce the tax burden, including reducing  
24 pyramiding, on the tangible personal property that is consumed  
25 in the manufacturing process and that is purchased by

.223540.1

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

1 manufacturing businesses in New Mexico.

2 E. The department shall annually report to the  
3 revenue stabilization and tax policy committee the aggregate  
4 amount of deductions taken pursuant to this section, the number  
5 of taxpayers claiming each of the deductions and any other  
6 information that is necessary to determine that the deductions  
7 are performing the purposes for which they are enacted.

8 F. A taxpayer deducting gross receipts pursuant to  
9 this section shall report the amount deducted separately for  
10 each deduction provided in this section and attribute the  
11 amount of the deduction to the appropriate authorization  
12 provided in this section in a manner required by the department  
13 that facilitates the evaluation by the legislature of the  
14 benefit to the state of these deductions.

15 G. As used in this section:

16 (1) "manufacturing consumable" means tangible  
17 personal property, other than qualified equipment or an  
18 ingredient or component part of a manufactured product, that is  
19 incorporated into, destroyed, depleted or transformed in the  
20 process of manufacturing a product, including electricity,  
21 fuels, water, manufacturing aids and supplies, chemicals, gases  
22 and other tangibles used to manufacture a product;

23 (2) "manufacturing operation" means a plant  
24 operated by a manufacturer or manufacturing service provider  
25 that employs personnel to perform production tasks to produce

.223540.1

underscoring material = new  
[bracketed material] = delete

1 goods, in conjunction with machinery and equipment; and

2 (3) "qualified equipment" means machinery,  
3 equipment and tools, including component, repair, replacement  
4 and spare parts thereof, that are used directly in the  
5 manufacturing process of a manufacturing operation. "Qualified  
6 equipment" includes computer hardware and software used  
7 directly in the manufacturing process of a manufacturing  
8 operation but excludes any motor vehicle that is required to be  
9 registered in this state pursuant to the Motor Vehicle Code."

10 SECTION 155. Section 7-9-46.1 NMSA 1978 (being Laws  
11 2022, Chapter 47, Section 14) is amended to read:

12 "7-9-46.1. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
13 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--SALES OF SERVICES TO  
14 MANUFACTURERS.--

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

23 B. The purpose of the deductions provided in this  
24 section is to encourage manufacturing businesses to locate in  
25 New Mexico and to reduce the tax burden, including reducing

.223540.1



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

1 pyramiding, on the professional services that are purchased by  
2 manufacturing businesses in New Mexico.

3 C. A taxpayer allowed a deduction pursuant to this  
4 section shall report the amount of the deduction separately in  
5 a manner required by the department.

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

16 E. As used in this section:

17 (1) "accounting services" means the systematic  
18 and comprehensive recording of financial transactions  
19 pertaining to a business entity and the process of summarizing,  
20 analyzing and reporting these transactions to oversight  
21 agencies or tax collection entities, including certified public  
22 auditing, attest services and preparing financial statements,  
23 bookkeeping, tax return preparation, advice and consulting and,  
24 where applicable, representing taxpayers before tax collection  
25 agencies. "Accounting services" does not include, except as

.223540.1

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

1 provided with respect to financial management services,  
2 investment advice, wealth management advice or consulting or  
3 any tax return preparation, advice, counseling or  
4 representation for individuals, regardless of whether those  
5 individuals are owners of pass-through entities, such as  
6 partnerships, limited liability companies or S corporations;

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

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

25 (4) "information technology services" means

.223540.1

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

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

10 (b) computers, servers, chilling  
11 equipment and pre-programmed software;

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

17 (d) access to telecommunications or  
18 internet;

19 (5) "legal services" means services performed  
20 by a licensed attorney or under the supervision of a licensed  
21 attorney for a client, regardless of the attorney's form of  
22 business entity or whether the services are prepaid, including  
23 legal representation before courts or administrative agencies;  
24 drafting legal documents, such as contracts or patent  
25 applications; legal research; advising and counseling;

.223540.1

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

1 arbitration; mediation; and notary public and other ancillary  
2 legal services performed for a client in conjunction with and  
3 under the supervision of a licensed attorney. "Legal services"  
4 does not include lobbying or government relations services,  
5 title insurance agent services, licensing or selling legal  
6 software or legal document templates, insurance investigation  
7 services or any legal representation involving financial crimes  
8 or tax evasion in New Mexico; and

9 (6) "professional services" means accounting  
10 services, architectural services, engineering services,  
11 information technology services and legal services."

12 SECTION 156. Section 7-9-47 NMSA 1978 (being Laws 1969,  
13 Chapter 144, Section 37, as amended) is amended to read:

14 "7-9-47. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
15 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF TANGIBLE  
16 PERSONAL PROPERTY OR LICENSES FOR RESALE.--Receipts from  
17 selling tangible personal property or licenses may be deducted  
18 from gross receipts or from governmental gross receipts if the  
19 sale is made to a person who delivers a nontaxable transaction  
20 certificate to the seller or provides alternative evidence  
21 pursuant to Section 7-9-43 NMSA 1978. The buyer must resell  
22 the tangible personal property or license either by itself or  
23 in combination with other tangible personal property or  
24 licenses in the ordinary course of business."

25 SECTION 157. Section 7-9-48 NMSA 1978 (being Laws 1969,

.223540.1

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

1 Chapter 144, Section 38, as amended) is amended to read:

2 "7-9-48. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
3 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF A SERVICE FOR  
4 RESALE.--Receipts from selling a service for resale may be  
5 deducted from gross receipts or from governmental gross  
6 receipts if the sale is made to a person who delivers a  
7 nontaxable transaction certificate to the seller or provides  
8 alternative evidence pursuant to Section 7-9-43 NMSA 1978. The  
9 buyer must resell the service in the ordinary course of  
10 business and the resale must be subject to the ~~[gross receipts]~~  
11 sales tax or governmental ~~[gross receipts]~~ sales tax."

12 SECTION 158. Section 7-9-49 NMSA 1978 (being Laws 1969,  
13 Chapter 144, Section 39, as amended) is amended to read:

14 "7-9-49. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF  
15 TANGIBLE PERSONAL PROPERTY AND LICENSES FOR LEASING.--

16 A. Except as otherwise provided by Subsection B of  
17 this section, receipts from selling tangible personal property  
18 and licenses may be deducted from gross receipts if the sale is  
19 made to a person who delivers a nontaxable transaction  
20 certificate to the seller or provides alternative evidence  
21 pursuant to Section 7-9-43 NMSA 1978. The buyer shall be  
22 engaged in a business that derives a substantial portion of its  
23 receipts from leasing or selling tangible personal property or  
24 licenses of the type sold. The buyer may not utilize the  
25 tangible personal property or license in any manner other than

.223540.1

underscored material = new  
[bracketed material] = delete

1 holding it for lease or sale or leasing or selling it either by  
2 itself or in combination with other tangible personal property  
3 or licenses in the ordinary course of business.

4 B. The deduction provided by this section shall not  
5 apply to receipts from selling:

6 (1) furniture or appliances, the receipts from  
7 the rental or lease of which are deductible under Subsection C  
8 of Section 7-9-53 NMSA 1978;

9 (2) coin-operated machines; or

10 (3) manufactured homes."

11 SECTION 159. Section 7-9-50 NMSA 1978 (being Laws 1969,  
12 Chapter 144, Section 40, as amended) is amended to read:

13 "7-9-50. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--LEASE  
14 FOR SUBSEQUENT LEASE.--

15 A. Except as provided otherwise in Subsection B of  
16 this section, receipts from leasing tangible personal property  
17 or licenses may be deducted from gross receipts if the lease is  
18 made to a lessee who delivers a nontaxable transaction  
19 certificate to the lessor or provides alternative evidence  
20 pursuant to Section 7-9-43 NMSA 1978. The lessee may not use  
21 the tangible personal property or license in any manner other  
22 than for subsequent lease in the ordinary course of business.

23 B. The deduction provided by this section does not  
24 apply to receipts from leasing:

25 (1) furniture or appliances, the receipts from

.223540.1

underscoring material = new  
[bracketed material] = delete

1 the rental or lease of which are deductible under Subsection C  
2 of Section 7-9-53 NMSA 1978;

3 (2) coin-operated machines; or

4 (3) manufactured homes."

5 SECTION 160. Section 7-9-51 NMSA 1978 (being Laws 1969,  
6 Chapter 144, Section 41, as amended) is amended to read:

7 "7-9-51. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF  
8 CONSTRUCTION MATERIAL TO PERSONS ENGAGED IN THE CONSTRUCTION  
9 BUSINESS.--

10 A. Receipts from selling construction material may  
11 be deducted from gross receipts if the sale is made to a person  
12 engaged in the construction business who delivers a nontaxable  
13 transaction certificate to the seller or provides alternative  
14 evidence pursuant to Section 7-9-43 NMSA 1978.

15 B. The buyer must incorporate the construction  
16 material as:

17 (1) an ingredient or component part of a  
18 construction project that is subject to the ~~[gross receipts]~~  
19 sales tax upon its completion or upon the completion of the  
20 overall construction project of which it is a part;

21 (2) an ingredient or component part of a  
22 construction project that is subject to the ~~[gross receipts]~~  
23 sales tax upon the sale in the ordinary course of business of  
24 the real property upon which it was constructed; or

25 (3) an ingredient or component part of a

.223540.1

underscoring material = new  
[bracketed material] = delete

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

3 SECTION 161. Section 7-9-52 NMSA 1978 (being Laws 1969,  
4 Chapter 144, Section 42, as amended) is amended to read:

5 "7-9-52. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF  
6 CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICES TO  
7 PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

8 A. Receipts from selling a construction service or  
9 a construction-related service may be deducted from gross  
10 receipts if the sale is made to a person engaged in the  
11 construction business who delivers a nontaxable transaction  
12 certificate to the person performing the construction service  
13 or a construction-related service or provides alternative  
14 evidence pursuant to Section 7-9-43 NMSA 1978.

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

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

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

.223540.1



underscored material = new  
[bracketed material] = delete

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

3 SECTION 162. Section 7-9-52.1 NMSA 1978 (being Laws  
4 2012, Chapter 5, Section 6, as amended) is amended to read:

5 "7-9-52.1. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--LEASE  
6 OF CONSTRUCTION EQUIPMENT TO PERSONS ENGAGED IN THE  
7 CONSTRUCTION BUSINESS.--

8 A. Receipts from leasing construction equipment may  
9 be deducted from gross receipts if the construction equipment  
10 is leased to a person engaged in the construction business who  
11 delivers a nontaxable transaction certificate to the person  
12 leasing the construction equipment or provides alternative  
13 evidence pursuant to Section 7-9-43 NMSA 1978.

14 B. The lessee shall only use the construction  
15 equipment at the construction location of:

16 (1) a construction project that is subject to  
17 the ~~[gross receipts]~~ sales tax upon its completion or upon the  
18 completion of the overall construction project of which it is a  
19 part;

20 (2) a construction project that is subject to  
21 the ~~[gross receipts]~~ sales tax upon the sale in the ordinary  
22 course of business of the real property upon which it was  
23 constructed; or

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

.223540.1

underscored material = new  
[bracketed material] = delete

1           C. As used in this section, "construction  
2 equipment" means equipment used on a construction project,  
3 including trash containers, portable toilets, scaffolding and  
4 temporary fencing."

5           **SECTION 163.** Section 7-9-53 NMSA 1978 (being Laws 1969,  
6 Chapter 144, Section 43, as amended) is amended to read:

7           "7-9-53. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE OR  
8 LEASE OF REAL PROPERTY AND LEASE OF MANUFACTURED HOMES.--

9           A. Receipts from the sale or lease of real property  
10 and from the lease of a manufactured home as provided in  
11 Subsection B of this section, other than receipts from the sale  
12 or lease of oil, natural gas or mineral interests exempted by  
13 Section 7-9-32 NMSA 1978, may be deducted from gross receipts.  
14 However, that portion of the receipts from the sale of real  
15 property [~~which~~] that is attributable to improvements  
16 constructed on the real property by the seller in the ordinary  
17 course of [~~his~~] the seller's construction business may not be  
18 deducted from gross receipts.

19           B. Receipts from the rental of a manufactured home  
20 for a period of at least one month may be deducted from gross  
21 receipts. Receipts received by hotels, motels, rooming houses,  
22 campgrounds, guest ranches, trailer parks or similar  
23 facilities, except receipts received by trailer parks from the  
24 rental of a space for a manufactured home or recreational  
25 vehicle for a period of at least one month, from lodgers,

.223540.1

underscored material = new  
[bracketed material] = delete

1 guests, roomers or occupants are not receipts from leasing real  
2 property for the purposes of this section.

3 C. Receipts attributable to the inclusion of  
4 furniture or appliances furnished as part of a leased or rented  
5 dwelling house, manufactured home or apartment by the landlord  
6 or lessor may be deducted from gross receipts."

7 SECTION 164. Section 7-9-54 NMSA 1978 (being Laws 1969,  
8 Chapter 144, Section 44, as amended) is amended to read:

9 "7-9-54. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
10 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--SALES TO GOVERNMENTAL  
11 AGENCIES.--

12 A. Receipts from selling tangible personal property  
13 to the United States or New Mexico or a governmental unit,  
14 subdivision, agency, department or instrumentality thereof may  
15 be deducted from gross receipts or from governmental gross  
16 receipts. Unless contrary to federal law, the deduction  
17 provided by this subsection does not apply to:

18 (1) receipts from selling metalliferous  
19 mineral ore;

20 (2) receipts from selling tangible personal  
21 property that is or will be incorporated into a metropolitan  
22 redevelopment project created under the Metropolitan  
23 Redevelopment Code;

24 (3) receipts from selling construction  
25 material, excluding tangible personal property, whether

.223540.1

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

1 removable or non-removable, that is or would be classified for  
2 depreciation purposes as three-year property, five-year  
3 property, seven-year property or ten-year property, including  
4 indirect costs related to the asset basis, by Section 168 of  
5 the Internal Revenue Code of 1986, as that section may be  
6 amended or renumbered; or

7 (4) that portion of the receipts from  
8 performing a "service" that reflects the value of tangible  
9 personal property utilized or produced in performance of such  
10 service.

11 B. Receipts from selling tangible personal property  
12 for any purpose to an Indian tribe, nation or pueblo or a  
13 governmental unit, subdivision, agency, department or  
14 instrumentality thereof for use on Indian reservations or  
15 pueblo grants may be deducted from gross receipts or from  
16 governmental gross receipts.

17 C. When a seller, in good faith, deducts receipts  
18 for tangible personal property sold to the state or a  
19 governmental unit, subdivision, agency, department or  
20 instrumentality thereof, after receiving written assurances  
21 from the buyer's representative that the property sold is not  
22 construction material, the department shall not assert in a  
23 later assessment or audit of the seller that the receipts are  
24 not deductible pursuant to Paragraph (3) of Subsection A of  
25 this section."

.223540.1

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

1           SECTION 165. Section 7-9-54.1 NMSA 1978 (being Laws  
2 1992, Chapter 40, Section 1, as amended) is amended to read:

3           "7-9-54.1. DEDUCTION--~~[GROSS RECEIPTS FROM]~~ SALES TAX--  
4 SALE OF AEROSPACE SERVICES TO CERTAIN ORGANIZATIONS.--

5           A. Receipts from performing or selling an aerospace  
6 service for resale may be deducted from gross receipts if the  
7 sale is made to a buyer who delivers a nontaxable transaction  
8 certificate or provides alternative evidence pursuant to  
9 Section 7-9-43 NMSA 1978. The buyer shall separately state the  
10 value of the aerospace service purchased in the buyer's charge  
11 for the aerospace service on its subsequent sale to an  
12 organization or, if the buyer is an organization, on the  
13 organization's subsequent sale to the United States, and the  
14 subsequent sale shall be in the ordinary course of business of  
15 selling aerospace services to an organization or to the United  
16 States.

17           B. As used in this section:

18                   (1) "aerospace services" means research and  
19 development services sold to or for resale to an organization  
20 for resale by the organization to the United States air force;  
21 and

22                   (2) "organization" means an organization  
23 described in Subsection A of Section 7-9-29 NMSA 1978 other  
24 than a prime contractor operating facilities in New Mexico  
25 designated as a national laboratory by act of congress."

.223540.1

underscoring material = new  
[bracketed material] = delete

1           SECTION 166. Section 7-9-54.2 NMSA 1978 (being Laws  
2 1995, Chapter 183, Section 2, as amended) is amended to read:

3           "7-9-54.2. [~~GROSS RECEIPTS~~] DEDUCTION--SALES TAX--  
4 SPACEPORT OPERATION--SPACE OPERATIONS--LAUNCHING, OPERATING AND  
5 RECOVERING SPACE VEHICLES OR PAYLOADS--PAYLOAD SERVICES--  
6 OPERATIONALLY RESPONSIVE SPACE PROGRAM SERVICES.--

7           A. Receipts from launching, operating or recovering  
8 space vehicles or payloads in New Mexico may be deducted from  
9 gross receipts.

10           B. Receipts from preparing a payload in New Mexico  
11 are deductible from gross receipts.

12           C. Receipts from operating a spaceport in New  
13 Mexico are deductible from gross receipts.

14           D. Receipts from the provision of research,  
15 development, testing and evaluation services for the United  
16 States air force operationally responsive space program may be  
17 deducted from gross receipts.

18           E. As used in this section:

19                   (1) "operationally responsive space program"  
20 means a program authorized pursuant to 10 U.S.C. 2273a;

21                   (2) "payload" means a system, subsystem or  
22 other mechanical structure or material to be conveyed into  
23 space that is designed, constructed or intended to perform a  
24 function in space;

25                   (3) "space" means any location beyond

.223540.1

underscored material = new  
[bracketed material] = delete

1 altitudes of sixty thousand feet above the earth's mean sea  
2 level;

3 (4) "space operations" means the process of  
4 commanding and controlling payloads in space; and

5 (5) "spaceport" means an installation and  
6 related facilities used for the launching, landing, operating,  
7 recovering, servicing and monitoring of vehicles capable of  
8 entering or returning from space.

9 F. Receipts from the sale of tangible personal  
10 property that will become an ingredient or component part of a  
11 construction project or from performing construction services  
12 may not be deducted under this section."

13 SECTION 167. Section 7-9-54.3 NMSA 1978 (being Laws  
14 2002, Chapter 37, Section 8, as amended by Laws 2010, Chapter  
15 77, Section 2 and by Laws 2010, Chapter 78, Section 2) is  
16 amended to read:

17 "7-9-54.3. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--WIND  
18 AND SOLAR GENERATION EQUIPMENT--SALES TO GOVERNMENTS.--

19 A. Receipts from selling wind generation  
20 equipment or solar generation equipment to a government for the  
21 purpose of installing a wind or solar electric generation  
22 facility may be deducted from gross receipts.

23 B. The deduction allowed pursuant to this section  
24 shall not be claimed for receipts from an expenditure for which  
25 a taxpayer claims a credit pursuant to Section 7-2-18.25,

.223540.1

underscored material = new  
[bracketed material] = delete

1 7-2A-25 or 7-9G-2 NMSA 1978.

2 C. As used in this section:

3 (1) "government" means the United States or  
4 the state or a governmental unit or a subdivision, agency,  
5 department or instrumentality of the federal government or the  
6 state;

7 (2) "related equipment" means transformers,  
8 circuit breakers and switching and metering equipment used to  
9 connect a wind or solar electric generation plant to the  
10 electric grid;

11 (3) "solar generation equipment" means solar  
12 thermal energy collection, concentration and heat transfer and  
13 conversion equipment; solar tracking hardware and software;  
14 photovoltaic panels and inverters; support structures; turbines  
15 and associated electrical generating equipment used to generate  
16 electricity from solar thermal energy; and related equipment;  
17 and

18 (4) "wind generation equipment" means wind  
19 generation turbines, blades, nacelles, rotors and supporting  
20 structures used to generate electricity from wind and related  
21 equipment."

22 SECTION 168. Section 7-9-54.4 NMSA 1978 (being Laws  
23 2003, Chapter 62, Section 4) is amended to read:

24 "7-9-54.4. DEDUCTION--[COMPENSATING] USE TAX--SPACE-  
25 RELATED TEST ARTICLES.--

.223540.1



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

1           A. The value of space-related test articles used in  
2 New Mexico exclusively for research or testing, placing on  
3 public display after research or testing or storage for future  
4 research, testing or public display may be deducted in  
5 computing ~~[compensating]~~ use tax due. This subsection does not  
6 apply to any other use of a space-related test article.

7           B. The value of equipment and materials used in New  
8 Mexico for research or testing, or for supporting the research  
9 or testing of, space-related test articles or for storage of  
10 such equipment or materials for research or testing, or  
11 supporting the research and testing of, space-related test  
12 articles may be deducted in computing ~~[compensating]~~ use tax  
13 due. This subsection does not apply to any other use of such  
14 equipment and materials.

15           C. As used in this section, a "space-related test  
16 article" is a material or device intended to be used primarily  
17 in research or testing to determine properties and qualities of  
18 the material or properties, qualities or functioning of a  
19 device or technology when the principal use of the material,  
20 device or technology is intended to be in space or as part of,  
21 or associated with, a space vehicle."

22           SECTION 169. Section 7-9-54.5 NMSA 1978 (being Laws  
23 2004, Chapter 16, Section 3) is amended to read:

24           "7-9-54.5. DEDUCTION--~~[COMPENSATING]~~ USE TAX--TEST  
25 ARTICLES.--

.223540.1

underscoring material = new  
[bracketed material] = delete

1           A. The value of test articles upon which research  
2 or testing is conducted in New Mexico pursuant to a contract  
3 with the United States department of defense may be deducted in  
4 computing the [~~compensating~~] use tax due.

5           B. As used in this section, "test article" means a  
6 material or device upon which research or testing is conducted  
7 to determine the properties and qualities of the material or  
8 the properties, qualities or functioning of the device or a  
9 technology used with the device.

10           C. The deduction provided by this section does not  
11 apply to the value of property purchased by a prime contractor  
12 operating a facility designated as a national laboratory by an  
13 act of congress."

14           SECTION 170. Section 7-9-55 NMSA 1978 (being Laws 1969,  
15 Chapter 144, Section 45, as amended) is amended to read:

16           "7-9-55. DEDUCTION--[GROSS RECEIPTS] SALES TAX--  
17 GOVERNMENTAL GROSS RECEIPTS [TAX]--TRANSACTION IN INTERSTATE  
18 COMMERCE.--

19           A. Receipts from transactions in interstate  
20 commerce may be deducted from gross receipts to the extent that  
21 the imposition of the [~~gross receipts~~] sales tax would be  
22 unlawful under the United States constitution.

23           B. Receipts from transactions in interstate  
24 commerce may be deducted from governmental gross receipts.

25           C. Receipts from transmitting messages or

.223540.1

underscoring material = new  
[bracketed material] = delete

1 conversations by radio other than from one point in this state  
2 to another point in this state and receipts from the sale of  
3 radio or television broadcast time when the advertising message  
4 is supplied by or on behalf of a national or regional seller or  
5 advertiser not having its principal place of business in or  
6 being incorporated under the laws of this state may be deducted  
7 from gross receipts. Commissions of advertising agencies from  
8 performing services in this state may not be deducted from  
9 gross receipts under this section."

10 SECTION 171. Section 7-9-56 NMSA 1978 (being Laws 1994,  
11 Chapter 112, Section 2) is amended to read:

12 "7-9-56. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
13 INTRASTATE TRANSPORTATION AND SERVICES IN INTERSTATE  
14 COMMERCE.--

15 A. Receipts from transporting persons or property  
16 from one point to another in this state may be deducted from  
17 gross receipts when such persons or property, including any  
18 special or extra service reasonably necessary in connection  
19 therewith, is being transported in interstate or foreign  
20 commerce under a single contract.

21 B. Receipts from handling, storage, drayage or  
22 packing of property or any other accessorial services on  
23 property, which property has moved or will move in interstate  
24 or foreign commerce, when such services are performed by a  
25 local agent for a carrier or by a carrier and when such

.223540.1

underscored material = new  
[bracketed material] = delete

1 services are performed under a single contract in relation to  
2 transportation services, may be deducted from gross receipts.

3 C. Receipts from providing telephone or telegraph  
4 services in this state that will be used by other persons in  
5 providing telephone or telegraph services to the final user may  
6 be deducted from gross receipts."

7 SECTION 172. Section 7-9-56.1 NMSA 1978 (being Laws  
8 1998, Chapter 92, Section 1, as amended) is amended to read:

9 "7-9-56.1. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
10 INTERNET SERVICES.--On and after July 1, 1998, receipts from  
11 providing leased telephone lines, telecommunications services,  
12 internet services, internet access services or computer  
13 programming that will be used by other persons in providing  
14 internet access and related services to the final user may be  
15 deducted from gross receipts if the sale is made to a person  
16 who is subject to the ~~[gross receipts]~~ sales tax or the  
17 interstate telecommunications ~~[gross receipts]~~ sales tax."

18 SECTION 173. Section 7-9-56.2 NMSA 1978 (being Laws  
19 1998, Chapter 92, Section 2) is amended to read:

20 "7-9-56.2. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
21 HOSTING ~~[WORLD WIDE WEB SITES]~~ WEBSITES.--Receipts from hosting  
22 ~~[world wide web sites]~~ websites may be deducted from gross  
23 receipts. For purposes of this section, "hosting" means  
24 storing information on computers attached to the internet."

25 SECTION 174. Section 7-9-56.3 NMSA 1978 (being Laws  
.223540.1

underscored material = new  
[bracketed material] = delete

1 2003, Chapter 232, Section 1, as amended) is amended to read:

2 "7-9-56.3. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--TRADE-  
3 SUPPORT COMPANY IN A BORDER ZONE.--

4 A. The receipts of a trade-support company may be  
5 deducted from gross receipts if:

6 (1) the trade-support company first locates in  
7 New Mexico within twenty miles of a port of entry on New  
8 Mexico's border with Mexico on or after July 1, 2003 but before  
9 July 1, 2013 or on or after January 1, 2016 but before January  
10 1, 2021;

11 (2) the receipts are received by the company  
12 within a five-year period beginning on the date the trade-  
13 support company locates in New Mexico and the receipts are  
14 derived from its business activities and operations at its  
15 border zone location; and

16 (3) the trade-support company employs at least  
17 two employees in New Mexico.

18 B. A taxpayer allowed a deduction pursuant to this  
19 section shall report the amount of the deduction separately in  
20 a manner required by the department.

21 C. The department shall compile an annual report on  
22 the deduction created pursuant to this section that shall  
23 include the number of taxpayers approved by the department to  
24 receive the deduction, the aggregate amount of deductions  
25 approved and any other information necessary to evaluate the

.223540.1

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

1 effectiveness of the deduction. Beginning in 2016 and every  
2 four years thereafter that the deduction is in effect, the  
3 department shall compile and present the annual reports to the  
4 revenue stabilization and tax policy committee and the  
5 legislative finance committee with an analysis of the  
6 effectiveness and cost of the deduction.

7 D. As used in this section:

8 (1) "dependent" means "dependent" as defined  
9 in 26 U.S.C. 152(a), as that section may be amended or  
10 renumbered;

11 (2) "employee" means an individual, other than  
12 an individual who:

13 (a) is a dependent of the employer;

14 (b) if the employer is an estate or  
15 trust, is a grantor, beneficiary or fiduciary of the estate or  
16 trust or is a dependent of a grantor, beneficiary or fiduciary  
17 of the estate or trust;

18 (c) if the employer is a corporation, is  
19 a dependent of an individual who owns, directly or indirectly,  
20 more than fifty percent in value of the outstanding stock of  
21 the corporation; or

22 (d) if the employer is an entity other  
23 than a corporation, estate or trust, is a dependent of an  
24 individual who owns, directly or indirectly, more than fifty  
25 percent of the capital and profits interests in the entity;

.223540.1

underscored material = new  
[bracketed material] = delete

1 (3) "port of entry" means an international  
2 port of entry in New Mexico at which customs services are  
3 provided by United States customs and border protection; and

4 (4) "trade-support company" means a customs  
5 brokerage firm or a freight forwarder."

6 SECTION 175. Section 7-9-57 NMSA 1978 (being Laws 1969,  
7 Chapter 144, Section 47, as amended) is amended to read:

8 "7-9-57. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF  
9 CERTAIN SERVICES TO AN OUT-OF-STATE BUYER.--

10 A. Receipts from performing a service may be  
11 deducted from gross receipts if the sale of the service is made  
12 to an out-of-state buyer who delivers to the seller either an  
13 appropriate nontaxable transaction certificate or other  
14 evidence acceptable to the secretary unless the buyer of the  
15 service or any of the buyer's employees or agents makes initial  
16 use of the product of the service in New Mexico or takes  
17 delivery of the product of the service in New Mexico.

18 B. Receipts from performing a service that  
19 initially qualified for the deduction provided in this section  
20 but that no longer meets the criteria set forth in Subsection A  
21 of this section shall be deductible for the period prior to the  
22 disqualification."

23 SECTION 176. Section 7-9-57.2 NMSA 1978 (being Laws  
24 2002, Chapter 10, Section 1) is amended to read:

25 "7-9-57.2. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE

.223540.1

underscored material = new  
[bracketed material] = delete

1 OF SOFTWARE DEVELOPMENT SERVICES.--

2 A. To stimulate new business development, the  
3 receipts of an eligible software development company from the  
4 sale of software development services that are performed in a  
5 qualified area may be deducted from gross receipts.

6 B. As used in this section:

7 (1) "eligible software development company"  
8 means a taxpayer who is not a successor in business of another  
9 taxpayer; ~~and~~ whose primary business in New Mexico is  
10 established after the effective date of this section and is  
11 providing software development services; and who had no  
12 business location in New Mexico other than in a qualified area  
13 during the period for which a deduction under this section is  
14 sought;

15 (2) "qualified area" means the state of New  
16 Mexico except for an incorporated municipality with a  
17 population of more than fifty thousand according to the most  
18 recent federal decennial census; and

19 (3) "software development services" means  
20 custom software design and development and ~~web site~~ website  
21 design and development but does not include software  
22 implementation or support services."

23 SECTION 177. Section 7-9-58 NMSA 1978 (being Laws 1969,  
24 Chapter 144, Section 48, as amended) is amended to read:

25 "7-9-58. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--FEED--  
.223540.1



underscored material = new  
[bracketed material] = delete

1 FERTILIZERS.--

2 A. Receipts from selling feed [~~for livestock~~],  
3 including the baling wire or twine used to contain the feed,  
4 for livestock, fish raised for human consumption, poultry or  
5 animals raised for their hides or pelts and receipts from  
6 selling seeds, roots, bulbs, plants, soil conditioners,  
7 fertilizers, insecticides, germicides, insects used to control  
8 populations of other insects, fungicides or weedicides or water  
9 for irrigation purposes may be deducted from gross receipts if  
10 the sale is made to a person who states in writing that [~~he~~]  
11 the person is regularly engaged in the business of farming,  
12 ranching or raising animals for their hides or pelts.

13 B. Receipts of auctioneers from selling livestock  
14 or other agricultural products at auction may also be deducted  
15 from gross receipts."

16 SECTION 178. Section 7-9-59 NMSA 1978 (being Laws 1969,  
17 Chapter 144, Section 49, as amended) is amended to read:

18 "7-9-59. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
19 WAREHOUSING, THRESHING, HARVESTING, GROWING, CULTIVATING AND  
20 PROCESSING AGRICULTURAL PRODUCTS--TESTING OR TRANSPORTING  
21 MILK.--

22 A. Receipts from warehousing grain or other  
23 agricultural products may be deducted from gross receipts.

24 B. Receipts from threshing, cleaning, growing,  
25 cultivating or harvesting agricultural products, including the

.223540.1

underscored material = new  
[bracketed material] = delete

1 ginning of cotton, may be deducted from gross receipts.

2 C. Receipts from testing or transporting milk for  
3 the producer or nonprofit marketing association from the farm  
4 to a milk processing or dairy product manufacturing plant may  
5 be deducted from gross receipts.

6 D. Receipts from processing for growers, producers  
7 or nonprofit marketing associations of agricultural products  
8 raised for food and fiber, including livestock, may be deducted  
9 from gross receipts."

10 SECTION 179. Section 7-9-60 NMSA 1978 (being Laws 1970,  
11 Chapter 12, Section 4, as amended) is amended to read:

12 "7-9-60. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
13 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--SALES TO CERTAIN  
14 ORGANIZATIONS.--

15 A. Except as provided otherwise in Subsection B of  
16 this section, receipts from selling tangible personal property  
17 to 501(c)(3) organizations may be deducted from gross receipts  
18 or from governmental gross receipts if the sale is made to an  
19 organization that delivers a nontaxable transaction certificate  
20 to the seller or provides alternative evidence pursuant to  
21 Section 7-9-43 NMSA 1978. The buyer shall employ the tangible  
22 personal property in the conduct of functions described in  
23 Section 501(c)(3) and shall not employ the tangible personal  
24 property in the conduct of an unrelated trade or business as  
25 defined in Section 513 of the United States Internal Revenue

.223540.1

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

1 Code of 1986, as amended or renumbered.

2 B. The deduction provided by this section does not  
3 apply to receipts from selling construction material, excluding  
4 tangible personal property, whether removable or non-removable,  
5 that is or would be classified for depreciation purposes as  
6 three-year property, five-year property, seven-year property or  
7 ten-year property, including indirect costs related to the  
8 asset basis, by Section 168 of the Internal Revenue Code of  
9 1986, as that section may be amended or renumbered, or from  
10 selling metalliferous mineral ore; except that receipts from  
11 selling construction material or from selling metalliferous  
12 mineral ore to a 501(c)(3) organization that is organized for  
13 the purpose of providing homeownership opportunities to low-  
14 income families may be deducted from gross receipts. Receipts  
15 may be deducted under this subsection only if the buyer  
16 delivers a nontaxable transaction certificate to the seller or  
17 provides alternative evidence pursuant to Section 7-9-43 NMSA  
18 1978. The buyer shall use the property in the conduct of  
19 functions described in Section 501(c)(3) of the Internal  
20 Revenue Code of 1986, as amended, and shall not employ the  
21 tangible personal property in the conduct of an unrelated trade  
22 or business, as defined in Section 513 of that code.

23 C. For the purposes of this section, "501(c)(3)  
24 organization" means an organization that has been granted  
25 exemption from the federal income tax by the United States

.223540.1

underscoring material = new  
[bracketed material] = delete

1 commissioner of internal revenue as an organization described  
2 in Section 501(c)(3) of the United States Internal Revenue Code  
3 of 1986, as amended or renumbered."

4 SECTION 180. Section 7-9-61.1 NMSA 1978 (being Laws  
5 1981, Chapter 37, Section 52) is amended to read:

6 "7-9-61.1. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
7 CERTAIN RECEIPTS.--Receipts from charges made in connection  
8 with the origination, making or assumption of a loan or from  
9 charges made for handling loan payments may be deducted from  
10 gross receipts."

11 SECTION 181. Section 7-9-62 NMSA 1978 (being Laws 1969,  
12 Chapter 144, Section 52, as amended) is amended to read:

13 "7-9-62. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
14 AGRICULTURAL IMPLEMENTS--AIRCRAFT MANUFACTURERS--VEHICLES THAT  
15 ARE NOT REQUIRED TO BE REGISTERED--AIRCRAFT PARTS AND  
16 MAINTENANCE SERVICES--REPORTING REQUIREMENTS.--

17 A. Except for receipts deductible under Subsection  
18 B of this section, fifty percent of the receipts from selling  
19 agricultural implements, farm tractors, aircraft or vehicles  
20 that are not required to be registered under the Motor Vehicle  
21 Code may be deducted from gross receipts; provided that, with  
22 respect to agricultural implements, the sale is made to a  
23 person who states in writing that the person is regularly  
24 engaged in the business of farming or ranching. Any deduction  
25 allowed under Section 7-9-71 NMSA 1978 must be taken before the

.223540.1

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

1 deduction allowed by this subsection is computed.

2 B. Receipts of an aircraft manufacturer or  
3 affiliate from selling aircraft or from selling aircraft flight  
4 support, pilot training or maintenance training services may be  
5 deducted from gross receipts. Any deduction allowed under  
6 Section 7-9-71 NMSA 1978 must be taken before the deduction  
7 allowed by this subsection is computed.

8 C. Receipts from selling aircraft parts or  
9 maintenance services for aircraft or aircraft parts may be  
10 deducted from gross receipts. Any deduction allowed under  
11 Section 7-9-71 NMSA 1978 must be taken before the deduction  
12 allowed by this subsection is computed.

13 D. A taxpayer allowed a deduction pursuant to this  
14 section shall report the amount of the deduction separately in  
15 a manner required by the department.

16 E. The department shall compile an annual report on  
17 the deductions provided by this section that shall include the  
18 number of taxpayers approved by the department to receive the  
19 deductions, the aggregate amount of deductions approved and any  
20 other information necessary to evaluate the effectiveness of  
21 the deductions. Beginning in 2019 and every five years  
22 thereafter that the deductions are in effect, the department  
23 shall compile and present the annual reports to the revenue  
24 stabilization and tax policy committee and the legislative  
25 finance committee with an analysis of the effectiveness and

.223540.1

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

1 cost of the deductions.

2 F. As used in this section:

3 (1) "affiliate" means a business entity that  
4 directly or indirectly through one or more intermediaries  
5 controls, is controlled by or is under common control with the  
6 aircraft manufacturer;

7 (2) "agricultural implement" means a tool,  
8 utensil or instrument that is depreciable for federal income  
9 tax purposes and that is:

10 (a) designed to irrigate agricultural  
11 crops above ground or below ground at the place where the crop  
12 is grown; or

13 (b) designed primarily for use with a  
14 source of motive power, such as a tractor, in planting,  
15 growing, cultivating, harvesting or processing agricultural  
16 crops at the place where the crop is grown; in raising poultry  
17 or livestock; or in obtaining or processing food or fiber, such  
18 as eggs, milk, wool or mohair, from living poultry or livestock  
19 at the place where the poultry or livestock are kept for this  
20 purpose;

21 (3) "aircraft manufacturer" means a business  
22 entity that in the ordinary course of business designs and  
23 builds private or commercial aircraft certified by the federal  
24 aviation administration;

25 (4) "business entity" means a corporation,

.223540.1

underscored material = new  
[bracketed material] = delete

1 limited liability company, partnership, limited partnership,  
2 limited liability partnership or real estate investment trust,  
3 but does not mean an individual or a joint venture;

4 (5) "control" means equity ownership in a  
5 business entity that:

6 (a) represents at least fifty percent of  
7 the total voting power of that business entity; and

8 (b) has a value equal to at least fifty  
9 percent of the total equity of that business entity; and

10 (6) "flight support" means providing  
11 navigation data, charts, weather information, online  
12 maintenance records and other aircraft or flight-related  
13 information and the software needed to access the information."

14 SECTION 182. Section 7-9-62.1 NMSA 1978 (being Laws 2000  
15 (2nd S.S.), Chapter 4, Section 2, as amended) is amended to  
16 read:

17 "7-9-62.1. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
18 AIRCRAFT SALES AND SERVICES--REPORTING REQUIREMENTS.--

19 A. Receipts from the sale of or from maintaining,  
20 refurbishing, remodeling or otherwise modifying a commercial or  
21 military carrier over ten thousand pounds gross landing weight  
22 may be deducted from gross receipts.

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

.223540.1

underscored material = new  
[bracketed material] = delete

1 C. The department shall compile an annual report on  
2 the deduction provided by this section that shall include the  
3 number of taxpayers approved by the department to receive the  
4 deduction, the aggregate amount of deductions approved and any  
5 other information necessary to evaluate the effectiveness of  
6 the deduction. Beginning in 2019 and every five years  
7 thereafter that the deduction is in effect, the department  
8 shall compile and present the annual reports to the revenue  
9 stabilization and tax policy committee and the legislative  
10 finance committee with an analysis of the effectiveness and  
11 cost of the deduction."

12 SECTION 183. Section 7-9-63 NMSA 1978 (being Laws 1969,  
13 Chapter 144, Section 53) is amended to read:

14 "7-9-63. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
15 PUBLICATION SALES.--Receipts from publishing newspapers or  
16 magazines, except from selling advertising space, may be  
17 deducted from gross receipts.

18 Receipts from selling magazines at retail may not be  
19 deducted from gross receipts."

20 SECTION 184. Section 7-9-64 NMSA 1978 (being Laws 1969,  
21 Chapter 144, Section 54) is amended to read:

22 "7-9-64. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
23 NEWSPAPER SALES.--Receipts from selling newspapers, except from  
24 selling advertising space, may be deducted from gross  
25 receipts."

.223540.1



underscored material = new  
[bracketed material] = delete

1           SECTION 185. Section 7-9-65 NMSA 1978 (being Laws 1969,  
2 Chapter 144, Section 56, as amended) is amended to read:

3           "7-9-65. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
4 CHEMICALS AND REAGENTS.--Receipts from selling chemicals or  
5 reagents to any mining, milling or oil company for use in  
6 processing ores or oil in a mill, smelter or refinery or in  
7 acidizing oil wells, and receipts from selling chemicals or  
8 reagents in lots in excess of eighteen tons to any hard-rock  
9 mining or milling company for use in any combination of  
10 extracting, leaching, milling, smelting, refining or processing  
11 ore at a mine site, may be deducted from gross receipts.  
12 Receipts from selling explosives, blasting powder or dynamite  
13 may not be deducted from gross receipts."

14           SECTION 186. Section 7-9-66 NMSA 1978 (being Laws 1969,  
15 Chapter 144, Section 57, as amended) is amended to read:

16           "7-9-66. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
17 COMMISSIONS.--

18           A. Receipts derived from commissions on sales of  
19 tangible personal property ~~[which]~~ that are not subject to the  
20 ~~[gross receipts]~~ sales tax may be deducted from gross receipts.

21           B. Receipts of the owner of a dealer store derived  
22 from commissions received for performing the service of selling  
23 from the owner's dealer store a principal's tangible personal  
24 property may be deducted from gross receipts.

25           C. As used in this section, "dealer store" means a

underscored material = new  
[bracketed material] = delete

1 merchandise facility open to the public that is owned and  
2 operated by a person who contracts with a principal to act as  
3 an agent for the sale from that facility of merchandise owned  
4 by the principal."

5 SECTION 187. Section 7-9-66.1 NMSA 1978 (being Laws  
6 1984, Chapter 129, Section 2, as amended) is amended to read:

7 "7-9-66.1. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
8 CERTAIN REAL ESTATE TRANSACTIONS.--

9 A. Receipts from real estate commissions on that  
10 portion of the transaction subject to ~~[gross receipts]~~ sales  
11 tax pursuant to Subsection A of Section 7-9-53 NMSA 1978 may be  
12 deducted from gross receipts if the person claiming the  
13 deduction submits to the department evidence that the secretary  
14 finds substantiates the deduction.

15 B. For the purposes of this section, "commissions  
16 on that portion of the transaction subject to ~~[gross receipts]~~  
17 sales tax" means that portion of the commission that bears the  
18 same relationship to the total commission as the amount of the  
19 transaction subject to ~~[gross receipts]~~ sales tax does to the  
20 total purchase price."

21 SECTION 188. Section 7-9-67 NMSA 1978 (being Laws 1969,  
22 Chapter 144, Section 58, as amended) is amended to read:

23 "7-9-67. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
24 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--REFUNDS--UNCOLLECTIBLE  
25 DEBTS.--

.223540.1

underscored material = new  
[bracketed material] = delete

1           A. Refunds and allowances made to buyers or amounts  
2 written off the books as an uncollectible debt by a person  
3 reporting [~~gross receipts~~] sales tax on an accrual basis may be  
4 deducted from gross receipts. If debts reported uncollectible  
5 are subsequently collected, such receipts shall be included in  
6 gross receipts in the month of collection.

7           B. Refunds and allowances made to buyers or amounts  
8 written off the books as an uncollectible debt by a person  
9 reporting governmental [~~gross receipts~~] sales tax on an accrual  
10 basis may be deducted from governmental gross receipts. If  
11 debts reported uncollectible are subsequently collected, such  
12 receipts shall be included in governmental gross receipts in  
13 the month of collection."

14           SECTION 189. Section 7-9-68 NMSA 1978 (being Laws 1969,  
15 Chapter 144, Section 60) is amended to read:

16           "7-9-68. DEDUCTION--[~~GROSS RECEIPTS~~] SALES TAX--WARRANTY  
17 OBLIGATIONS.--Receipts of a dealer from furnishing goods or  
18 services to the purchaser of tangible personal property to  
19 fulfill a warranty obligation of the manufacturer of the  
20 property may be deducted from gross receipts."

21           SECTION 190. Section 7-9-69 NMSA 1978 (being Laws 1969,  
22 Chapter 144, Section 61, as amended) is amended to read:

23           "7-9-69. DEDUCTION--[~~GROSS RECEIPTS~~] SALES TAX--  
24 ADMINISTRATIVE AND ACCOUNTING SERVICES.--

25           A. Receipts of a business entity for

.223540.1

underscored material = new  
[bracketed material] = delete

1 administrative, managerial, accounting and customer services  
2 performed by it for an affiliate upon a nonprofit or cost basis  
3 and receipts of a business entity from an affiliate for the  
4 joint use or sharing of office machines and facilities upon a  
5 nonprofit or cost basis may be deducted from gross receipts.

6 B. For the purposes of this section:

7 (1) "affiliate" means a business entity that  
8 directly or indirectly through one or more intermediaries  
9 controls, is controlled by or is under common control with  
10 another business entity;

11 (2) "business entity" means a corporation,  
12 limited liability company, partnership, limited partnership,  
13 limited liability partnership or real estate investment trust,  
14 but does not mean an individual or a joint venture; and

15 (3) "control" means equity ownership in a  
16 business entity that:

17 (a) represents at least fifty percent of  
18 the total voting power of that business entity; or

19 (b) has a value equal to at least fifty  
20 percent of the total equity of that business entity."

21 SECTION 191. Section 7-9-70 NMSA 1978 (being Laws 1969,  
22 Chapter 144, Section 62) is amended to read:

23 "7-9-70. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--RENTAL  
24 OR LEASE OF VEHICLES USED IN INTERSTATE COMMERCE.--Receipts  
25 from the rental or leasing of vehicles used in the

.223540.1

underscoring material = new  
[bracketed material] = delete

1 transportation of passengers or property for hire in interstate  
2 commerce under the regulations or authorization of any agency  
3 of the United States may be deducted."

4 SECTION 192. Section 7-9-71 NMSA 1978 (being Laws 1969,  
5 Chapter 144, Section 63, as amended) is amended to read:

6 "7-9-71. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--TRADE-IN  
7 ALLOWANCE.--That portion of the receipts of a seller that is  
8 represented by a trade-in of tangible personal property of the  
9 same type being sold, except for the receipts represented by a  
10 trade-in of a manufactured home, may be deducted from gross  
11 receipts."

12 SECTION 193. Section 7-9-73 NMSA 1978 (being Laws 1970,  
13 Chapter 78, Section 2, as amended) is amended to read:

14 "7-9-73. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
15 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF PROSTHETIC  
16 DEVICES.--Receipts from selling prosthetic devices may be  
17 deducted from gross receipts or from governmental gross  
18 receipts if the sale is made to a person who is licensed to  
19 practice medicine, osteopathic medicine, dentistry, podiatry,  
20 optometry, chiropractic or professional nursing and who  
21 delivers a nontaxable transaction certificate to the seller.  
22 The buyer delivering the nontaxable transaction certificate  
23 must deliver the prosthetic device incidental to the  
24 performance of a service and must include the value of the  
25 prosthetic device in ~~[his]~~ the charge for the service."

.223540.1

underscored material = new  
[bracketed material] = delete

1           SECTION 194. Section 7-9-73.1 NMSA 1978 (being Laws  
2 1991, Chapter 8, Section 3, as amended) is amended to read:

3           "7-9-73.1. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
4 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--HOSPITALS.--

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

10           B. Sixty percent of the receipts of a hospital  
11 licensed by the department of health may be deducted from  
12 governmental gross receipts."

13           SECTION 195. Section 7-9-73.2 NMSA 1978 (being Laws  
14 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section  
15 4, as amended) is amended to read:

16           "7-9-73.2. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX AND  
17 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--PRESCRIPTION DRUGS--  
18 OXYGEN--CANNABIS.--

19           A. Receipts from the sale of prescription drugs and  
20 oxygen and oxygen services provided by a licensed medicare  
21 durable medical equipment provider and cannabis products that  
22 are sold in accordance with the Lynn and Erin Compassionate Use  
23 Act may be deducted from gross receipts and governmental gross  
24 receipts.

25           B. For the purposes of this section, "prescription  
.223540.1

underscoring material = new  
[bracketed material] = delete

1 drugs" means insulin and substances that are:

2 (1) dispensed by or under the supervision of a  
3 licensed pharmacist or by a physician or other person  
4 authorized under state law to do so;

5 (2) prescribed for a specified person by a  
6 person authorized under state law to prescribe the substance;  
7 and

8 (3) subject to the restrictions on sale  
9 contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

10 SECTION 196. Section 7-9-73.3 NMSA 1978 (being Laws  
11 2014, Chapter 26, Section 1, as amended) is amended to read:

12 "7-9-73.3. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX AND  
13 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--DURABLE MEDICAL  
14 EQUIPMENT--MEDICAL SUPPLIES.--

15 A. Prior to July 1, 2030, receipts from the sale or  
16 rental of durable medical equipment and medical supplies may be  
17 deducted from gross receipts and governmental gross receipts.

18 B. The purpose of the deduction provided in this  
19 section is to help protect jobs and retain businesses in New  
20 Mexico that sell or rent durable medical equipment and medical  
21 supplies.

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

25 D. The deduction provided in this section shall be

.223540.1

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

1 taken only by a taxpayer participating in the New Mexico  
2 medicaid program whose gross receipts are no less than ninety  
3 percent derived from the sale or rental of durable medical  
4 equipment, medical supplies or infusion therapy services,  
5 including the medications used in infusion therapy services.

6 E. Acceptance of a deduction provided by this  
7 section is authorization by the taxpayer receiving the  
8 deduction for the department to reveal information to the  
9 revenue stabilization and tax policy committee and the  
10 legislative finance committee necessary to analyze the  
11 effectiveness and cost of the deduction and whether the  
12 deduction is performing the purpose for which it was created.

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

23 G. As used in this section:

24 (1) "durable medical equipment" means a  
25 medical assistive device or other equipment that:

.223540.1



1 (a) can withstand repeated use;  
2 (b) is primarily and customarily used to  
3 serve a medical purpose and is not useful to an individual in  
4 the absence of an illness, injury or other medical necessity,  
5 including improved functioning of a body part;

6 (c) is appropriate for use at home  
7 exclusively by the eligible recipient for whom the durable  
8 medical equipment is prescribed; and

9 (d) is prescribed by a physician or  
10 other person licensed by the state to prescribe durable medical  
11 equipment;

12 (2) "infusion therapy services" means the  
13 administration of prescribed medication through a needle or  
14 catheter;

15 (3) "medical supplies" means items for a  
16 course of medical treatment, including nutritional products,  
17 that are:

18 (a) necessary for an ongoing course of  
19 medical treatment;

20 (b) disposable and cannot be reused; and

21 (c) prescribed by a physician or other  
22 person licensed by the state to prescribe medical supplies; and

23 (4) "prescribe" means to authorize the use of  
24 an item or substance for a course of medical treatment."

25 SECTION 197. Section 7-9-74 NMSA 1978 (being Laws 1971,  
.223540.1

underscored material = new  
[bracketed material] = delete

1 Chapter 217, Section 2, as amended) is amended to read:

2 "7-9-74. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF  
3 PROPERTY USED IN THE MANUFACTURE OF JEWELRY.--Receipts from  
4 selling tangible personal property may be deducted from gross  
5 receipts if the sale is made to a person who states in writing  
6 that ~~[he]~~ the person will use the property so purchased in  
7 manufacturing jewelry. The buyer must incorporate the tangible  
8 personal property as an ingredient or component part of the  
9 jewelry that ~~[he]~~ the buyer is in the business of  
10 manufacturing. The deduction allowed a seller under this  
11 section shall not exceed five thousand dollars (\$5,000) during  
12 any twelve-month period attributable to purchases by a single  
13 purchaser."

14 SECTION 198. Section 7-9-75 NMSA 1978 (being Laws 1972,  
15 Chapter 39, Section 2) is amended to read:

16 "7-9-75. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF  
17 CERTAIN SERVICES PERFORMED DIRECTLY ON PRODUCT MANUFACTURED.--  
18 Receipts from selling the service of combining or processing  
19 components or materials may be deducted from gross receipts if  
20 the sale is made to a person engaged in the business of  
21 manufacturing who delivers a nontaxable transaction certificate  
22 to the seller. The buyer delivering the nontaxable transaction  
23 certificate must have the service performed directly upon  
24 tangible personal property ~~[which he]~~ that the buyer is in the  
25 business of manufacturing or upon ingredients or component

.223540.1

underscoring material = new  
[bracketed material] = delete

1 parts thereof."

2 SECTION 199. Section 7-9-76 NMSA 1978 (being Laws 1977,  
3 Chapter 288, Section 2) is amended to read:

4 "7-9-76. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--TRAVEL  
5 AGENTS' COMMISSIONS PAID BY CERTAIN ENTITIES.--Receipts of  
6 travel agents derived from commissions paid by maritime  
7 transportation companies and interstate airlines, railroads and  
8 passenger buses for booking, referral, reservation or ticket  
9 services may be deducted from gross receipts."

10 SECTION 200. Section 7-9-76.1 NMSA 1978 (being Laws  
11 1979, Chapter 338, Section 7, as amended) is amended to read:

12 "7-9-76.1. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
13 CERTAIN MANUFACTURED HOMES.--Receipts from the resale of a  
14 manufactured home may be deducted from gross receipts if the  
15 sale is made of a manufactured home that was subject to the  
16 ~~[gross receipts, compensating]~~ sales, use or motor vehicle  
17 excise tax upon its initial sale or use in New Mexico. The  
18 seller shall retain and furnish proof satisfactory to the  
19 department that a ~~[gross receipts, compensating]~~ sales, use or  
20 motor vehicle excise tax was paid upon the initial sale or use  
21 in New Mexico of a manufactured home, and in the absence of  
22 such proof, it is presumed that the tax was not paid. Proof  
23 that a New Mexico certificate of title was issued for a  
24 manufactured home in 1972 or a prior year or proof that a  
25 manufactured home for which a New Mexico certificate of title

.223540.1

underscored material = new  
[bracketed material] = delete

1 has been issued was manufactured in 1967 or a prior year is  
2 proof that a motor vehicle excise tax was paid on the initial  
3 sale or use in New Mexico of that manufactured home."

4 SECTION 201. Section 7-9-76.2 NMSA 1978 (being Laws  
5 1984, Chapter 2, Section 6) is amended to read:

6 "7-9-76.2. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--FILMS  
7 AND TAPES.--Receipts from the leasing or licensing of  
8 theatrical and television films and tapes to a person engaged  
9 in the business of providing public or commercial entertainment  
10 from which gross receipts are derived may be deducted from  
11 gross receipts."

12 SECTION 202. Section 7-9-77 NMSA 1978 (being Laws 1966,  
13 Chapter 47, Section 15, as amended) is amended to read:

14 "7-9-77. DEDUCTIONS--~~[COMPENSATING]~~ USE TAX--

15 A. Fifty percent of the value of agricultural  
16 implements, farm tractors, aircraft not exempted under Section  
17 7-9-30 NMSA 1978 or vehicles that are not required to be  
18 registered under the Motor Vehicle Code may be deducted from  
19 the value in computing the ~~[compensating]~~ use tax due; provided  
20 that, with respect to use of agricultural implements, the  
21 person using the property is regularly engaged in the business  
22 of farming or ranching. Any deduction allowed under Subsection  
23 B of this section is to be taken before the deduction allowed  
24 by this subsection is computed. As used in this subsection,  
25 "agricultural implement" means a tool, utensil or instrument

.223540.1

underscored material = new  
[bracketed material] = delete

1 that is:

2 (1) designed primarily for use with a source  
3 of motive power, such as a tractor, in planting, growing,  
4 cultivating, harvesting or processing agricultural produce at  
5 the place where the produce is grown; in raising poultry or  
6 livestock; or in obtaining or processing food or fiber, such as  
7 eggs, milk, wool or mohair, from living poultry or livestock at  
8 the place where the poultry or livestock are kept for this  
9 purpose; and

10 (2) depreciable for federal income tax  
11 purposes.

12 B. That portion of the value of tangible personal  
13 property on which an allowance was granted to the buyer for a  
14 trade-in of tangible personal property of the same type that  
15 was bought may be deducted from the value in computing the  
16 [~~compensating~~] use tax due."

17 SECTION 203. Section 7-9-77.1 NMSA 1978 (being Laws 1998,  
18 Chapter 96, Section 1, as amended by Laws 2022, Chapter 43,  
19 Section 1 and by Laws 2022, Chapter 49, Section 1) is amended  
20 to read:

21 "7-9-77.1. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
22 CERTAIN MEDICAL AND HEALTH CARE SERVICES.--

23 A. Receipts of a health care practitioner or an  
24 association of health care practitioners from payments by the  
25 United States government, or any agency thereof, or from a

.223540.1

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

1 medicare administrative contractor for medical and other health  
2 services provided by a health care practitioner to medicare  
3 beneficiaries pursuant to the provisions of Title 18 of the  
4 federal Social Security Act may be deducted from gross  
5 receipts.

6 B. Receipts of a hospice or nursing home from  
7 payments by the United States government, or any agency  
8 thereof, or from a medicare administrative contractor for  
9 medical and other health and palliative services provided by  
10 the hospice or nursing home to medicare beneficiaries pursuant  
11 to the provisions of Title 18 of the federal Social Security  
12 Act may be deducted from gross receipts.

13 C. Receipts of a health care practitioner or an  
14 association of health care practitioners from payments by a  
15 third-party administrator of the federal TRICARE program for  
16 medical and other health services provided by physicians and  
17 osteopathic physicians to covered beneficiaries may be deducted  
18 from gross receipts.

19 D. Receipts of a health care practitioner or an  
20 association of health care practitioners from payments by or on  
21 behalf of the Indian health service of the United States  
22 department of health and human services for medical and other  
23 health services provided by physicians and osteopathic  
24 physicians to covered beneficiaries may be deducted from gross  
25 receipts.

.223540.1

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

1           E. Receipts of a clinical laboratory from payments  
2 by the United States government, or any agency thereof, or from  
3 a medicare administrative contractor for medical services  
4 provided by the clinical laboratory to medicare beneficiaries  
5 pursuant to the provisions of Title 18 of the federal Social  
6 Security Act may be deducted from gross receipts.

7           F. Receipts of a home health agency from payments  
8 by the United States government, or any agency thereof, or from  
9 a medicare administrative contractor for medical, other health  
10 and palliative services provided by the home health agency to  
11 medicare beneficiaries pursuant to the provisions of Title 18  
12 of the federal Social Security Act may be deducted from gross  
13 receipts.

14           G. Prior to July 1, 2032, receipts of a dialysis  
15 facility from payments by the United States government, or any  
16 agency thereof, or from a medicare administrative contractor  
17 for medical and other health services provided by the dialysis  
18 facility to medicare beneficiaries pursuant to the provisions  
19 of Title 18 of the federal Social Security Act may be deducted  
20 from gross receipts.

21           H. A taxpayer allowed a deduction pursuant to this  
22 section shall report the amount of the deduction separately in  
23 a manner required by the department. A taxpayer who has  
24 receipts that are deductible pursuant to this section and  
25 Section 7-9-93 NMSA 1978 shall deduct the receipts under this

.223540.1

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

1 section prior to calculating the receipts that may be deducted  
2 pursuant to Section 7-9-93 NMSA 1978.

3 I. The department shall compile an annual report on  
4 the deductions created pursuant to this section that shall  
5 include the number of taxpayers that claimed each deduction,  
6 the aggregate amount of deductions claimed and any other  
7 information necessary to evaluate the effectiveness of the  
8 deductions. The department shall compile and present the  
9 annual reports to the revenue stabilization and tax policy  
10 committee and the legislative finance committee with an  
11 analysis of the effectiveness and cost of the deductions and  
12 whether the deductions are providing a benefit to the state.

13 J. For the purposes of this section:

14 (1) "association of health care practitioners"  
15 means a corporation, unincorporated business entity or other  
16 legal entity organized by, owned by or employing one or more  
17 health care practitioners; provided that the entity is not:

18 (a) an organization granted exemption  
19 from the federal income tax by the United States commissioner  
20 of internal revenue as organizations described in Section  
21 501(c)(3) of the United States Internal Revenue Code of 1986,  
22 as that section may be amended or renumbered; or

23 (b) a health maintenance organization,  
24 hospital, hospice, nursing home or an entity that is solely an  
25 outpatient facility or intermediate care facility licensed

.223540.1



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

1 pursuant to the Public Health Act;

2 (2) "clinical laboratory" means a laboratory  
3 accredited pursuant to 42 USCA 263a;

4 (3) "dialysis facility" means a facility that  
5 provides outpatient maintenance dialysis services or home  
6 dialysis training and support services, including a facility  
7 considered by the federal centers for medicare and medicaid  
8 services to be an independent or hospital-based facility that  
9 includes a self-care dialysis unit that furnishes only self-  
10 dialysis services;

11 (4) "health care practitioner" means:

12 (a) an athletic trainer licensed  
13 pursuant to the Athletic Trainer Practice Act;

14 (b) an audiologist licensed pursuant to  
15 the Speech-Language Pathology, Audiology and Hearing Aid  
16 Dispensing Practices Act;

17 (c) a chiropractic physician licensed  
18 pursuant to the Chiropractic Physician Practice Act;

19 (d) a counselor or therapist  
20 practitioner licensed pursuant to the Counseling and Therapy  
21 Practice Act;

22 (e) a dentist licensed pursuant to the  
23 Dental Health Care Act;

24 (f) a doctor of oriental medicine  
25 licensed pursuant to the Acupuncture and Oriental Medicine

.223540.1

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

1 Practice Act;

2 (g) an independent social worker  
3 licensed pursuant to the Social Work Practice Act;

4 (h) a massage therapist licensed  
5 pursuant to the Massage Therapy Practice Act;

6 (i) a naprapath licensed pursuant to the  
7 Naprapathic Practice Act;

8 (j) a nutritionist or dietitian licensed  
9 pursuant to the Nutrition and Dietetics Practice Act;

10 (k) an occupational therapist licensed  
11 pursuant to the Occupational Therapy Act;

12 (l) an optometrist licensed pursuant to  
13 the Optometry Act;

14 (m) an osteopathic physician licensed  
15 pursuant to the Medical Practice Act;

16 (n) a pharmacist licensed pursuant to  
17 the Pharmacy Act;

18 (o) a physical therapist licensed  
19 pursuant to the Physical Therapy Act;

20 (p) a physician licensed pursuant to the  
21 Medical Practice Act;

22 (q) a podiatrist licensed pursuant to  
23 the Podiatry Act;

24 (r) a psychologist licensed pursuant to  
25 the Professional Psychologist Act;

.223540.1

1 (s) a radiologic technologist licensed  
2 pursuant to the Medical Imaging and Radiation Therapy Health  
3 and Safety Act;

4 (t) a registered nurse licensed pursuant  
5 to the Nursing Practice Act;

6 (u) a respiratory care practitioner  
7 licensed pursuant to the Respiratory Care Act; and

8 (v) a speech-language pathologist  
9 licensed pursuant to the Speech-Language Pathology, Audiology  
10 and Hearing Aid Dispensing Practices Act;

11 (5) "home health agency" means a for-profit  
12 entity that is licensed by the department of health and  
13 certified by the federal centers for medicare and medicaid  
14 services as a home health agency and certified to provide  
15 medicare services;

16 (6) "hospice" means a for-profit entity  
17 licensed by the department of health as a hospice and certified  
18 to provide medicare services;

19 (7) "medicare administrative contractor" means  
20 a third-party administrator operating under contract with the  
21 federal centers for medicare and medicaid services to process  
22 medicare claims and make medicare fee-for-service payments for  
23 medicare fee-for-service beneficiaries;

24 (8) "nursing home" means a for-profit entity  
25 licensed by the department of health as a nursing home and

underscoring material = new  
[bracketed material] = delete

1 certified to provide medicare services; and

2 (9) "TRICARE program" means the program  
3 defined in 10 U.S.C. 1072(7)."

4 SECTION 204. Section 7-9-78 NMSA 1978 (being Laws 1969,  
5 Chapter 144, Section 65, as amended) is amended to read:

6 "7-9-78. DEDUCTIONS--~~[COMPENSATING]~~ USE TAX--USE OF  
7 TANGIBLE PERSONAL PROPERTY FOR LEASING.--

8 A. Except as provided otherwise in Subsection B of  
9 this section, the value of tangible personal property may be  
10 deducted in computing the ~~[compensating]~~ use tax due if the  
11 person using the tangible personal property:

12 (1) is engaged in a business which derives a  
13 substantial portion of its receipts from leasing or selling  
14 tangible personal property of the type leased;

15 (2) does not use the tangible personal  
16 property in any manner other than holding it for lease or sale  
17 or leasing or selling it either by itself or in combination  
18 with other tangible personal property in the ordinary course of  
19 business; and

20 (3) does not use the tangible personal  
21 property in a manner incidental to the performance of a  
22 service.

23 B. The deduction provided by this section shall not  
24 apply to the value of:

25 (1) furniture or appliances furnished as part

.223540.1

underscored material = new  
[bracketed material] = delete

1 of a leased or rented dwelling house or apartment by the  
2 landlord or lessor;

3 (2) coin-operated machines; or

4 (3) manufactured homes."

5 SECTION 205. Section 7-9-78.1 NMSA 1978 (being Laws  
6 1999, Chapter 231, Section 4) is amended to read:

7 "7-9-78.1. DEDUCTION--~~[COMPENSATING]~~ USE TAX--URANIUM  
8 ENRICHMENT PLANT EQUIPMENT.--The value of equipment and  
9 replacement parts for that equipment may be deducted in  
10 computing the ~~[compensating]~~ use tax due if the person uses the  
11 equipment and replacement parts to enrich uranium in a uranium  
12 enrichment plant."

13 SECTION 206. Section 7-9-79 NMSA 1978 (being Laws 1966,  
14 Chapter 47, Section 16, as amended) is amended to read:

15 "7-9-79. CREDIT--~~[COMPENSATING]~~ USE TAX.--

16 A. If, on property or services bought outside this  
17 state, a gross receipts, sales, compensating or similar tax has  
18 been levied by another state or political subdivision thereof  
19 on the transaction by which the person using the property or  
20 services in New Mexico acquired the property or a compensating,  
21 use or similar tax has been levied by another state on the use  
22 of the property subsequent to its acquisition by the person  
23 using the property or services in New Mexico and such tax has  
24 been paid, the amount of such tax paid may be credited against  
25 any ~~[compensating]~~ use tax due this state on the same property.

.223540.1

underscored material = new  
[bracketed material] = delete

1 The credit allowed pursuant to this subsection shall not exceed  
2 the [~~compensating~~] use tax due on the property or services used  
3 in New Mexico.

4 B. When the receipts from the sale of real property  
5 constructed by a person in the ordinary course of the person's  
6 construction business are subject to the [~~gross receipts~~] sales  
7 tax, the amount of [~~compensating~~] use tax previously paid by  
8 the person on materials that became an ingredient or component  
9 part of the construction project and on construction services  
10 performed upon the construction project may be credited against  
11 the [~~gross receipts~~] sales tax due on the sale."

12 SECTION 207. Section 7-9-79.1 NMSA 1978 (being Laws  
13 1989, Chapter 262, Section 8, as amended) is amended to read:

14 "7-9-79.1. CREDIT--~~[GROSS RECEIPTS]~~ SALES TAX--  
15 SERVICES.--If on services performed outside the state a gross  
16 receipts sales or similar tax has been levied by another state  
17 or a political subdivision thereof and such tax has been paid,  
18 the amount of the tax paid may be credited against any [~~gross~~  
19 receipts] sales tax due this state on the receipts after July  
20 1, 1989 from the sale in New Mexico of the product of the  
21 services performed outside this state. The amount of credit  
22 shall not exceed an amount equal to the rate of tax imposed  
23 under Section 7-9-4 NMSA 1978 multiplied by the amount subject  
24 to tax by both New Mexico and the other state or political  
25 subdivision of that state."

.223540.1

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

1           **SECTION 208.** Section 7-9-79.2 NMSA 1978 (being Laws  
2 2007, Chapter 204, Section 9) is amended to read:

3           "7-9-79.2. [~~GROSS RECEIPTS~~] SALES TAX--[~~COMPENSATING~~]  
4 USE TAX--BIODIESEL BLENDING FACILITY TAX CREDIT.--

5           A. A taxpayer who is a rack operator as defined in  
6 the Special Fuels Supplier Tax Act and who installs biodiesel  
7 blending equipment in property owned by the taxpayer for the  
8 purpose of establishing or expanding a facility to produce  
9 blended biodiesel fuel is eligible to claim a credit against  
10 [~~gross receipts~~] sales tax or [~~compensating~~] use tax. The  
11 credit shall be an amount equal to thirty percent of the  
12 purchase cost of the equipment plus thirty percent of the cost  
13 of installing that equipment. The credit provided by this  
14 section may be referred to as the "biodiesel blending facility  
15 tax credit".

16           B. The biodiesel blending facility tax credit shall  
17 not exceed fifty thousand dollars (\$50,000) with respect to  
18 equipment installed at any one facility.

19           C. Upon application from a taxpayer wishing to  
20 claim the biodiesel blending facility tax credit, the energy,  
21 minerals and natural resources department shall determine if  
22 the equipment for which the tax credit will be claimed meets  
23 the requirements of this section and if purchase and  
24 installation costs reported by the taxpayer are legitimate.  
25 Upon these determinations being made in favor of the taxpayer,

.223540.1

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

1 the energy, minerals and natural resources department shall  
2 issue a dated certificate of eligibility containing this  
3 information and an estimate of the amount of the biodiesel  
4 blending facility tax credit for which the taxpayer is  
5 eligible.

6 D. To claim the biodiesel blending facility tax  
7 credit, the taxpayer shall provide to the taxation and revenue  
8 department the certificate of eligibility from the energy,  
9 minerals and natural resources department. Upon receipt of the  
10 certificate, the taxation and revenue department shall approve  
11 the claim for the credit if the total cumulative amount of  
12 approved claims for the credit for all taxpayers for the  
13 calendar year does not exceed one million dollars (\$1,000,000).  
14 The department shall maintain a record of the cumulative amount  
15 of claims for the credit that have been approved and when it  
16 determines that this cumulative amount has reached one million  
17 dollars (\$1,000,000), it shall cease approving any additional  
18 claims for the biodiesel blending facility tax credit.

19 E. If a taxpayer who has received the biodiesel  
20 blending facility tax credit ceases biodiesel blending without  
21 completing at least one hundred eighty days of availability of  
22 the facility within the first three hundred sixty-five days  
23 after the issuance of the certificate of eligibility from the  
24 energy, minerals and natural resources department, any amount  
25 of approved credit not applied against the taxpayer's ~~gross~~

.223540.1



underscored material = new  
[bracketed material] = delete

1 ~~receipts~~ sales tax or [~~compensating~~] use tax liability shall  
2 be extinguished. The taxpayer must amend the taxpayer's  
3 return, self-assess the tax owed and return any biodiesel  
4 blending facility tax credit received within four hundred  
5 twenty-five days of the date of issuance of the certificate of  
6 eligibility.

7 F. The tax credit provided by this section may only  
8 be applied against the taxpayer's [~~gross receipts~~] sales tax  
9 liability or [~~compensating~~] use tax liability. If the credit  
10 exceeds the taxpayer's tax liability in the reporting period  
11 for which it is granted, the credit may be carried forward for  
12 four years from the date of the certificate of eligibility.

13 G. For the purposes of this section:

14 (1) "biodiesel" means renewable,  
15 biodegradable, monoalkyl ester combustible liquid fuel that is  
16 derived from agricultural plant oils or animal fats and that  
17 meets American society for testing and materials D 6751  
18 standard specification for biodiesel B100 blend stock for  
19 distillate fuels;

20 (2) "biodiesel blending equipment" means  
21 equipment necessary for the process of blending biodiesel with  
22 diesel fuel to produce blended biodiesel fuel;

23 (3) "blended biodiesel fuel" means a diesel  
24 fuel that contains at least two percent biodiesel; and

25 (4) "diesel fuel" means any diesel-engine fuel

.223540.1

underscored material = new  
[bracketed material] = delete

1 used for the generation of power to propel a motor vehicle."

2 SECTION 209. Section 7-9-83 NMSA 1978 (being Laws 1993,  
3 Chapter 364, Section 1, as amended) is amended to read:

4 "7-9-83. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--JET  
5 FUEL.--

6 ~~[A. From July 1, 2003 through June 30, 2017,~~  
7 ~~fifty-five percent of the receipts from the sale of fuel~~  
8 ~~specially prepared and sold for use in turboprop or jet-type~~  
9 ~~engines as determined by the department may be deducted from~~  
10 ~~gross receipts.~~

11 ~~B. After June 30, 2017]~~ Forty percent of the  
12 receipts from the sale of fuel specially prepared and sold for  
13 use in turboprop or jet-type engines as determined by the  
14 department may be deducted from gross receipts."

15 SECTION 210. Section 7-9-84 NMSA 1978 (being Laws 1993,  
16 Chapter 364, Section 2, as amended) is amended to read:

17 "7-9-84. DEDUCTION--~~[COMPENSATING]~~ USE TAX--JET FUEL.--

18 ~~[A. From July 1, 2003 through June 30, 2017, fifty-~~  
19 ~~five percent of the value of the fuel specially prepared and~~  
20 ~~sold for use in turboprop or jet-type engines as determined by~~  
21 ~~the department may be deducted in computing the compensating~~  
22 ~~tax due.~~

23 ~~B. After June 30, 2017]~~ Forty percent of the value  
24 of the fuel specially prepared and sold for use in turboprop or  
25 jet-type engines as determined by the department may be

.223540.1

underscored material = new  
[bracketed material] = delete

1 deducted in computing the [~~compensating~~] use tax due."

2 SECTION 211. Section 7-9-85 NMSA 1978 (being Laws 1994,  
3 Chapter 43, Section 1) is amended to read:

4 "7-9-85. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--CERTAIN  
5 ORGANIZATION FUNDRAISERS.--Receipts from not more than two  
6 fundraising events annually conducted by an organization that  
7 is exempt from the federal income tax as an organization  
8 described in Section 501(c), other than an organization  
9 described in Section 501(c)(3), of the United States Internal  
10 Revenue Code of 1986, as amended, may be deducted from gross  
11 receipts."

12 SECTION 212. Section 7-9-86 NMSA 1978 (being Laws 1995,  
13 Chapter 80, Section 1, as amended) is amended to read:

14 "7-9-86. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALES TO  
15 QUALIFIED FILM PRODUCTION COMPANY.--

16 A. Receipts from selling or leasing property and  
17 from performing services may be deducted from gross receipts or  
18 from governmental gross receipts if the sale, lease or  
19 performance is made to a qualified production company that  
20 delivers a nontaxable transaction certificate to the seller,  
21 lessor or performer.

22 B. For the purposes of this section:

23 (1) "film" means a single media or multimedia  
24 program, including an advertising message, that:

25 (a) is fixed on film, digital medium,

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

1 videotape, computer disc, laser disc or other similar delivery  
2 medium;

3 (b) can be viewed or reproduced;

4 (c) is not intended to and does not  
5 violate a provision of Chapter 30, Article 37 NMSA 1978; and

6 (d) is intended for reasonable  
7 commercial exploitation for the delivery medium used;

8 (2) "production company" means a person that  
9 produces one or more films for exhibition in theaters, on  
10 television or elsewhere;

11 (3) "production costs" means the costs of the  
12 following:

13 (a) a story and scenario to be used for  
14 a film;

15 (b) salaries of talent, management and  
16 labor, including payments to personal services corporations for  
17 the services of a performing artist;

18 (c) set construction and operations,  
19 wardrobe, accessories and related services;

20 (d) photography, sound synchronization,  
21 lighting and related services;

22 (e) editing and related services;

23 (f) rental of facilities and equipment;

24 or

25 (g) other direct costs of producing the

.223540.1

underscored material = new  
[bracketed material] = delete

1 film in accordance with generally accepted entertainment  
2 industry practice; and

3 (4) "qualified production company" means a  
4 production company that meets the provisions of this section  
5 and has registered or will register with the New Mexico film  
6 division of the economic development department.

7 C. A qualified production company may deliver the  
8 nontaxable transaction certificates authorized by this section  
9 only with respect to production costs."

10 SECTION 213. Section 7-9-87 NMSA 1978 (being Laws 1995,  
11 Chapter 155, Section 35) is amended to read:

12 "7-9-87. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--LOTTERY  
13 RETAILER RECEIPTS.--Receipts of a lottery game retailer from  
14 selling lottery tickets pursuant to the New Mexico Lottery Act  
15 may be deducted from gross receipts."

16 SECTION 214. Section 7-9-88.1 NMSA 1978 (being Laws  
17 1999, Chapter 223, Section 2, as amended) is amended to read:

18 "7-9-88.1. CREDIT--~~[GROSS RECEIPTS]~~ SALES TAX--TAX PAID  
19 TO CERTAIN TRIBES.--

20 A. If on a taxable transaction taking place on  
21 tribal land a qualifying gross receipts, sales or similar tax  
22 has been levied by the tribe, the amount of the tribe's tax may  
23 be credited against ~~[gross receipts]~~ sales tax due this state  
24 or its political subdivisions ~~[pursuant to the Gross Receipts~~  
25 ~~and Compensating Tax Act]~~ and a local option ~~[gross receipts]~~

.223540.1

underscored material = new  
[bracketed material] = delete

1 sales tax on the same transaction. The amount of the credit  
2 shall be equal to the lesser of seventy-five percent of the tax  
3 imposed by the tribe on the receipts from the transaction or  
4 seventy-five percent of the revenue produced by the sum of the  
5 rate of the sales tax [~~imposed pursuant to the Gross Receipts~~  
6 ~~and Compensating Tax Act~~] and the total of the rates of local  
7 option [~~gross receipts~~] sales taxes imposed on the receipts  
8 from the same transaction. Notwithstanding any other provision  
9 of law to the contrary, the amount of credit taken and allowed  
10 shall be applied proportionately against the amount of the  
11 [~~gross receipts~~] sales tax and local option [~~gross receipts~~]  
12 sales taxes and against the amount of distribution of those  
13 taxes pursuant to Section 7-1-6.1 NMSA 1978.

14 B. A qualifying gross receipts, sales or similar  
15 tax levied by the tribe shall be limited to a tax that:

16 (1) is substantially similar to the [~~gross~~  
17 ~~receipts~~] sales tax [~~imposed by the Gross Receipts and~~  
18 ~~Compensating Tax Act~~];

19 (2) does not unlawfully discriminate among  
20 persons or transactions based on membership in the tribe;

21 (3) is levied on the taxable transaction at a  
22 rate not greater than the total of the [~~gross receipts~~] sales  
23 tax rate and local option [~~gross receipts~~] sales tax rates  
24 imposed by this state and its political subdivisions located  
25 within the exterior boundaries of the tribe;

.223540.1

underscored material = new  
[bracketed material] = delete

1 (4) provides a credit against the tribe's tax  
2 equal to the lesser of twenty-five percent of the tax imposed  
3 by the tribe on the receipts from the transactions or twenty-  
4 five percent of the tax revenue produced by the sum of the rate  
5 of the sales tax [~~imposed pursuant to the Gross Receipts and~~  
6 ~~Compensating Tax Act~~] and the total of the rates of the local  
7 option [~~gross receipts~~] sales taxes imposed on the receipts  
8 from the same transactions; and

9 (5) is subject to a cooperative agreement  
10 between the tribe and the secretary entered into pursuant to  
11 Section 9-11-12.1 NMSA 1978 and in effect at the time of the  
12 taxable transaction.

13 C. For purposes of the tax credit allowed by this  
14 section:

15 (1) "pueblo" means the Pueblo of Acoma,  
16 Cochiti, Isleta, Jemez, Laguna, Nambe, Picuris, Pojoaque,  
17 Sandia, San Felipe, San Ildefonso, San Juan, Santa Ana, Santa  
18 Clara, Santo Domingo, Taos, Tesuque, Zia or Zuni or the  
19 nineteen New Mexico pueblos acting collectively;

20 (2) "tribal land" means all land that is owned  
21 by a tribe located within the exterior boundaries of a tribe's  
22 reservation or grant and all land held by the United States in  
23 trust for that tribe; and

24 (3) "tribe" means a pueblo, the Jicarilla  
25 Apache Nation or the Mescalero Apache Tribe."

.223540.1

underscored material = new  
[bracketed material] = delete

1           SECTION 215. Section 7-9-88.2 NMSA 1978 (being Laws  
2 2001, Chapter 134, Section 1) is amended to read:

3           "7-9-88.2. CREDIT--~~[GROSS RECEIPTS]~~ SALES TAX--TAX PAID  
4 TO NAVAJO NATION ON RECEIPTS FROM SELLING COAL.--

5           A. If on receipts from selling coal severed from  
6 Navajo Nation land a qualifying gross receipts, sales, business  
7 activity or similar tax has been levied by the Navajo Nation,  
8 the amount of the Navajo Nation tax paid and not refunded may  
9 be credited against any ~~[gross receipts]~~ sales tax due this  
10 state or its political subdivisions ~~[pursuant to the Gross  
11 Receipts and Compensating Tax Act]~~ and any local option ~~[gross  
12 receipts]~~ sales tax on the same receipts. The amount of the  
13 credit shall be equal to

14                           ~~[(1) for the period from July 1, 2001 through  
15 June 30, 2002, the lesser of thirty-seven and one-half percent  
16 of the tax imposed by the Navajo Nation on the receipts or  
17 thirty-seven and one-half percent of the revenue produced by  
18 the sum of the rate of tax imposed pursuant to the Gross  
19 Receipts and Compensating Tax Act and the total of the rates of  
20 local option gross receipts taxes imposed on the same  
21 receipts; and~~

22                           ~~(2) after June 30, 2002]~~ the lesser of  
23 seventy-five percent of the tax imposed by the Navajo Nation on  
24 the receipts or seventy-five percent of the revenue produced by  
25 the sum of the sales tax rate ~~[of tax imposed pursuant to the  
.223540.1~~



underscored material = new  
[bracketed material] = delete

1 ~~Gross Receipts and Compensating Tax Act~~] and the total of the  
2 rates of local option [~~gross receipts~~] sales taxes imposed on  
3 the same receipts.

4 B. Notwithstanding any other provision of law to  
5 the contrary, the amount of credit taken and allowed shall be  
6 applied proportionately against the amounts of the  
7 distributions made pursuant to Section 7-1-6.1 NMSA 1978 of the  
8 [~~gross receipts~~] sales tax and local option [~~gross receipts~~]  
9 sales taxes imposed on those receipts.

10 C. A qualifying gross receipts, sales, business  
11 activity or similar tax levied by the Navajo Nation shall be  
12 limited to a tax that:

13 (1) is substantially similar to the [~~gross~~  
14 ~~receipts~~] sales tax [~~imposed by the Gross Receipts and~~  
15 ~~Compensating Tax Act~~];

16 (2) does not unlawfully discriminate among  
17 persons or transactions based on membership in the Navajo  
18 Nation;

19 (3) is levied on the receipts from selling  
20 coal at a rate not greater than the total of the [~~gross~~  
21 ~~receipts~~] sales tax rate and local option [~~gross receipts~~]  
22 sales tax rates imposed by this state and its political  
23 subdivisions located within the exterior boundaries of the  
24 Navajo Nation;

25 (4) provides a credit against the Navajo

.223540.1

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

1 Nation tax equal to

2 ~~[(a) for the period from July 1, 2001~~  
3 ~~through June 30, 2002, the lesser of twelve and one-half~~  
4 ~~percent of the tax imposed by the Navajo Nation on the receipts~~  
5 ~~from selling coal severed from Navajo Nation land or twelve and~~  
6 ~~one-half percent of the tax revenue produced by the sum of the~~  
7 ~~rate of tax imposed pursuant to the Gross Receipts and~~  
8 ~~Compensating Tax Act and the total of the rates of the local~~  
9 ~~option gross receipts taxes imposed on the same receipts; and~~

10 ~~(b) after June 30, 2002]~~ the lesser of  
11 twenty-five percent of the tax imposed by the Navajo Nation on  
12 the receipts from selling coal severed from Navajo Nation land  
13 or twenty-five percent of the tax revenue produced by the sum  
14 of the rate of the sales tax ~~[imposed pursuant to the Gross~~  
15 ~~Receipts and Compensating Tax Act]~~ and the total of the rates  
16 of the local option ~~[gross receipts]~~ sales taxes imposed on the  
17 same receipts;

18 (5) is not used to calculate an  
19 intergovernmental coal severance tax credit with respect to the  
20 same receipts or time period; and

21 (6) is subject to a cooperative agreement  
22 between the Navajo Nation and the secretary entered into  
23 pursuant to Section 9-11-12.2 NMSA 1978 and in effect at the  
24 time of the taxable transaction.

25 D. For purposes of the tax credit allowed by this

.223540.1

underscored material = new  
[bracketed material] = delete

1 section, "Navajo Nation land" means all land in New Mexico  
2 that, on March 1, 2001, was located within the exterior  
3 boundaries of the Navajo Nation reservation or within a  
4 dependent community of the Navajo Nation or was land held by  
5 the United States in trust for the Navajo Nation."

6 SECTION 216. Section 7-9-90 NMSA 1978 (being Laws 1999,  
7 Chapter 231, Section 3, as amended) is amended to read:

8 "7-9-90. DEDUCTIONS--~~[GROSS RECEIPTS]~~ SALES TAX--SALES  
9 OF URANIUM HEXAFLUORIDE AND ENRICHMENT OF URANIUM.--

10 A. Receipts from selling uranium hexafluoride and  
11 from providing the service of enriching uranium may be deducted  
12 from gross receipts.

13 B. The department shall annually report to the  
14 revenue stabilization and tax policy committee aggregate  
15 amounts of deductions taken pursuant to this section, the  
16 number of taxpayers claiming the deduction and any other  
17 information that is necessary to determine that the deduction  
18 is performing a purpose that is beneficial to the state.

19 C. A taxpayer deducting gross receipts pursuant to  
20 this section shall report the amount deducted separately and  
21 attribute the amount of the deduction to the authorization  
22 provided in this section in a manner required by the department  
23 that facilitates the evaluation by the legislature for the  
24 benefit to the state of this deduction."

25 SECTION 217. Section 7-9-91 NMSA 1978 (being Laws 2001,

.223540.1

underscoring material = new  
[bracketed material] = delete

1 Chapter 135, Section 1) is amended to read:

2 "7-9-91. DEDUCTION--~~[COMPENSATING]~~ USE TAX--  
3 CONTRIBUTIONS OF INVENTORY TO CERTAIN ORGANIZATIONS AND  
4 GOVERNMENTAL AGENCIES.--

5 A. Except as provided otherwise in Subsection D of  
6 this section, the value of tangible personal property that is  
7 removed from inventory and contributed to organizations that  
8 have been granted exemption from the federal income tax by the  
9 United States commissioner of internal revenue as organizations  
10 described in Section 501(c)(3) of the Internal Revenue Code of  
11 1986, as amended, may be deducted in computing the  
12 ~~[compensating]~~ use tax due, provided that the contribution is  
13 deductible for federal income tax purposes by the person from  
14 whose inventory the property was withdrawn or, if the person  
15 from whose inventory the property was withdrawn is a pass-  
16 through entity as that term is defined in Section ~~[7-3-2]~~  
17 7-3A-2 NMSA 1978, the contribution is deductible by the owner  
18 or owners of the pass-through entity.

19 B. Except as provided otherwise in Subsection D of  
20 this section, the value of tangible personal property that is  
21 removed from inventory and contributed to the United States or  
22 New Mexico or any governmental unit or subdivision, agency,  
23 department or instrumentality thereof may be deducted in  
24 computing the ~~[compensating]~~ use tax due.

25 C. Except as provided otherwise in Subsection D of  
.223540.1

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

1 this section, the value of tangible personal property that is  
2 removed from inventory and contributed to an Indian tribe,  
3 nation or pueblo or any governmental subdivision, agency,  
4 department or instrumentality thereof for use on that Indian  
5 reservation or pueblo grant may be deducted in computing the  
6 [~~compensating~~] use tax due.

7 D. Unless contrary to federal law, the deduction  
8 provided by this section does not apply to:

9 (1) a contribution of metalliferous mineral  
10 ore;

11 (2) a contribution of tangible personal  
12 property that is or will be incorporated into a metropolitan  
13 redevelopment project created under the Metropolitan  
14 Redevelopment Code;

15 (3) a contribution of tangible personal  
16 property that will become an ingredient or component part of a  
17 construction project; or

18 (4) a contribution of tangible personal  
19 property utilized or produced in the performance of a service.

20 E. For purposes of this section:

21 (1) "inventory" means tangible personal  
22 property held for sale or lease in the ordinary course of  
23 business; and

24 (2) "contributed" or "contribution" means a  
25 transfer of ownership without consideration. Public

.223540.1

underscoring material = new  
[bracketed material] = delete

1 acknowledgment of the contribution does not constitute  
2 consideration for the purpose of this section."

3 SECTION 218. Section 7-9-92 NMSA 1978 (being Laws 2004,  
4 Chapter 116, Section 5, as amended) is amended to read:

5 "7-9-92. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF  
6 FOOD AT RETAIL FOOD STORE.--

7 A. Receipts from the sale of food by a retail food  
8 store that are not exempt from ~~[gross receipts taxation]~~ the  
9 sales tax and are not deductible pursuant to another provision  
10 of the ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act  
11 may be deducted from gross receipts. The deduction provided by  
12 this section shall be separately stated by the taxpayer.

13 B. For the purposes of this section:

14 (1) "food" means any food or food product for  
15 home consumption that meets the definition of food in 7 USCA  
16 2012(k)(1) for purposes of the federal supplemental nutrition  
17 assistance program; and

18 (2) "retail food store" means an establishment  
19 that sells food for home preparation and consumption and that  
20 meets the definition of retail food store in 7 USCA 2012(o)(1)  
21 for purposes of the federal supplemental nutrition assistance  
22 program, whether or not the establishment participates in the  
23 supplemental nutrition assistance program."

24 SECTION 219. Section 7-9-93 NMSA 1978 (being Laws 2004,  
25 Chapter 116, Section 6, as amended) is amended to read:

.223540.1

underscoring material = new  
[bracketed material] = delete

1 "7-9-93. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--CERTAIN  
2 RECEIPTS FOR SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR  
3 ASSOCIATION OF HEALTH CARE PRACTITIONERS.--

4 A. Receipts of a health care practitioner or an  
5 association of health care practitioners for commercial  
6 contract services or medicare part C services paid by a managed  
7 health care provider or health care insurer may be deducted  
8 from gross receipts if the services are within the scope of  
9 practice of the health care practitioner providing the service.  
10 Receipts from fee-for-service payments by a health care insurer  
11 may not be deducted from gross receipts.

12 B. The deduction provided by this section shall be  
13 applied only to gross receipts remaining after all other  
14 allowable deductions available under the ~~[Gross Receipts and~~  
15 ~~Compensating]~~ Sales and Use Tax Act have been taken and shall  
16 be separately stated by the taxpayer.

17 C. For the purposes of this section:

18 (1) "association of health care practitioners"  
19 means a corporation, unincorporated business entity or other  
20 legal entity organized by, owned by or employing one or more  
21 health care practitioners; provided that the entity is not:

22 (a) an organization granted exemption  
23 from the federal income tax by the United States commissioner  
24 of internal revenue as organizations described in Section  
25 501(c)(3) of the United States Internal Revenue Code of 1986,

.223540.1

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

1 as that section may be amended or renumbered; or

2 (b) a health maintenance organization,  
3 hospital, hospice, nursing home or an entity that is solely an  
4 outpatient facility or intermediate care facility licensed  
5 pursuant to the Public Health Act;

6 (2) "commercial contract services" means  
7 health care services performed by a health care practitioner  
8 pursuant to a contract with a managed health care provider or  
9 health care insurer other than those health care services  
10 provided for medicare patients pursuant to Title 18 of the  
11 federal Social Security Act or for medicaid patients pursuant  
12 to Title 19 or Title 21 of the federal Social Security Act;

13 (3) "health care insurer" means a person that:

14 (a) has a valid certificate of authority  
15 in good standing pursuant to the New Mexico Insurance Code to  
16 act as an insurer, health maintenance organization or nonprofit  
17 health care plan or prepaid dental plan; and

18 (b) contracts to reimburse licensed  
19 health care practitioners for providing basic health services  
20 to enrollees at negotiated fee rates;

21 (4) "health care practitioner" means:

22 (a) a chiropractic physician licensed  
23 pursuant to the provisions of the Chiropractic Physician  
24 Practice Act;

25 (b) a dentist or dental hygienist

.223540.1



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

1 licensed pursuant to the Dental Health Care Act;

2 (c) a doctor of oriental medicine  
3 licensed pursuant to the provisions of the Acupuncture and  
4 Oriental Medicine Practice Act;

5 (d) an optometrist licensed pursuant to  
6 the provisions of the Optometry Act;

7 (e) an osteopathic physician or an  
8 osteopathic physician assistant licensed pursuant to the  
9 provisions of the ~~[Osteopathic Medicine]~~ Medical Practice Act;

10 (f) a physical therapist licensed  
11 pursuant to the provisions of the Physical Therapy Act;

12 (g) a physician or physician assistant  
13 licensed pursuant to the provisions of the Medical Practice  
14 Act;

15 (h) a podiatrist licensed pursuant to  
16 the provisions of the Podiatry Act;

17 (i) a psychologist licensed pursuant to  
18 the provisions of the Professional Psychologist Act;

19 (j) a registered lay midwife registered  
20 by the department of health;

21 (k) a registered nurse or licensed  
22 practical nurse licensed pursuant to the provisions of the  
23 Nursing Practice Act;

24 (l) a registered occupational therapist  
25 licensed pursuant to the provisions of the Occupational Therapy

.223540.1

1 Act;

2 (m) a respiratory care practitioner  
3 licensed pursuant to the provisions of the Respiratory Care  
4 Act;

5 (n) a speech-language pathologist or  
6 audiologist licensed pursuant to the Speech-Language Pathology,  
7 Audiology and Hearing Aid Dispensing Practices Act;

8 (o) a professional clinical mental  
9 health counselor, marriage and family therapist or professional  
10 art therapist licensed pursuant to the provisions of the  
11 Counseling and Therapy Practice Act who has obtained a master's  
12 degree or a doctorate;

13 (p) an independent social worker  
14 licensed pursuant to the provisions of the Social Work Practice  
15 Act; and

16 (q) a clinical laboratory that is  
17 accredited pursuant to 42 U.S.C. Section 263a but that is not a  
18 laboratory in a physician's office or in a hospital defined  
19 pursuant to 42 U.S.C. Section 1395x;

20 (5) "managed health care provider" means a  
21 person that provides for the delivery of comprehensive basic  
22 health care services and medically necessary services to  
23 individuals enrolled in a plan through its own employed health  
24 care providers or by contracting with selected or participating  
25 health care providers. "Managed health care provider" includes

.223540.1

underscored material = new  
[bracketed material] = delete

1 only those persons that provide comprehensive basic health care  
2 services to enrollees on a contract basis, including the  
3 following:

- 4 (a) health maintenance organizations;
- 5 (b) preferred provider organizations;
- 6 (c) individual practice associations;
- 7 (d) competitive medical plans;
- 8 (e) exclusive provider organizations;
- 9 (f) integrated delivery systems;
- 10 (g) independent physician-provider  
11 organizations;
- 12 (h) physician hospital-provider  
13 organizations; and
- 14 (i) managed care services organizations;
- 15 and

16 (6) "medicare part C services" means services  
17 performed pursuant to a contract with a managed health care  
18 provider for medicare patients pursuant to Title 18 of the  
19 federal Social Security Act."

20 SECTION 220. Section 7-9-94 NMSA 1978 (being Laws 2005,  
21 Chapter 104, Section 23, as amended) is amended to read:

22 "7-9-94. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--MILITARY  
23 TRANSFORMATIONAL ACQUISITION PROGRAMS.--

24 A. Receipts from transformational acquisition  
25 programs performing research and development, test and

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

1 evaluation at New Mexico major range and test facility bases  
2 pursuant to contracts entered into with the United States  
3 department of defense may be deducted from gross receipts  
4 through June 30, 2025.

5 B. As used in this section, "transformational  
6 acquisition program" means a military acquisition program  
7 authorized by the office of the secretary of defense force  
8 transformation and not physically tested in New Mexico on or  
9 before July 1, 2005.

10 C. The deduction provided in this section does not  
11 apply to receipts of a prime contractor operating facilities  
12 designated as a national laboratory by act of congress and is  
13 not applicable to current force programs as of July 1, 2005.

14 D. The department shall compile an annual report on  
15 the deduction provided by this section that shall include the  
16 number of taxpayers that claimed the deduction, the aggregate  
17 amount of deductions claimed and any other information  
18 necessary to evaluate the effectiveness of the deduction. No  
19 later than December 1 of each year that the deduction is in  
20 effect, the department shall compile and present the annual  
21 report to the revenue stabilization and tax policy committee  
22 and the legislative finance committee with an analysis of the  
23 cost and benefit to the state of the deduction."

24 SECTION 221. Section 7-9-95 NMSA 1978 (being Laws 2005,  
25 Chapter 104, Section 25) is amended to read:

.223540.1

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

1           "7-9-95. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALES OF  
2 CERTAIN TANGIBLE PERSONAL PROPERTY--LIMITED PERIOD.--Receipts  
3 from the sale at retail of the following types of tangible  
4 personal property may be deducted if the sale of the property  
5 occurs during the period beginning at 12:01 a.m. on the first  
6 Friday in August and ending at midnight on the following  
7 Sunday:

8           A. an article of clothing or footwear designed to  
9 be worn on or about the human body if the sales price of the  
10 article is less than one hundred dollars (\$100) except:

11                   (1) any special clothing or footwear that is  
12 primarily designed for athletic activity or protective use and  
13 that is not normally worn except when used for the athletic  
14 activity or protective use for which it is designed; and

15                   (2) accessories, including jewelry, handbags,  
16 luggage, umbrellas, wallets, watches and similar items worn or  
17 carried on or about the human body, without regard to whether  
18 worn on the body in a manner characteristic of clothing;

19           B. a desktop, laptop or notebook computer if the  
20 sales price of the computer does not exceed one thousand  
21 dollars (\$1,000) and any associated monitor, speaker or set of  
22 speakers, printer, keyboard, microphone or mouse if the sales  
23 price of the device does not exceed five hundred dollars  
24 (\$500); and

25           C. school supplies that are items normally used by

.223540.1

underscored material = new  
[bracketed material] = delete

1 students in a standard classroom for educational purposes,  
2 including notebooks, paper, writing instruments, crayons, art  
3 supplies, rulers, book bags, backpacks, handheld calculators,  
4 maps and globes, but not including watches, radios, compact  
5 disc players, headphones, sporting equipment, portable or  
6 desktop telephones, copiers, office equipment, furniture or  
7 fixtures."

8 SECTION 222. Section 7-9-96.2 NMSA 1978 (being Laws  
9 2007, Chapter 361, Section 8, as amended) is amended to read:

10 "7-9-96.2. CREDIT--~~[GROSS RECEIPTS]~~ SALES TAX--UNPAID  
11 CHARGES FOR SERVICES PROVIDED IN A HOSPITAL.--

12 A. A licensed medical doctor, licensed osteopathic  
13 physician or association of licensed medical doctors or  
14 osteopathic physicians may claim a credit against [~~gross~~  
15 ~~receipts~~] sales taxes due in an amount equal to the value of  
16 unpaid qualified health care services.

17 B. As used in this section:

18 (1) "association of licensed medical doctors  
19 or osteopathic physicians" means a corporation, unincorporated  
20 business entity or other legal entity organized by, owned by or  
21 employing one or more licensed medical doctors or osteopathic  
22 physicians; provided that the entity is not:

23 (a) an organization granted exemption  
24 from the federal income tax by the United States commissioner  
25 of internal revenue as organizations described in Section

.223540.1

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

1 501(c)(3) of the United States Internal Revenue Code of 1986,  
2 as that section may be amended or renumbered; or

3 (b) a health maintenance organization,  
4 hospital, hospice, nursing home or an entity that is solely an  
5 outpatient facility or intermediate care facility licensed  
6 pursuant to the Public Health Act;

7 (2) "qualified health care services" means  
8 medical care services provided by a licensed medical doctor or  
9 licensed osteopathic physician while on call to a hospital; and

10 (3) "value of unpaid qualified health care  
11 services" means the amount that is charged for qualified health  
12 care services, not to exceed one hundred thirty percent of the  
13 reimbursement rate for the services under the medicaid program  
14 administered by the human services department, that remains  
15 unpaid one year after the date of billing and that the licensed  
16 medical doctor or licensed osteopathic physician has reason to  
17 believe will not be paid because:

18 (a) at the time the services were  
19 provided, the person receiving the services had no health  
20 insurance or had health insurance that did not cover the  
21 services provided;

22 (b) at the time the services were  
23 provided, the person receiving the services was not eligible  
24 for medicaid; and

25 (c) the charges are not reimbursable

.223540.1

underscored material = new  
[bracketed material] = delete

1 under a program established pursuant to the Indigent Hospital  
2 and County Health Care Act."

3 SECTION 223. Section 7-9-96.3 NMSA 1978 (being Laws  
4 2020, Chapter 22, Section 1, as amended) is amended to read:

5 "7-9-96.3. TECHNOLOGY READINESS [~~GROSS RECEIPTS~~] SALES  
6 TAX CREDIT.--

7 A. Prior to July 1, 2027, a taxpayer that is a  
8 national laboratory that provides technology readiness  
9 assistance to a business that is registered to do business in  
10 New Mexico and has licensed a technology from the national  
11 laboratory or is a participant in a cooperative research and  
12 development agreement with the national laboratory may claim a  
13 tax credit against the taxpayer's [~~gross receipts~~] sales tax  
14 liability imposed pursuant to the [~~Gross Receipts and~~  
15 ~~Compensating~~] Sales and Use Tax Act, excluding any local option  
16 [~~gross receipts~~] sales tax liability. The tax credit provided  
17 by this section may be referred to as the "technology readiness  
18 [~~gross receipts~~] sales tax credit".

19 B. The purpose of the technology readiness [~~gross~~  
20 ~~receipts~~] sales tax credit is to help businesses in New Mexico  
21 achieve technology maturation of the businesses' technologies  
22 developed at New Mexico national laboratories and increase  
23 economic development in the state.

24 C. The amount of a technology readiness [~~gross~~  
25 ~~receipts~~] sales tax credit shall equal the amount of qualified

.223540.1



underscored material = new  
[bracketed material] = delete

1 expenditures incurred by a national laboratory to provide  
2 technology readiness assistance to a business, not to exceed  
3 one hundred fifty thousand dollars (\$150,000) in a fiscal year  
4 per business; provided that the annual aggregate amount of  
5 credits allowed per national laboratory per fiscal year shall  
6 be limited to one million dollars (\$1,000,000).

7 D. A taxpayer may claim a technology readiness  
8 [~~gross receipts~~] sales tax credit for the taxable period in  
9 which the taxpayer provides technology assistance pursuant to  
10 this section. That portion of a technology readiness [~~gross~~  
11 ~~receipts~~] sales tax credit that exceeds a taxpayer's tax  
12 liability in the taxable period in which the credit is claimed  
13 may be carried forward to succeeding taxable periods.

14 E. To receive a technology readiness [~~gross~~  
15 ~~receipts~~] sales tax credit, a taxpayer shall apply to the  
16 department on forms and in the manner required by the  
17 department. The application shall include the following:

18 (1) certification from each business that  
19 received technology readiness assistance that:

20 (a) the assistance was made in good  
21 faith to help the business demonstrate the feasibility of real-  
22 world application of the business's technology; and

23 (b) the assistance was not otherwise  
24 available to the business at a reasonable cost through private  
25 industry;

.223540.1

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

1 (2) evidence that the business that received  
2 the technology readiness assistance is registered to do  
3 business in New Mexico; and

4 (3) evidence that the business's technology is  
5 a licensed technology from the national laboratory or the  
6 business is a participant in a cooperative research and  
7 development agreement with the national laboratory.

8 F. In addition to the requirements in Subsection E  
9 of this section, a national laboratory shall:

10 (1) create forms for technology readiness  
11 assistance requests and completion of technology maturation;

12 (2) establish a technology readiness  
13 assistance program that will assist businesses to reach  
14 technology maturation;

15 (3) consult with the secretary of economic  
16 development to seek advice on improvements in the operation of  
17 the technology readiness assistance program; and

18 (4) establish a methodology to use state  
19 educational institutions that have demonstrated the capability  
20 to provide technology readiness assistance.

21 G. A taxpayer shall not claim both a technology  
22 readiness [~~gross receipts~~] sales tax credit and a credit  
23 pursuant to the Laboratory Partnership with Small Business Tax  
24 Credit Act for assistance provided to the same business in the  
25 same taxable period.

.223540.1

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

1           H. If more than one national laboratory provides  
2 technology readiness assistance to a business, the national  
3 laboratories shall not claim a technology readiness [~~gross~~  
4 ~~receipts~~] sales tax credit until coordination is developed  
5 between the national laboratories providing the assistance that  
6 generates a joint operational plan to ensure that:

7                   (1) the assistance provided by each national  
8 laboratory suits the business's needs and challenges; and

9                   (2) the combined claims for a technology  
10 readiness [~~gross receipts~~] sales tax credit will not exceed the  
11 limitations provided in Subsection C of this section.

12           I. A national laboratory that claims a technology  
13 readiness [~~gross receipts~~] sales tax credit shall submit an  
14 annual report in writing to the department, the economic  
15 development department and an appropriate legislative interim  
16 committee. If more than one national laboratory claims a  
17 technology readiness [~~gross receipts~~] sales tax credit, those  
18 laboratories shall jointly submit an annual report. The annual  
19 report shall summarize activities related to and the results of  
20 the technology readiness assistance programs created by the  
21 national laboratories and shall include:

22                   (1) a description of each business's  
23 technology that has received technology readiness assistance,  
24 including progress toward technology maturation and whether,  
25 and to what extent, the business is still doing business in New

.223540.1

1 Mexico;

2 (2) results of surveys of businesses to which  
3 technology readiness assistance is provided;

4 (3) the total amount of the technology  
5 readiness [~~gross receipts~~] sales tax credits received in the  
6 previous fiscal year; and

7 (4) an economic impact study performed by an  
8 uninterested third party.

9 J. At any time after receipt of an annual report  
10 required pursuant to this section, the department or the  
11 economic development department may provide written  
12 instructions to a national laboratory identifying future  
13 improvements in the national laboratory's technology readiness  
14 assistance program for which it receives a technology readiness  
15 [~~gross receipts~~] sales tax credit.

16 K. As used in this section:

17 (1) "cooperative research and development  
18 agreement" means any agreement between a national laboratory  
19 and a non-federal party under which the laboratory provides  
20 personnel, services, facilities, equipment, intellectual  
21 property or other resources and a non-federal party provides  
22 funds, personnel, services, facilities, equipment, intellectual  
23 property or other resources toward the conduct of specified  
24 research or development efforts that are consistent with the  
25 missions of the laboratory;

.223540.1

1 (2) "national laboratory" means a prime  
2 contractor designated as a national laboratory by act of  
3 congress that is operating a facility in New Mexico;

4 (3) "qualified expenditure" means an  
5 expenditure by a national laboratory in providing technology  
6 readiness assistance and is limited to the following:

7 (a) employee salaries, wages, benefits  
8 and employer payroll taxes;

9 (b) administrative costs related  
10 directly to the provision of technology readiness assistance;

11 (c) in-state travel expenses, including  
12 per diem and mileage at the internal revenue service standard  
13 rate; and

14 (d) supplies and services of contractors  
15 that are related to the provision of technology readiness  
16 assistance;

17 (4) "state educational institution" means a  
18 state educational institution named in Article 12, Section 11  
19 of the constitution of New Mexico;

20 (5) "technology maturation" means technology  
21 that has been developed to a stage that results in a prototype  
22 or demonstration of the feasibility of real-world application  
23 of the technology; and

24 (6) "technology readiness assistance" means  
25 assistance provided to a business by a national laboratory with

underscored material = new  
[bracketed material] = delete

1 the intent to help the business's technology achieve technology  
2 maturation."

3 SECTION 224. Section 7-9-97 NMSA 1978 (being Laws 2005,  
4 Chapter 169, Section 1) is amended to read:

5 "7-9-97. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--RECEIPTS  
6 FROM CERTAIN PURCHASES BY OR ON BEHALF OF THE STATE.--Receipts  
7 from the sale of property or services purchased by or on behalf  
8 of the state from funds obtained from the forfeiture of  
9 financial assurance pursuant to the New Mexico Mining Act or  
10 the forfeiture of financial responsibility pursuant to the  
11 Water Quality Act may be deducted from gross receipts."

12 SECTION 225. Section 7-9-98 NMSA 1978 (being Laws 2005,  
13 Chapter 179, Section 1) is amended to read:

14 "7-9-98. DEDUCTION--~~[COMPENSATING]~~ USE TAX--BIOMASS-  
15 RELATED EQUIPMENT--BIOMASS MATERIALS.--

16 A. The value of a biomass boiler, gasifier,  
17 furnace, turbine-generator, storage facility, feedstock  
18 processing or drying equipment, feedstock trailer or  
19 interconnection transformer may be deducted in computing the  
20 [~~compensating~~] use tax due.

21 B. The value of biomass materials used for  
22 processing into biopower, biofuels or biobased products may be  
23 deducted in computing the [~~compensating~~] use tax due.

24 C. As used in this section:

25 (1) "biobased products" means products created

.223540.1

1 from plant- or crop-based resources such as agricultural crops  
2 and crop residues, forestry, pastures and rangelands that are  
3 normally made from petroleum;

4 (2) "biofuels" means biomass converted to  
5 liquid or gaseous fuels such as ethanol, methanol, methane and  
6 hydrogen;

7 (3) "biomass material" means organic material  
8 that is available on a renewable or recurring basis, including:

9 (a) forest-related materials, including  
10 mill residues, logging residues, forest thinnings, slash,  
11 brush, low-commercial-value materials or undesirable species,  
12 salt cedar and other phreatophyte or woody vegetation removed  
13 from river basins or watersheds and woody material harvested  
14 for the purpose of forest fire fuel reduction or forest health  
15 and watershed improvement;

16 (b) agricultural-related materials,  
17 including orchard trees, vineyard, grain or crop residues,  
18 including straws and stover, aquatic plants and agricultural  
19 processed co-products and waste products, including fats, oils,  
20 greases, whey and lactose;

21 (c) animal waste, including manure and  
22 slaughterhouse and other processing waste;

23 (d) solid woody waste materials,  
24 including landscape or right-of-way tree trimmings, range land  
25 maintenance residues, waste pallets, crates and manufacturing,

.223540.1

underscored material = new  
[bracketed material] = delete

1 construction and demolition wood wastes, excluding pressure-  
2 treated, chemically treated or painted wood wastes and wood  
3 contaminated with plastic;

4 (e) crops and trees planted for the  
5 purpose of being used to produce energy;

6 (f) landfill gas, wastewater treatment  
7 gas and biosolids, including organic waste byproducts generated  
8 during the wastewater treatment process; and

9 (g) segregated municipal solid waste,  
10 excluding tires and medical and hazardous waste; and

11 (4) "biopower" means biomass converted to  
12 produce electrical and thermal energy."

13 SECTION 226. Section 7-9-99 NMSA 1978 (being Laws 2006,  
14 Chapter 35, Section 1) is amended to read:

15 "7-9-99. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF  
16 ENGINEERING, ARCHITECTURAL AND NEW FACILITY CONSTRUCTION  
17 SERVICES USED IN CONSTRUCTION OF CERTAIN PUBLIC HEALTH CARE  
18 FACILITIES.--Receipts from selling an engineering,  
19 architectural or construction service used in the new facility  
20 construction of a sole community provider hospital that is  
21 located in a federally designated health professional shortage  
22 area may be deducted from gross receipts if the sale of the  
23 engineering, architectural or construction service is made to a  
24 foundation or a nonprofit organization that:

25 A. has entered into a written agreement with a

.223540.1



underscored material = new  
[bracketed material] = delete

1 county to pay at least ninety-five percent of the costs of new  
2 facility construction of that sole community provider hospital;  
3 and

4 B. delivers to the seller of the engineering,  
5 architectural or construction service either an appropriate  
6 nontaxable transaction certificate or other evidence acceptable  
7 to the secretary of a written agreement made in accordance with  
8 Subsection A of this section."

9 SECTION 227. Section 7-9-100 NMSA 1978 (being Laws 2006,  
10 Chapter 35, Section 2) is amended to read:

11 "7-9-100. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SALE OF  
12 CONSTRUCTION EQUIPMENT AND CONSTRUCTION MATERIALS USED IN NEW  
13 FACILITY CONSTRUCTION OF A SOLE COMMUNITY PROVIDER HOSPITAL  
14 THAT IS LOCATED IN A FEDERALLY DESIGNATED HEALTH PROFESSIONAL  
15 SHORTAGE AREA.--Receipts from selling construction equipment or  
16 construction materials used in the new facility construction of  
17 a sole community provider hospital that is located in a  
18 federally designated health professional shortage area may be  
19 deducted from gross receipts if the sale of the construction  
20 equipment or construction materials is made to a foundation or  
21 a nonprofit organization that:

22 A. has entered into a written agreement with a  
23 county to pay at least ninety-five percent of the costs of new  
24 facility construction of that sole community provider hospital;  
25 and

.223540.1

underscored material = new  
[bracketed material] = delete

1           B. delivers to the seller either an appropriate  
2 nontaxable transaction certificate or other evidence acceptable  
3 to the secretary of a written agreement made in accordance with  
4 Subsection A of this section."

5           **SECTION 228.** Section 7-9-101 NMSA 1978 (being Laws 2007,  
6 Chapter 3, Section 16) is amended to read:

7           "7-9-101. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
8 EQUIPMENT FOR CERTAIN ELECTRIC TRANSMISSION OR STORAGE  
9 FACILITIES.--Receipts from selling equipment to the New Mexico  
10 renewable energy transmission authority or an agent or lessee  
11 of the authority may be deducted from gross receipts if the  
12 equipment is installed as part of an electric transmission  
13 facility or an interconnected storage facility acquired by the  
14 authority pursuant to the New Mexico Renewable Energy  
15 Transmission Authority Act."

16           **SECTION 229.** Section 7-9-102 NMSA 1978 (being Laws 2007,  
17 Chapter 3, Section 17) is amended to read:

18           "7-9-102. DEDUCTION--~~[COMPENSATING]~~ USE TAX--EQUIPMENT  
19 FOR CERTAIN ELECTRIC TRANSMISSION OR STORAGE FACILITIES.--The  
20 value of equipment installed as part of an electric  
21 transmission facility or an interconnected storage facility  
22 acquired by the New Mexico renewable energy transmission  
23 authority pursuant to the New Mexico Renewable Energy  
24 Transmission Authority Act may be deducted in computing  
25 [~~compensating~~] use tax due."

.223540.1

underscoring material = new  
[bracketed material] = delete

1           SECTION 230. Section 7-9-103 NMSA 1978 (being Laws 2007,  
2 Chapter 3, Section 18) is amended to read:

3           "7-9-103. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
4 SERVICES PROVIDED FOR CERTAIN ELECTRIC TRANSMISSION AND STORAGE  
5 FACILITIES.--Receipts from providing services to the New Mexico  
6 renewable energy transmission authority or an agent or lessee  
7 of the authority for the planning, installation, repair,  
8 maintenance or operation of an electric transmission facility  
9 or an interconnected storage facility acquired by the authority  
10 pursuant to the New Mexico Renewable Energy Transmission  
11 Authority Act may be deducted from gross receipts."

12           SECTION 231. Section 7-9-103.1 NMSA 1978 (being Laws  
13 2012, Chapter 12, Section 2) is amended to read:

14           "7-9-103.1. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
15 CONVERTING ELECTRICITY.--

16           A. Receipts from the transmission of electricity  
17 where voltage source conversion technology is employed to  
18 provide such services and from ancillary services may be  
19 deducted from gross receipts.

20           B. The department shall report annually to the  
21 interim revenue stabilization and tax policy committee on the  
22 expansion of voltage source conversion technology use in the  
23 transmission of electricity in New Mexico and the use of the  
24 deduction provided in this section.

25           C. As used in this section, "ancillary services"

.223540.1

underscoring material = new  
[bracketed material] = delete

1 means services that are supplied from or in connection with  
2 facilities employing voltage source conversion technology and  
3 that are used to support or enhance the efficient and reliable  
4 operation of the electric system."

5 SECTION 232. Section 7-9-103.2 NMSA 1978 (being Laws  
6 2012, Chapter 12, Section 3) is amended to read:

7 "7-9-103.2. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
8 ELECTRICITY EXCHANGE.--

9 A. Receipts from operating a market or exchange for  
10 the sale or trading of electricity, rights to electricity and  
11 derivative products and from providing ancillary services may  
12 be deducted from gross receipts.

13 B. The department shall report annually to the  
14 interim revenue stabilization and tax policy committee on use  
15 of the deduction provided in this section.

16 C. As used in this section, "ancillary services"  
17 means services that are supplied from or in connection with  
18 facilities employing voltage source conversion technology and  
19 that are used to support or enhance the efficient and reliable  
20 operation of the electric system."

21 SECTION 233. Section 7-9-104 NMSA 1978 (being Laws 2007,  
22 Chapter 33, Section 1, as amended) is amended to read:

23 "7-9-104. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
24 NONATHLETIC SPECIAL EVENT AT POST-SECONDARY EDUCATIONAL  
25 INSTITUTION.--Prior to July 1, 2027, receipts from admissions  
.223540.1

underscoring material = new  
[bracketed material] = delete

1 to a nonathletic special event held at a venue that is located  
2 on the campus of a post-secondary educational institution  
3 within fifty miles of the New Mexico border and that  
4 accommodates at least ten thousand persons may be deducted from  
5 gross receipts or from governmental gross receipts."

6 SECTION 234. Section 7-9-107 NMSA 1978 (being Laws 2007,  
7 Chapter 172, Section 9) is amended to read:

8 "7-9-107. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
9 PRODUCTION OR STAGING OF PROFESSIONAL CONTESTS.--Receipts from  
10 producing or staging a professional boxing, wrestling or  
11 martial arts contest that occurs in New Mexico, including  
12 receipts from ticket sales and broadcasting, may be deducted  
13 from gross receipts."

14 SECTION 235. Section 7-9-108 NMSA 1978 (being Laws 2007,  
15 Chapter 172, Section 10) is amended to read:

16 "7-9-108. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
17 RECEIPTS FROM PERFORMING MANAGEMENT OR INVESTMENT ADVISORY  
18 SERVICES FOR MUTUAL FUNDS, HEDGE FUNDS OR REAL ESTATE  
19 INVESTMENT TRUSTS.--

20 A. Receipts from fees received for performing  
21 management or investment advisory services for a mutual fund,  
22 hedge fund or real estate investment trust may be deducted from  
23 gross receipts.

24 B. As used in this section:

25 (1) "hedge fund" means a private investment

underscoring material = new  
[bracketed material] = delete

1 fund or pool, the assets of which are managed by a professional  
2 management firm, that:

3 (a) trades or invests, through public  
4 market or private transactions, in securities, commodities,  
5 currency, derivatives or similar classes of financial assets;  
6 or

7 (b) is not an investment company  
8 pursuant to the provisions of 15 U.S.C. 80a-3(c)(1) or 15  
9 U.S.C. 80a-3(c)(7);

10 (2) "mutual fund" means an entity registered  
11 pursuant to the federal Investment Company Act of 1940, as  
12 amended; and

13 (3) "real estate investment trust" means an  
14 entity described in Section 856(a) of the Internal Revenue Code  
15 of 1986, as amended, the investments of which are limited to  
16 interests in mortgages on real property and shares of or  
17 transferable certificates of beneficial interest in an entity  
18 described in Section 856(a) of the Internal Revenue Code of  
19 1986, as amended."

20 SECTION 236. Section 7-9-109 NMSA 1978 (being Laws 2007,  
21 Chapter 172, Section 11) is amended to read:

22 "7-9-109. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
23 VETERINARY MEDICAL SERVICES, MEDICINE OR MEDICAL SUPPLIES USED  
24 IN MEDICAL TREATMENT OF CATTLE.--

25 A. Receipts from sales of veterinary medical

.223540.1

underscored material = new  
[bracketed material] = delete

1 services, medicine or medical supplies used in the medical  
2 treatment of cattle may be deducted from gross receipts if the  
3 sale is made to a person who states in writing that the person  
4 is regularly engaged in the business of ranching or farming,  
5 including dairy farming, in New Mexico or if the sale is made  
6 to a veterinarian who holds a valid license pursuant to the  
7 Veterinary Practice Act and who is providing veterinary medical  
8 services, medicine or medical supplies in the treatment of  
9 cattle owned by that person.

10 B. As used in this section, "cattle" means animals  
11 of the genus bos, including dairy cattle, and does not include  
12 any other kind of livestock."

13 SECTION 237. Section 7-9-110.1 NMSA 1978 (being Laws  
14 2011, Chapter 60, Section 1 and Laws 2011, Chapter 61, Section  
15 1) is amended to read:

16 "7-9-110.1. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
17 LOCOMOTIVE ENGINE FUEL.--Receipts from the sale of fuel to a  
18 common carrier to be loaded or used in a locomotive engine may  
19 be deducted from gross receipts. For the purposes of this  
20 section, "locomotive engine" means a wheeled vehicle consisting  
21 of a self-propelled engine that is used to draw trains along  
22 railway tracks."

23 SECTION 238. Section 7-9-110.2 NMSA 1978 (being Laws  
24 2011, Chapter 60, Section 2 and Laws 2011, Chapter 61, Section  
25 2) is amended to read:

.223540.1

underscored material = new  
[bracketed material] = delete

1           "7-9-110.2. DEDUCTION--~~[COMPENSATING]~~ USE TAX--  
2 LOCOMOTIVE ENGINE FUEL.--The value of fuel to be loaded or used  
3 by a common carrier in a locomotive engine may be deducted in  
4 computing the ~~[compensating]~~ use tax due. For the purposes of  
5 this section, "locomotive engine" means a wheeled vehicle  
6 consisting of a self-propelled engine that is used to draw  
7 trains along railway tracks."

8           **SECTION 239.** Section 7-9-110.3 NMSA 1978 (being Laws  
9 2011, Chapter 60, Section 3 and Laws 2011, Chapter 61, Section  
10 3, as amended) is amended to read:

11           "7-9-110.3. PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL  
12 ~~[DEDUCTION]~~ DEDUCTIONS--

13           A. The purpose of the ~~[deduction on fuel loaded or~~  
14 ~~used by a common carrier in a locomotive engine from gross~~  
15 ~~receipts and from compensating tax]~~ deductions provided by  
16 Sections 7-9-110.1 and 7-9-110.2 NMSA 1978 is to encourage the  
17 construction, renovation, maintenance and operation of railroad  
18 locomotive refueling facilities and other railroad capital  
19 investments in New Mexico.

20           B. To be eligible for the deduction ~~[on fuel loaded~~  
21 ~~or used by a common carrier in a locomotive engine from~~  
22 ~~compensating tax]~~ pursuant to Section 7-9-110.2 NMSA 1978, the  
23 fuel shall be used or loaded by a common carrier that:

24                       (1) after July 1, 2011, made a capital  
25 investment of one hundred million dollars (\$100,000,000) or

.223540.1



underscored material = new  
[bracketed material] = delete

1 more in new construction or renovations at the railroad  
2 locomotive refueling facility in which the fuel is loaded or  
3 used; or

4 (2) on or after July 1, 2012, made a capital  
5 investment of fifty million dollars (\$50,000,000) or more in  
6 new railroad infrastructure improvements, including railroad  
7 facilities, track, signals and supporting railroad network,  
8 located in New Mexico; provided that the new railroad  
9 infrastructure improvements are not required by a regulatory  
10 agency to correct problems, such as regular or preventive  
11 maintenance, specifically identified by that agency as  
12 requiring necessary corrective action.

13 C. To be eligible for the deduction [~~on fuel loaded~~  
14 ~~or used by a common carrier in a locomotive engine from gross~~  
15 ~~receipts]~~ pursuant to Section 7-9-110.1 NMSA 1978, a common  
16 carrier shall deliver an appropriate nontaxable transaction  
17 certificate to the seller and the sale shall be made to a  
18 common carrier that:

19 (1) after July 1, 2011, made a capital  
20 investment of one hundred million dollars (\$100,000,000) or  
21 more in new construction or renovations at the railroad  
22 locomotive refueling facility in which the fuel is sold; or

23 (2) on or after July 1, 2012, made a capital  
24 investment of fifty million dollars (\$50,000,000) or more in  
25 new railroad infrastructure improvements, including railroad

.223540.1

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

1 facilities, track, signals and supporting railroad network,  
2 located in New Mexico; provided that the new railroad  
3 infrastructure improvements are not required by a regulatory  
4 agency to correct problems, such as regular or ~~[preventative]~~  
5 preventive maintenance, specifically identified by that agency  
6 as requiring necessary corrective action.

7 D. The economic development department shall  
8 promulgate rules for the issuance of a certificate of  
9 eligibility for the purposes of claiming a deduction ~~[on fuel~~  
10 ~~loaded or used by a common carrier in a locomotive engine from~~  
11 ~~gross receipts or compensating tax]~~ pursuant to Sections  
12 7-9-110.1 and 7-9-110.2 NMSA 1978. A common carrier may  
13 request a certificate of eligibility from the economic  
14 development department to provide to the taxation and revenue  
15 department to establish eligibility for a nontaxable  
16 transaction certificate for the deduction on fuel loaded or  
17 used by a common carrier in a locomotive engine from gross  
18 receipts. The taxation and revenue department shall issue  
19 nontaxable transaction certificates to a common carrier upon  
20 the presentation of a certificate of eligibility obtained from  
21 the economic development department pursuant to this  
22 subsection.

23 E. The economic development department shall keep a  
24 record of temporary and permanent jobs from all railroad  
25 activity where a capital investment is made by a common carrier

.223540.1

underscored material = new  
[bracketed material] = delete

1 that claims a deduction [~~on fuel loaded or used by a common~~  
2 ~~carrier in a locomotive engine from gross receipts or from~~  
3 ~~compensating tax]~~ pursuant to Sections 7-9-110.1 and 7-9-110.2  
4 NMSA 1978. The economic development department and the  
5 taxation and revenue department shall estimate the amount of  
6 state revenue that is attributable to all railroad activity  
7 where a capital investment is made by a common carrier that  
8 claims a deduction [~~on fuel loaded or used by a common carrier~~  
9 ~~in a locomotive engine from gross receipts or from compensating~~  
10 ~~tax]~~ pursuant to those sections.

11 F. The economic development department and the  
12 taxation and revenue department shall compile an annual report  
13 with the number of taxpayers who claim [~~the deduction on fuel~~  
14 ~~loaded or used by a common carrier in a locomotive engine from~~  
15 ~~gross receipts and from compensating tax]~~ a deduction pursuant  
16 to Sections 7-9-110.1 and 7-9-110.2 NMSA 1978, the number of  
17 jobs created as a result of [~~that deduction]~~ the deductions,  
18 the amount [~~of that deduction]~~ approved, the net revenue to the  
19 state as a result of [~~that deduction]~~ the deductions and any  
20 other information required by the legislature to aid in  
21 evaluating the effectiveness of [~~that deduction]~~ the  
22 deductions. A taxpayer who claims a deduction [~~on fuel loaded~~  
23 ~~or used by a common carrier in a locomotive engine from gross~~  
24 ~~receipts or from compensating tax]~~ pursuant to those sections  
25 shall provide the economic development department and the

.223540.1

underscored material = new  
[bracketed material] = delete

1 taxation and revenue department with the information required  
2 to compile [~~that~~] the report. The economic development  
3 department and the taxation and revenue department shall  
4 present [~~that~~] the report [~~before~~] to the legislative interim  
5 revenue stabilization and tax policy committee and the  
6 legislative finance committee by November of each year.  
7 Notwithstanding any other section of law to the contrary, the  
8 economic development department and the taxation and revenue  
9 department may disclose the number of applicants for the  
10 [~~deduction on fuel loaded or used by a common carrier in a~~  
11 ~~locomotive engine from gross receipts and from compensating~~  
12 ~~tax~~] deductions, the amount [~~of the deduction~~] approved, the  
13 number of employees of the taxpayer and any other information  
14 required by the legislature or the taxation and revenue  
15 department to aid in evaluating the effectiveness of [~~that~~  
16 ~~deduction~~] the deductions.

17 G. An appropriate legislative committee shall  
18 review the effectiveness of the [~~deduction~~] deductions for each  
19 taxpayer who claims [~~the~~] a deduction on fuel loaded or used by  
20 a common carrier in a locomotive engine [~~from gross receipts~~  
21 ~~and from compensating tax every six years beginning in 2019~~]."

22 SECTION 240. Section 7-9-111 NMSA 1978 (being Laws 2007,  
23 Chapter 361, Section 6) is amended to read:

24 "7-9-111. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--HEARING  
25 AIDS AND VISION AIDS AND RELATED SERVICES.--

.223540.1

underscoring material = new  
[bracketed material] = delete

1           A. Receipts that are not exempt from [~~gross~~  
2 ~~receipts taxation~~] the sales tax and are not deductible  
3 pursuant to another provision of the [~~Gross Receipts and~~  
4 ~~Compensating~~] Sales and Use Tax Act that are from the sale of  
5 vision aids or hearing aids or related services may be deducted  
6 from gross receipts.

7           B. As used in this section:

8                   (1) "hearing aid" means a small electronic  
9 prescription device that amplifies sound and is usually worn in  
10 or behind the ear of a person that compensates for impaired  
11 hearing, including cochlear implants, amplification systems or  
12 other devices that are:

13                           (a) specifically designed for use by and  
14 marketed to persons with hearing loss; and

15                           (b) not normally used by a person who  
16 does not have a hearing loss;

17                   (2) "low vision" means impaired vision with a  
18 significant reduction in visual function that cannot be  
19 corrected with conventional glasses or contact lenses;

20                   (3) "related services" means services required  
21 to fit or dispense hearing aids or vision aids;

22                   (4) "vision aid" means closed circuit  
23 television systems, monoculars, magnification systems, speech  
24 output devices or other systems that are:

25                           (a) specifically designed for use by and

.223540.1

underscoring material = new  
[bracketed material] = delete

1 marketed to persons with low vision or visual impairments; and

2 (b) not normally used by a person who  
3 does not have low vision or a visual impairment; and

4 (5) "visual impairment" means a central visual  
5 acuity of 20/200 or less in the better eye with the use of a  
6 correcting lens or a limitation in the fields of vision so that  
7 the widest diameter of the visual field subtends an angle of  
8 twenty degrees or less."

9 SECTION 241. Section 7-9-112 NMSA 1978 (being Laws 2007,  
10 Chapter 204, Section 10) is amended to read:

11 "7-9-112. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--SOLAR  
12 ENERGY SYSTEMS.--

13 A. Receipts from the sale and installation of solar  
14 energy systems may be deducted from gross receipts.

15 B. As used in this section, "solar energy system"  
16 means an installation that is used to provide space heat, hot  
17 water or electricity to the property in which it is installed  
18 and is:

19 (1) an installation that utilizes solar panels  
20 that are not also windows, including the solar panels and all  
21 equipment necessary for the installation and operation of the  
22 solar panels;

23 (2) a dark-colored water tank exposed to  
24 sunlight, including all equipment necessary for the  
25 installation and operation of the water tank as a part of the

.223540.1

underscoring material = new  
[bracketed material] = delete

1 overall water system of the property; or

2 (3) a non-vented trombe wall, including all  
3 equipment necessary for the installation and operation of the  
4 trombe wall."

5 SECTION 242. Section 7-9-114 NMSA 1978 (being Laws 2010,  
6 Chapter 77, Section 1 and Laws 2010, Chapter 78, Section 1, as  
7 amended) is amended to read:

8 "7-9-114. ADVANCED ENERGY DEDUCTION--~~[GROSS RECEIPTS AND~~  
9 ~~COMPENSATING TAXES]~~ SALES TAX--USE TAX.--

10 A. Receipts from selling or leasing tangible  
11 personal property or services that are eligible generation  
12 plant costs to a person that holds an interest in a qualified  
13 generating facility may be deducted from gross receipts if the  
14 holder of the interest delivers an appropriate nontaxable  
15 transaction certificate to the seller or lessor. The  
16 department shall issue nontaxable transaction certificates to a  
17 person that holds an interest in a qualified generating  
18 facility upon presentation to the department of a certificate  
19 of eligibility obtained from the department of environment  
20 pursuant to Subsection G of this section for the deduction  
21 created in this section or a certificate of eligibility  
22 pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.  
23 The deduction created in this section may be referred to as the  
24 "advanced energy deduction".

25 B. The purpose of the advanced energy deduction is  
.223540.1

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

1 to encourage the construction and development of qualified  
2 generating facilities in New Mexico and to sequester or control  
3 carbon dioxide emissions.

4 C. The value of eligible generation plant costs  
5 from the sale or lease of tangible personal property to a  
6 person that holds an interest in a qualified generating  
7 facility for which the department of environment has issued a  
8 certificate of eligibility pursuant to Subsection G of this  
9 section may be deducted in computing the ~~[compensating]~~ use tax  
10 due.

11 D. The maximum tax benefit allowed for all eligible  
12 generation plant costs from a qualified generating facility  
13 shall be sixty million dollars (\$60,000,000) total for eligible  
14 generation plant costs deducted or claimed pursuant to this  
15 section or Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.

16 E. Deductions taken pursuant to this section shall  
17 be reported separately on a form approved by the department.  
18 The nontaxable transaction certificates used to obtain tax-  
19 deductible tangible personal property or services shall display  
20 clearly a notice to the taxpayer that the deduction shall be  
21 reported separately from any other deductions claimed from  
22 gross receipts. A taxpayer deducting eligible generation plant  
23 costs from the costs on which ~~[compensating]~~ use tax is imposed  
24 shall report those eligible generation plant costs that are  
25 being deducted.

.223540.1



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

1           F. The deductions allowed for a qualified  
2 generating facility pursuant to this section shall be available  
3 for a ten-year period for purchases and a twenty-five-year  
4 period for leases from the year development of the qualified  
5 generating facility begins and expenditures are made for which  
6 nontaxable transaction certificates authorized pursuant to this  
7 section are submitted to sellers or lessors for eligible  
8 generation plant costs or deductions from the costs on which  
9 ~~[compensating]~~ use tax are calculated are first taken for  
10 eligible generation plant costs.

11           G. An entity that holds an interest in a qualified  
12 generating facility may request a certificate of eligibility  
13 from the department of environment to enable the requester to  
14 obtain a nontaxable transaction certificate for the advanced  
15 energy deduction. The department of environment shall:

16                   (1) determine if the facility is a qualified  
17 generating facility;

18                   (2) require that the requester provide the  
19 department of environment with the information necessary to  
20 assess whether the requester's facility meets the criteria to  
21 be a qualified generating facility;

22                   (3) issue a certificate from sequentially  
23 numbered certificates to the requester stating that the  
24 facility is or is not a qualified generating facility within  
25 one hundred eighty days after receiving all information

.223540.1

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

1 necessary to make a determination;

2 (4) issue:

3 (a) rules governing the procedures for  
4 administering the provisions of this subsection; and

5 (b) a schedule of fees in which no fee  
6 exceeds one hundred fifty thousand dollars (\$150,000);

7 (5) deposit fees collected pursuant to this  
8 subsection in the state air quality permit fund created  
9 pursuant to Section 74-2-15 NMSA 1978; and

10 (6) report annually to the appropriate interim  
11 legislative committee information that will allow the  
12 legislative committee to analyze the effectiveness of the  
13 advanced energy deduction, including the identity of qualified  
14 generating facilities, the energy production means used, the  
15 amount of emissions identified in this section reduced and  
16 removed by those qualified generating facilities and whether  
17 any requests for certificates of eligibility could not be  
18 approved due to program limits.

19 H. The economic development department shall keep a  
20 record of temporary and permanent jobs at all qualified  
21 generating facilities in New Mexico. The economic development  
22 department and the taxation and revenue department shall  
23 measure the amount of state revenue that is attributable to  
24 activity at each qualified generating facility in New Mexico.  
25 The economic development department shall coordinate with the

.223540.1

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

1 department of environment to report annually to the appropriate  
2 interim legislative committee on the effectiveness of the  
3 advanced energy deduction. A taxpayer who claims an advanced  
4 energy deduction shall provide the economic development  
5 department, the department of environment and the taxation and  
6 revenue department with the information required to compile the  
7 report required by this section. Notwithstanding any other  
8 section of law to the contrary, the economic development  
9 department, the department of environment and the taxation and  
10 revenue department may disclose the number of applicants for  
11 the advanced energy deduction, the amount of the deduction  
12 approved, the number of employees of the taxpayer and any other  
13 information required by the legislature or the taxation and  
14 revenue department to aid in evaluating the effectiveness of  
15 that deduction.

16 I. If the department of environment issues a  
17 certificate of eligibility to a taxpayer stating that the  
18 taxpayer holds an interest in a qualified generating facility  
19 and the taxpayer does not sequester or control carbon dioxide  
20 emissions to the extent required by this section by the later  
21 of January 1, 2017 or eighteen months after the commercial  
22 operation date of the qualified generating facility, the  
23 taxpayer's certification as a qualified generating facility  
24 shall be revoked by the department of environment and the  
25 taxpayer shall repay to the state tax deductions granted

.223540.1

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

1 pursuant to this section; provided that, if the taxpayer  
2 demonstrates to the department of environment that the taxpayer  
3 made every effort to sequester or control carbon dioxide  
4 emissions to the extent feasible and the facility's inability  
5 to meet the sequestration requirements of a qualified  
6 generating facility was beyond the facility's control, the  
7 department of environment shall determine, after a public  
8 hearing, the amount of tax deduction that should be repaid to  
9 the state. The department of environment, in its  
10 determination, shall consider the environmental performance of  
11 the facility and the extent to which the inability to meet the  
12 sequestration requirements of a qualified generating facility  
13 was in the control of the taxpayer. The repayment as  
14 determined by the department of environment shall be paid  
15 within one hundred eighty days following a final order by the  
16 department of environment.

17 J. The advanced energy deduction allowed pursuant  
18 to this section shall not be claimed for the same qualified  
19 expenses for which a taxpayer claims a credit pursuant to  
20 Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978 or a deduction  
21 pursuant to Section 7-9-54.3 NMSA 1978.

22 K. An appropriate legislative committee shall  
23 review the effectiveness of the advanced energy deduction every  
24 four years beginning in 2015.

25 L. As used in this section:

.223540.1

1 (1) "coal-based electric generating facility"  
2 means a new or repowered generating facility and an associated  
3 coal gasification facility, if any, that uses coal to generate  
4 electricity and that meets the following specifications:

5 (a) emits the lesser of: 1) what is  
6 achievable with the best available control technology; or 2)  
7 thirty-five thousandths pound per million British thermal units  
8 of sulfur dioxide, twenty-five thousandths pound per million  
9 British thermal units of oxides of nitrogen and one hundredth  
10 pound per million British thermal units of total particulate in  
11 the flue gas;

12 (b) removes the greater of: 1) what is  
13 achievable with the best available control technology; or 2)  
14 ninety percent of the mercury from the input fuel;

15 (c) captures and sequesters or controls  
16 carbon dioxide emissions so that by the later of January 1,  
17 2017 or eighteen months after the commercial operation date of  
18 the coal-based electric generating facility, no more than one  
19 thousand one hundred pounds per megawatt-hour of carbon dioxide  
20 is emitted into the atmosphere;

21 (d) all infrastructure required for  
22 sequestration is in place by the later of January 1, 2017 or  
23 eighteen months after the commercial operation date of the  
24 coal-based electric generating facility;

25 (e) includes methods and procedures to

1 monitor the disposition of the carbon dioxide captured and  
2 sequestered from the coal-based electric generating facility;  
3 and

4 (f) does not exceed a name-plate  
5 capacity of seven hundred net megawatts;

6 (2) "eligible generation plant costs" means  
7 expenditures for the development and construction of a  
8 qualified generating facility, including permitting; lease  
9 payments; site characterization and assessment; engineering;  
10 design; carbon dioxide capture, treatment, compression,  
11 transportation and sequestration; site and equipment  
12 acquisition; and fuel supply development used directly and  
13 exclusively in a qualified generating facility;

14 (3) "entity" means an individual, estate,  
15 trust, receiver, cooperative association, club, corporation,  
16 company, firm, partnership, limited liability company, limited  
17 liability partnership, joint venture, syndicate or other  
18 association or a gas, water or electric utility owned or  
19 operated by a county or municipality;

20 (4) "geothermal electric generating facility"  
21 means a facility with a name-plate capacity of one megawatt or  
22 more that uses geothermal energy to generate electricity,  
23 including a facility that captures and provides geothermal  
24 energy to a preexisting electric generating facility using  
25 other fuels in part;

.223540.1

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

1 (5) "interest in a qualified generating  
2 facility" means title to a qualified generating facility; a  
3 lessee's interest in a qualified generating facility; and a  
4 county or municipality's interest in a qualified generating  
5 facility when the county or municipality issues an industrial  
6 revenue bond for construction of the qualified generating  
7 facility;

8 (6) "name-plate capacity" means the maximum  
9 rated output of the facility measured as alternating current or  
10 the equivalent direct current measurement;

11 (7) "qualified generating facility" means a  
12 facility that begins construction not later than December 31,  
13 2015 and is:

14 (a) a solar thermal electric generating  
15 facility that begins construction on or after July 1, 2010 and  
16 that may include an associated renewable energy storage  
17 facility;

18 (b) a solar photovoltaic electric  
19 generating facility that begins construction on or after July  
20 1, 2010 and that may include an associated renewable energy  
21 storage facility;

22 (c) a geothermal electric generating  
23 facility that begins construction on or after July 1, 2010;

24 (d) a recycled energy project if that  
25 facility begins construction on or after July 1, 2010; or

.223540.1

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

1 (e) a new or repowered coal-based  
2 electric generating facility and an associated coal  
3 gasification facility;

4 (8) "recycled energy" means energy produced by  
5 a generation unit with a name-plate capacity of not more than  
6 fifteen megawatts that converts the otherwise lost energy from  
7 the exhaust stacks or pipes to electricity without combustion  
8 of additional fossil fuel;

9 (9) "sequester" means to store, or chemically  
10 convert, carbon dioxide in a manner that prevents its release  
11 into the atmosphere and may include the use of geologic  
12 formations and enhanced oil, coaled methane or natural gas  
13 recovery techniques;

14 (10) "solar photovoltaic electric generating  
15 facility" means an electric generating facility with a name-  
16 plate capacity of one megawatt or more that uses solar  
17 photovoltaic energy to generate electricity; and

18 (11) "solar thermal electric generating  
19 facility" means an electric generating facility with a name-  
20 plate capacity of one megawatt or more that uses solar thermal  
21 energy to generate electricity, including a facility that  
22 captures and provides solar thermal energy to a preexisting  
23 electric generating facility using other fuels in part."

24 SECTION 243. Section 7-9-115 NMSA 1978 (being Laws 2015  
25 (1st S.S.), Chapter 2, Section 9, as amended) is amended to  
.223540.1



underscored material = new  
[bracketed material] = delete

1 read:

2 "7-9-115. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--GOODS  
3 AND SERVICES FOR THE DEPARTMENT OF DEFENSE RELATED TO DIRECTED  
4 ENERGY AND SATELLITES.--

5 A. Prior to January 1, 2031, receipts from the sale  
6 by a qualified contractor of qualified research and development  
7 services and qualified directed energy and satellite-related  
8 inputs may be deducted from gross receipts when sold pursuant  
9 to a contract with the United States department of defense.

10 B. The purposes of the deduction allowed in this  
11 section are to promote new and sophisticated technology,  
12 enhance the viability of directed energy and satellite  
13 projects, attract new projects and employers to New Mexico and  
14 increase high-technology employment opportunities in New  
15 Mexico.

16 C. A taxpayer allowed a deduction pursuant to this  
17 section shall report the amount of the deduction separately in  
18 a manner required by the department.

19 D. The department shall compile an annual report on  
20 the deduction provided by this section that shall include the  
21 number of taxpayers that claimed the deduction, the aggregate  
22 amount of deductions claimed and any other information  
23 necessary to evaluate the effectiveness of the deduction.  
24 Beginning in 2017 and each year thereafter that the deduction  
25 is in effect, the department and the economic development

.223540.1

1 department shall present the annual report to the revenue  
2 stabilization and tax policy committee and the legislative  
3 finance committee with an analysis of the effectiveness and  
4 cost of the deduction and whether the deduction is performing  
5 the purpose for which it was created.

6 E. As used in this section:

7 (1) "directed energy" means a system,  
8 including related services, that enables the use of the  
9 frequency spectrum, including radio waves, light and x-rays;

10 (2) "inputs" means systems, subsystems,  
11 components, prototypes and demonstrators or products and  
12 services involving optics, photonics, electronics, advanced  
13 materials, nanoelectromechanical and microelectromechanical  
14 systems, fabrication materials and test evaluation and computer  
15 control systems related to directed energy or satellites;

16 (3) "qualified contractor" means a person  
17 other than an organization designated as a national laboratory  
18 by act of congress or an operator of national laboratory  
19 facilities in New Mexico; provided that the operator may be a  
20 qualified contractor with respect to the operator's receipts  
21 not connected with operating the national laboratory;

22 (4) "qualified directed energy and satellite-  
23 related inputs" means inputs supplied to the department of  
24 defense pursuant to a contract with that department entered  
25 into on or after January 1, 2016;

.223540.1

underscoring material = new  
[bracketed material] = delete

1 (5) "qualified research and development  
2 services" means research and development services related to  
3 directed energy or satellites provided to the department of  
4 defense pursuant to a contract with that department entered  
5 into on or after January 1, 2016; and

6 (6) "satellite" means composite systems  
7 assembled and packaged for use in space, including launch  
8 vehicles and related products and services."

9 SECTION 244. Section 7-9-116 NMSA 1978 (being Laws 2018,  
10 Chapter 46, Section 1, as amended) is amended to read:

11 "7-9-116. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--RETAIL  
12 SALES BY CERTAIN BUSINESSES.--

13 A. Prior to July 1, 2025, receipts from the sale at  
14 retail of the following types of tangible personal property may  
15 be deducted if the sales price of the property is less than  
16 five hundred dollars (\$500) and:

17 (1) the sale occurs during the period  
18 beginning at 12:01 a.m. on the first Saturday after  
19 Thanksgiving and ending at midnight on the same Saturday;

20 (2) the sale is for:

21 (a) an article of clothing or footwear  
22 designed to be worn on or about the human body;

23 (b) accessories, including jewelry,  
24 handbags, book bags, backpacks, luggage, wallets, watches and  
25 similar items worn or carried on or about the human body,

.223540.1

1 without regard to whether worn on the body in a manner  
2 characteristic of clothing;

3 (c) sporting goods and camping  
4 equipment;

5 (d) tools used for home improvement,  
6 gardening and automotive maintenance and repair;

7 (e) books, journals, paper, writing  
8 instruments, art supplies, greeting cards and postcards;

9 (f) works of art, including any  
10 painting, drawing, print, photograph, sculpture, pottery or  
11 ceramics, carving, textile, basketry, artifact, natural  
12 specimen, rare book, authors' papers, objects of historical or  
13 technical interest or other article of intrinsic cultural  
14 value;

15 (g) floral arrangements and indoor  
16 plants;

17 (h) cosmetics and personal grooming  
18 items;

19 (i) musical instruments;

20 (j) cookware and small home appliances  
21 for residential use;

22 (k) bedding, towels and bath  
23 accessories;

24 (l) furniture;

25 (m) a toy or game that is a physical

1 item, product or object clearly intended and designed to be  
2 used by children or families in play;

3 (n) a video game or video game console  
4 and any associated accessories for the video game console; or

5 (o) home electronics such as computers,  
6 phones, tablets, stereo equipment and related electronics  
7 accessories; and

8 (3) the sale is made by a seller that carries  
9 on a trade or business in New Mexico, maintains its primary  
10 place of business in New Mexico, as determined by the  
11 department, and employed no more than ten employees at any one  
12 time during the previous fiscal year.

13 B. Receipts for sales made by a business that  
14 operates under a franchise agreement may not be deducted  
15 pursuant to this section.

16 C. The purpose of the deduction provided by this  
17 section is to increase sales at small local businesses.

18 D. A taxpayer allowed a deduction pursuant to this  
19 section shall report the amount of the deduction separately in  
20 a manner required by the department.

21 E. The department shall compile an annual report on  
22 the deduction provided by this section that shall include the  
23 number of taxpayers that claimed the deduction, the aggregate  
24 amount of deductions claimed and any other information  
25 necessary to evaluate the effectiveness of the deduction. The

.223540.1

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

1 department shall present the annual report to the revenue  
2 stabilization and tax policy committee and the legislative  
3 finance committee with an analysis of the effectiveness and  
4 cost of the deduction and whether the deduction is performing  
5 the purpose for which it was created."

6 SECTION 245. Section 7-9-117 NMSA 1978 (being Laws 2019,  
7 Chapter 270, Section 36, as amended) is amended to read:

8 "7-9-117. DEDUCTION--~~[GROSS RECEIPTS]~~ SALES TAX--  
9 GOVERNMENTAL GROSS RECEIPTS--MARKETPLACE SELLER.--

10 A. A marketplace seller may deduct receipts for  
11 sales, leases and licenses of tangible personal property, sales  
12 of licenses and sales of services or licenses for use of real  
13 property that are facilitated by a marketplace provider from  
14 gross receipts and governmental gross receipts; provided that  
15 the marketplace seller obtains documentation from the  
16 marketplace provider indicating that the marketplace provider  
17 is registered with the department and has remitted or will  
18 remit the taxes due on the gross receipts from those  
19 transactions.

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

25 SECTION 246. Section 7-9A-5 NMSA 1978 (being Laws 1979,  
.223540.1

underscored material = new  
[bracketed material] = delete

1 Chapter 347, Section 5, as amended) is amended to read:

2 "7-9A-5. INVESTMENT CREDIT--AMOUNT--CLAIMANT.--

3 A. The investment credit provided for in the  
4 Investment Credit Act may be claimed by a taxpayer carrying on  
5 a manufacturing operation in New Mexico in an amount equal to:

6 (1) the product of the sum of the  
7 [~~compensating~~] use tax rate and [~~beginning July 1, 2021~~] any  
8 municipal or county [~~compensating~~] use tax rate multiplied by  
9 the value of the qualified equipment; or

10 (2) if the sale is subject to the [~~gross~~  
11 ~~receipts~~] sales tax, the product of the sum of the [~~gross~~  
12 ~~receipts~~] sales tax rate and [~~beginning July 1, 2021~~] any  
13 municipal or county local option [~~gross receipts~~] sales tax  
14 rates multiplied by the seller's gross receipts from the sale  
15 of the qualified equipment.

16 B. If the purchase or the introduction into New  
17 Mexico of the qualified equipment is not subject to the [~~gross~~  
18 ~~receipts~~] sales tax or [~~compensating~~] use tax, the rate to  
19 determine the amount of the credit shall be equal to a rate of  
20 five and one-eighth percent."

21 SECTION 247. Section 7-9A-8 NMSA 1978 (being Laws 1979,  
22 Chapter 347, Section 8, as amended) is amended to read:

23 "7-9A-8. CLAIMING THE CREDIT FOR CERTAIN TAXES.--

24 A. A taxpayer shall apply for approval for a credit  
25 within one year following the end of the calendar year in which

.223540.1

underscored material = new  
[bracketed material] = delete

1 the qualified equipment for the manufacturing operation is  
2 purchased or introduced into New Mexico.

3 B. A taxpayer having applied for and been granted  
4 approval for a credit by the department pursuant to the  
5 Investment Credit Act may claim an amount of available credit  
6 against the taxpayer's tax liabilities; provided that the  
7 credit shall be claimed against the taxpayer's tax liabilities  
8 pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use  
9 Tax Act, the Municipal Local Option [~~Gross Receipts and~~  
10 ~~Compensating~~] Sales and Use Taxes Act and the County Local  
11 Option [~~Gross Receipts and Compensating~~] Sales and Use Taxes  
12 Act before being claimed against the taxpayer's tax liabilities  
13 pursuant to the Withholding Tax Act; provided further that no  
14 taxpayer may claim, except as provided in Subsection C of this  
15 section, an amount of available credit for any reporting period  
16 that exceeds eighty-five percent of the sum of the taxpayer's  
17 tax liabilities for that reporting period. Any amount of  
18 available credit not claimed against the taxpayer's tax  
19 liabilities for a reporting period may be claimed in subsequent  
20 reporting periods.

21 C. A taxpayer may apply by September 30 of the  
22 current calendar year for a refund of the unclaimed balance of  
23 the available credit up to a maximum of two hundred fifty  
24 thousand dollars (\$250,000) if on January 1 of the current  
25 calendar year:

.223540.1



underscored material = new  
[bracketed material] = delete

1 (1) the taxpayer's available credit is less  
2 than five hundred thousand dollars (\$500,000); and

3 (2) the sum of the taxpayer's tax liabilities  
4 for the previous calendar year was less than thirty-five  
5 percent of the taxpayer's available credit but more than ten  
6 thousand dollars (\$10,000).

7 D. As used in this section, "tax liabilities" means  
8 any tax liability a taxpayer incurs pursuant to the Withholding  
9 Tax Act, the [~~Gross Receipts and Compensating~~] Sales and Use  
10 Tax Act, the Municipal Local Option [~~Gross Receipts and~~  
11 ~~Compensating~~] Sales and Use Taxes Act or the County Local  
12 Option [~~Gross Receipts and Compensating~~] Sales and Use Taxes  
13 Act."

14 SECTION 248. Section 7-9C-1 NMSA 1978 (being Laws 1992,  
15 Chapter 50, Section 1 and also Laws 1992, Chapter 67, Section  
16 1, as amended) is amended to read:

17 "7-9C-1. SHORT TITLE.--Chapter 7, Article 9C NMSA 1978  
18 may be cited as the "Interstate Telecommunications [~~Gross~~  
19 ~~Receipts~~] Sales Tax Act".

20 SECTION 249. Section 7-9C-2 NMSA 1978 (being Laws 1992,  
21 Chapter 50, Section 2 and also Laws 1992, Chapter 67, Section  
22 2, as amended) is amended to read:

23 "7-9C-2. DEFINITIONS.--As used in the Interstate  
24 Telecommunications [~~Gross Receipts~~] Sales Tax Act:

25 A. "charges for mobile telecommunications services"  
.223540.1

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

1 has the meaning given in the federal Mobile Telecommunications  
2 Sourcing Act;

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

7 C. "engaging in interstate telecommunications  
8 business" means carrying on or causing to be carried on the  
9 business of providing interstate telecommunications service;

10 D. "home service provider" has the meaning given in  
11 the federal Mobile Telecommunications Sourcing Act;

12 E. "interstate telecommunications gross receipts"  
13 means the total amount of money or the value of other  
14 consideration received from providing:

15 (1) interstate telecommunications services,  
16 other than mobile telecommunications services, that either  
17 originate or terminate in New Mexico and are charged to a  
18 telephone number or account in New Mexico, regardless of where  
19 the bill for such services is actually delivered; and

20 (2) mobile telecommunications services that  
21 originate in one state and terminate in any location outside  
22 that state, whether within or outside the United States, to a  
23 customer with a place of primary use in New Mexico. "Interstate  
24 telecommunications gross receipts" excludes mobile  
25 telecommunications services provided to a customer with a place

.223540.1

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

1 of primary use outside of New Mexico, cash discounts allowed  
2 and taken and interstate telecommunications [~~gross receipts~~]  
3 sales tax payable for the reporting period. Also excluded from  
4 "interstate telecommunications gross receipts" are any gross  
5 receipts or sales taxes imposed by any Indian nation, tribe or  
6 pueblo; provided that the tax is approved, if approval is  
7 required by federal law or regulation, by the secretary of the  
8 interior of the United States; and provided further that the  
9 gross receipts or sales tax imposed by the Indian nation, tribe  
10 or pueblo provides a reciprocal exclusion for gross receipts,  
11 sales or gross receipts-based excise taxes imposed by the state  
12 or its political subdivisions;

13 F. "interstate telecommunications service" means  
14 the service of originating or receiving in New Mexico  
15 interstate and international telephone and telegraph service,  
16 including but not limited to the transmission of voice,  
17 messages and data by way of electronic or similar means between  
18 or among points by wire, cable, fiber-optic, laser, microwave,  
19 radio, satellite or similar facilities;

20 G. "mobile telecommunications services" has the  
21 meaning given in the federal Mobile Telecommunications Sourcing  
22 Act;

23 H. "person" means any individual, estate, trust,  
24 receiver, cooperative association, club, corporation, company,  
25 firm, partnership, limited liability company, joint venture,

.223540.1

underscored material = new  
[bracketed material] = delete

1 syndicate or other entity; the United States or any agency or  
2 instrumentality of the United States; or the state of New  
3 Mexico or any political subdivision of the state;

4 I. "place of primary use" has the meaning given in  
5 the federal Mobile Telecommunications Sourcing Act;

6 J. "private communications service" means a  
7 dedicated service for a single customer that entitles the  
8 customer to exclusive or priority use of a communications  
9 channel or group of channels between a location within New  
10 Mexico and one or more specified locations outside New Mexico;  
11 and

12 K. "wide-area telephone service" means a telephone  
13 service that entitles the subscriber, upon payment of a flat  
14 rate charge dependent on the total duration of all such calls  
15 and the geographic area selected by the subscriber, to either  
16 make or receive a large volume of telephonic communications to  
17 or from persons located in specified geographical areas."

18 SECTION 250. Section 7-9C-3 NMSA 1978 (being Laws 1992,  
19 Chapter 50, Section 3 and also Laws 1992, Chapter 67, Section  
20 3) is amended to read:

21 "7-9C-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
22 INTERSTATE TELECOMMUNICATIONS [~~GROSS RECEIPTS~~] SALES TAX.--

23 A. For the privilege of engaging in interstate  
24 telecommunications business, an excise tax equal to four and  
25 one-fourth percent of interstate telecommunications gross

.223540.1

underscoring material = new  
[bracketed material] = delete

1 receipts is imposed upon any person engaging in interstate  
2 telecommunications business in New Mexico.

3 B. The tax imposed by this section shall be  
4 referred to as the "interstate telecommunications [~~gross~~  
5 ~~receipts~~] sales tax".

6 SECTION 251. Section 7-9C-4 NMSA 1978 (being Laws 1992,  
7 Chapter 50, Section 4 and Laws 1992, Chapter 67, Section 4, as  
8 amended) is amended to read:

9 "7-9C-4. PRESUMPTION OF TAXABILITY.--

10 A. To prevent evasion of the interstate  
11 telecommunications [~~gross receipts~~] sales tax and to aid in its  
12 administration, it is presumed that all receipts of a person  
13 engaging in interstate telecommunications business are subject  
14 to the interstate telecommunications [~~gross receipts~~] sales  
15 tax.

16 B. If receipts from nontaxable charges for mobile  
17 telecommunications services are aggregated with and not  
18 separately stated from taxable charges for mobile  
19 telecommunications services, [~~then~~] the charges for nontaxable  
20 mobile telecommunications services shall be subject to  
21 interstate telecommunications [~~gross receipts~~] sales tax unless  
22 the home service provider can reasonably identify nontaxable  
23 charges in its books and records that are kept in the regular  
24 course of business."

25 SECTION 252. Section 7-9C-5 NMSA 1978 (being Laws 1992,

.223540.1

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

1 Chapter 50, Section 5 and also Laws 1992, Chapter 67, Section  
2 5) is amended to read:

3 "7-9C-5. DATE PAYMENT DUE.--The interstate  
4 telecommunications [~~gross receipts~~] sales tax is to be paid to  
5 the department on or before the twenty-fifth day of the month  
6 following the month in which the taxable event occurs."

7 SECTION 253. Section 7-9C-7 NMSA 1978 (being Laws 1992,  
8 Chapter 50, Section 7 and also Laws 1992, Chapter 67, Section  
9 7, as amended) is amended to read:

10 "7-9C-7. DEDUCTION--SALE OF A SERVICE FOR RESALE.--

11 A. Receipts from providing an interstate  
12 telecommunications service in this state that will be used by  
13 other persons in providing telephone or telegraph services to  
14 the final user may be deducted from interstate  
15 telecommunications gross receipts if the sale is made to a  
16 person who is subject to the interstate telecommunications  
17 [~~gross receipts~~] sales tax or to the [~~gross receipts~~] sales tax  
18 or the [~~compensating~~] use tax.

19 B. Receipts during the period July 1, 1998 through  
20 June 30, 2000 from providing leased telephone lines,  
21 telecommunications services, internet access services or  
22 computer programming that will be used by other persons in  
23 providing internet access and related services to the final  
24 user may be deducted from interstate telecommunications gross  
25 receipts if the sale is made to a person who is subject to the

.223540.1

underscoring material = new  
[bracketed material] = delete

1 interstate telecommunications [~~gross receipts~~] sales tax, the  
2 [~~gross receipts~~] sales tax or the [~~compensating~~] use tax."

3 SECTION 254. Section 7-9C-9 NMSA 1978 (being Laws 1992,  
4 Chapter 50, Section 9 and also Laws 1992, Chapter 67, Section  
5 9) is amended to read:

6 "7-9C-9. DEDUCTION--BAD DEBTS.--Refunds and allowances  
7 made to buyers of interstate telecommunications services or  
8 amounts written off the books as an uncollectible debt by a  
9 person reporting interstate telecommunications [~~gross receipts~~]  
10 sales tax on an accrual basis may be deducted from interstate  
11 telecommunications gross receipts. If debts reported as  
12 uncollectible are subsequently collected, such receipts shall  
13 be included in interstate telecommunications gross receipts in  
14 the month of collection."

15 SECTION 255. Section 7-9C-10 NMSA 1978 (being Laws 1992,  
16 Chapter 50, Section 10 and also Laws 1992, Chapter 67, Section  
17 10) is amended to read:

18 "7-9C-10. CREDIT--SERVICES PERFORMED OUTSIDE THE  
19 STATE.--To prevent actual multi-jurisdictional taxation of the  
20 privilege of engaging in business of providing interstate  
21 telecommunications services, any taxpayer, upon proof that the  
22 taxpayer has paid to another state or political subdivision of  
23 another state a sales, use, gross receipts or similar tax on  
24 the same interstate telecommunications gross receipts subject  
25 to the interstate telecommunications [~~gross receipts~~] sales

.223540.1

underscored material = new  
[bracketed material] = delete

1 tax, shall be allowed a credit against the interstate  
2 telecommunications [~~gross receipts~~] sales tax to the extent of  
3 the amount of sales, use, gross receipts or similar tax  
4 properly due and paid to such other state or political  
5 subdivision of that state."

6 SECTION 256. Section 7-9C-11 NMSA 1978 (being Laws 1992,  
7 Chapter 50, Section 11 and also Laws 1992, Chapter 67, Section  
8 11) is amended to read:

9 "7-9C-11. ADMINISTRATION.--

10 A. The department shall interpret the provisions of  
11 the interstate telecommunications [~~gross receipts~~] sales tax.

12 B. The department shall administer and enforce the  
13 collection of the interstate telecommunications [~~gross~~  
14 ~~receipts~~] sales tax, and the Tax Administration Act applies to  
15 the administration and enforcement of the tax."

16 SECTION 257. Section 7-9E-8 NMSA 1978 (being Laws 2000  
17 (2nd S.S.), Chapter 20, Section 8, as amended) is amended to  
18 read:

19 "7-9E-8. CLAIMING THE TAX CREDIT--LIMITATION.--

20 A. A national laboratory eligible for the tax  
21 credit pursuant to the Laboratory Partnership with Small  
22 Business Tax Credit Act may claim the amount of each tax credit  
23 by crediting that amount against [~~gross receipts~~] sales taxes  
24 otherwise due pursuant to the [~~Gross Receipts and Compensating~~]  
25 Sales and Use Tax Act. The tax credit shall be taken on each

.223540.1



underscored material = new  
[bracketed material] = delete

1 monthly [~~gross receipts~~] sales tax return filed by the  
2 laboratory against [~~gross receipts~~] sales taxes due the state  
3 and shall not impact any local government tax distribution. In  
4 no event shall the tax credits taken by an individual national  
5 laboratory exceed two million four hundred thousand dollars  
6 (\$2,400,000) in a given calendar year.

7 B. Tax credits claimed pursuant to the Laboratory  
8 Partnership with Small Business Tax Credit Act by all national  
9 laboratories in the aggregate for qualified expenditures for a  
10 specific small business not located in a rural area shall not  
11 exceed twenty thousand dollars (\$20,000).

12 C. Tax credits claimed pursuant to the Laboratory  
13 Partnership with Small Business Tax Credit Act by all national  
14 laboratories in the aggregate for qualified expenditures for a  
15 specific small business located in a rural area shall not  
16 exceed forty thousand dollars (\$40,000)."

17 SECTION 258. Section 7-9E-9 NMSA 1978 (being Laws 2000  
18 (2nd S.S.), Chapter 20, Section 9) is amended to read:

19 "7-9E-9. TERMINATION OF THE REVOLVING FUND.--Should the  
20 revolving fund established pursuant to Section [~~6 of the~~  
21 ~~Laboratory Partnership with Small Business Tax Credit Act]~~  
22 7-9E-6 NMSA 1978 cease to be used for the purposes stated in  
23 [~~that~~] the Laboratory Partnership with Small Business Tax  
24 Credit Act, any amounts remaining in the revolving fund,  
25 excluding initial funding from nontax credit sources, shall be

.223540.1

underscored material = new  
[bracketed material] = delete

1 paid over to the department as additional [~~gross receipts~~]  
2 sales taxes due. [~~Such~~] The payment of additional [~~gross~~  
3 ~~receipts~~] sales taxes due shall be made in the second month  
4 following the month a determination is made that the revolving  
5 fund ceases to be used for the purposes stated in that act."

6 SECTION 259. Section 7-9F-3 NMSA 1978 (being Laws 2000  
7 (2nd S.S.), Chapter 22, Section 3, as amended by Laws 2019,  
8 Chapter 270, Section 38 and by Laws 2019, Chapter 274, Section  
9 12) is amended to read:

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

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

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

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

.223540.1

underscored material = new  
[bracketed material] = delete

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

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

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

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

.223540.1

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

1     ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act, and  
2     required to be collected by the department at the same time and  
3     in the same manner as the ~~[gross receipts]~~ sales tax;

4             G. "qualified expenditure" means an expenditure or  
5     an allocated portion of an expenditure by a taxpayer in  
6     connection with qualified research at a qualified facility,  
7     including expenditures for depletable land and rent paid or  
8     incurred for land, improvements, the allowable amount paid or  
9     incurred to operate or maintain a facility, buildings,  
10    equipment, computer software, computer software upgrades,  
11    consultants and contractors performing work in New Mexico,  
12    payroll, technical books and manuals and test materials, but  
13    not including any expenditure on property that is owned by a  
14    municipality or county in connection with an industrial revenue  
15    bond project, property for which the taxpayer has received any  
16    credit pursuant to the Investment Credit Act, property that was  
17    owned by the taxpayer or an affiliate before July 3, 2000 or  
18    research and development expenditures reimbursed by a person  
19    who is not an affiliate of the taxpayer. If a "qualified  
20    expenditure" is an allocation of an expenditure, the cost  
21    accounting methodology used for the allocation of the  
22    expenditure shall be the same cost accounting methodology used  
23    by the taxpayer in its other business activities;

24             H. "qualified facility" means a facility in New  
25    Mexico at which qualified research is conducted other than a

.223540.1

1 facility operated by a taxpayer for the United States or any  
2 agency, department or instrumentality thereof;

3 I. "qualified research" means research:

4 (1) that is undertaken for the purpose of  
5 discovering information:

6 (a) that is technological in nature; and

7 (b) the application of which is intended  
8 to be useful in the development of a new or improved business  
9 component of the taxpayer; and

10 (2) substantially all of the activities of  
11 which constitute elements of a process of experimentation  
12 related to a new or improved function, performance, reliability  
13 or quality, but not related to style, taste or cosmetic or  
14 seasonal design factors;

15 J. "qualified research and development small  
16 business" means a taxpayer that:

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

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

24 (3) did not have more than fifty percent of  
25 its voting securities or other equity interest with the right

1 to designate or elect the board of directors or other governing  
2 body of the business owned directly or indirectly by another  
3 business;

4 K. "rural area" means any area of the state other  
5 than the state fairgrounds, an incorporated municipality with a  
6 population of thirty thousand or more according to the most  
7 recent federal decennial census and any area within three miles  
8 of the external boundaries of an incorporated municipality with  
9 a population of thirty thousand or more according to the most  
10 recent federal decennial census;

11 L. "taxpayer" means any of the following persons,  
12 other than a federal, state or other governmental unit or  
13 subdivision or an agency, department, institution or  
14 instrumentality thereof:

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

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

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

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

.223540.1

underscored material = new  
[bracketed material] = delete

1 (a) a small business corporation that  
2 has elected to be treated as an S corporation for federal  
3 income tax purposes; or

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

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

8 SECTION 260. Section 7-9F-9 NMSA 1978 (being Laws 2000  
9 (2nd S.S.), Chapter 22, Section 9, as amended) is amended to  
10 read:

11 "7-9F-9. CLAIMING THE BASIC CREDIT.--

12 A. A taxpayer may apply for approval of a credit  
13 within one year following the end of the reporting period in  
14 which the qualified expenditure was made.

15 B. A taxpayer having applied for and been granted  
16 approval for a basic credit by the department pursuant to the  
17 Technology Jobs and Research and Development Tax Credit Act may  
18 claim the amount of the approved basic credit against the  
19 taxpayer's ~~[compensating]~~ use tax, withholding tax or ~~[gross~~  
20 ~~receipts]~~ sales tax, excluding local option ~~[gross receipts]~~  
21 sales tax, due to the state of New Mexico; provided that no  
22 taxpayer may claim an amount of approved basic credit for a  
23 reporting period in which the basic credit is being claimed  
24 that exceeds the sum of the taxpayer's ~~[compensating]~~ use tax,  
25 withholding tax and ~~[gross receipts]~~ sales tax, excluding local

.223540.1

underscored material = new  
[bracketed material] = delete

1 option [~~gross receipts~~] sales tax, due for that reporting  
2 period.

3 C. Any amount of approved basic credit not claimed  
4 against the taxpayer's [~~compensating~~] use tax, withholding tax  
5 or [~~gross receipts~~] sales tax, excluding local option [~~gross~~  
6 ~~receipts~~] sales tax, due may be claimed in subsequent reporting  
7 periods for a period of up to three years from the date of the  
8 original claim."

9 SECTION 261. Section 7-9F-11 NMSA 1978 (being Laws 2000  
10 (2nd S.S.), Chapter 22, Section 11) is amended to read:

11 "7-9F-11. RECAPTURE.--If the taxpayer or a successor in  
12 business of the taxpayer ceases operations in New Mexico for at  
13 least one hundred eighty consecutive days within a two-year  
14 period after the taxpayer has claimed a basic credit or an  
15 additional credit at a facility [~~with respect to which the~~  
16 ~~taxpayer has claimed the basic credit or the additional~~  
17 ~~credit~~], the department shall grant no further basic credit or  
18 additional credit to the taxpayer with respect to that  
19 facility. In addition, any amount of approved basic credit not  
20 claimed against the taxpayer's [~~gross receipts~~] sales tax,  
21 [~~compensating~~] use tax or withholding tax and any amount of  
22 approved additional credit not claimed against the taxpayer's  
23 income tax or corporate income tax shall be extinguished, and  
24 within thirty days after the one hundred eightieth day of the  
25 cessation of operations, the taxpayer shall pay the amount of

.223540.1



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

1 any [~~gross receipts~~] sales tax, [~~compensating~~] use tax or  
2 withholding tax for which an approved basic credit was taken  
3 and any income tax or corporate income tax against which an  
4 approved additional credit was taken. For purposes of this  
5 section, a taxpayer shall not be deemed to have ceased  
6 operations during reasonable periods for maintenance or  
7 retooling or for the repair or replacement of facilities  
8 damaged or destroyed or during the continuance of labor  
9 disputes."

10 SECTION 262. Section 7-9G-1 NMSA 1978 (being Laws 2004,  
11 Chapter 15, Section 1, as amended) is amended to read:

12 "7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE  
13 JOBS.--

14 A. A taxpayer that is an eligible employer may  
15 apply for, and the department may allow, a tax credit for each  
16 new high-wage job. The credit provided in this section may be  
17 referred to as the "high-wage jobs tax credit".

18 B. The purpose of the high-wage jobs tax credit is  
19 to provide an incentive for urban and rural businesses to  
20 create and fill new high-wage jobs in New Mexico.

21 C. The high-wage jobs tax credit may be claimed and  
22 allowed in an amount equal to eight and one-half percent of the  
23 wages distributed to an eligible employee in a new high-wage  
24 job but shall not exceed twelve thousand seven hundred fifty  
25 dollars (\$12,750) per job per qualifying period. The high-wage

.223540.1

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

1 jobs tax credit may be claimed by an eligible employer for each  
2 new high-wage job performed for the year in which the new high-  
3 wage job is created and for consecutive qualifying periods.

4 D. To receive a high-wage jobs tax credit, a  
5 taxpayer shall file an application for approval of the credit  
6 with the department once per calendar year on forms and in the  
7 manner prescribed by the department. The annual application  
8 shall contain the certification required by Subsection K of  
9 this section and shall contain all qualifying periods that  
10 closed during the calendar year for which the application is  
11 made. Any qualifying period that did not close in the calendar  
12 year for which the application is made shall be denied by the  
13 department. The application for a calendar year shall be filed  
14 no later than December 31 of the following calendar year. If a  
15 taxpayer fails to file the annual application within the time  
16 limits provided in this section, the application shall be  
17 denied by the department. The department shall make a  
18 determination on the application within one hundred eighty days  
19 of the date on which the application was filed.

20 E. A new high-wage job shall not be eligible for a  
21 credit pursuant to this section for the initial qualifying  
22 period unless the eligible employer's total number of employees  
23 with threshold jobs on the last day of the initial qualifying  
24 period at the location at which the job is performed or based  
25 is at least one more than the number of threshold jobs on the

.223540.1

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

1 day prior to the date the new high-wage job was created. A new  
2 high-wage job shall not be eligible for a credit pursuant to  
3 this section for a consecutive qualifying period unless the  
4 total number of threshold jobs at a location at which the job  
5 is performed or based on the last day of that qualifying period  
6 is greater than or equal to the number of threshold jobs at  
7 that same location on the last day of the initial qualifying  
8 period for the new high-wage job.

9 F. If a consecutive qualifying period for a new  
10 high-wage job does not meet the wage, occupancy and residency  
11 requirements, then the qualifying period is ineligible.

12 G. Except as provided in Subsection H of this  
13 section, a new high-wage job shall not be eligible for a credit  
14 pursuant to this section if:

15 (1) the new high-wage job is created due to a  
16 business merger or acquisition or other change in business  
17 organization;

18 (2) the eligible employee was terminated from  
19 employment in New Mexico by another employer involved in the  
20 business merger or acquisition or other change in business  
21 organization with the taxpayer; and

22 (3) the new high-wage job is performed by:

23 (a) the person who performed the job or  
24 its functional equivalent prior to the business merger or  
25 acquisition or other change in business organization; or

.223540.1

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

1 (b) a person replacing the person who  
2 performed the job or its functional equivalent prior to a  
3 business merger or acquisition or other change in business  
4 organization.

5 H. A new high-wage job that was created by another  
6 employer and for which an application for the high-wage jobs  
7 tax credit was received and is under review by the department  
8 prior to the time of the business merger or acquisition or  
9 other change in business organization shall remain eligible for  
10 the high-wage jobs tax credit for the balance of the  
11 consecutive qualifying periods. The new employer that results  
12 from a business merger or acquisition or other change in  
13 business organization may only claim the high-wage jobs tax  
14 credit for the balance of the consecutive qualifying periods  
15 for which the new high-wage job is otherwise eligible.

16 I. A new high-wage job shall not be eligible for a  
17 credit pursuant to this section if the job is created due to an  
18 eligible employer entering into a contract or becoming a  
19 subcontractor to a contract with a governmental entity that  
20 replaces one or more entities performing functionally  
21 equivalent services for the governmental entity unless the job  
22 is a new high-wage job that was not being performed by an  
23 employee of the replaced entity.

24 J. A new high-wage job shall not be eligible for a  
25 credit pursuant to this section if the eligible employer has

.223540.1

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

1 more than one business location in New Mexico from which it  
2 conducts business and the requirements of Subsection E of this  
3 section are satisfied solely by moving the job from one  
4 business location of the eligible employer in New Mexico to  
5 another business location of the eligible employer in New  
6 Mexico.

7 K. With respect to each annual application for a  
8 high-wage jobs tax credit, the employer shall certify and  
9 include:

10 (1) the amount of wages paid to each eligible  
11 employee in a new high-wage job during the qualifying period;

12 (2) the number of weeks each position was  
13 occupied during the qualifying period;

14 (3) whether the new high-wage job was in a  
15 municipality with a population of sixty thousand or more or  
16 with a population of less than sixty thousand according to the  
17 most recent federal decennial census and whether the job was in  
18 the unincorporated area of a county;

19 (4) which qualifying period the application  
20 pertains to for each eligible employee;

21 (5) the total number of employees employed by  
22 the employer at the job location on the day prior to the  
23 qualifying period and on the last day of the qualifying period;

24 (6) the total number of threshold jobs  
25 performed or based at the eligible employer's location on the

.223540.1

1 day prior to the qualifying period and on the last day of the  
2 qualifying period;

3 (7) for an eligible employer that has more  
4 than one business location in New Mexico from which it conducts  
5 business, the total number of threshold jobs performed or based  
6 at each business location of the eligible employer in New  
7 Mexico on the day prior to the qualifying period and on the  
8 last day of the qualifying period;

9 (8) whether the eligible employer is receiving  
10 or is eligible to receive development training program  
11 assistance pursuant to Section 21-19-7 NMSA 1978;

12 (9) whether the eligible employer has ceased  
13 business operations at any of its business locations in New  
14 Mexico; and

15 (10) whether the application is precluded by  
16 Subsection O of this section.

17 L. Any person who willfully submits a false,  
18 incorrect or fraudulent certification required pursuant to  
19 Subsection K of this section shall be subject to all applicable  
20 penalties under the Tax Administration Act, except that the  
21 amount on which the penalty is based shall be the total amount  
22 of credit requested on the application for approval.

23 M. Except as provided in Subsection N of this  
24 section, an approved high-wage jobs tax credit shall be claimed  
25 against the taxpayer's modified combined tax liability and

.223540.1

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

1 shall be filed with the return due immediately following the  
2 date of the credit approval. If the credit exceeds the  
3 taxpayer's modified combined tax liability, the excess shall be  
4 refunded to the taxpayer.

5 N. If the taxpayer ceases business operations in  
6 New Mexico while an application for credit approval is pending  
7 or after an application for credit has been approved for any  
8 qualifying period for a new high-wage job, the department shall  
9 not grant an additional high-wage jobs tax credit to that  
10 taxpayer except as provided in Subsection O of this section and  
11 shall extinguish any amount of credit approved for that  
12 taxpayer that has not already been claimed against the  
13 taxpayer's modified combined tax liability.

14 O. A taxpayer that has received a high-wage jobs  
15 tax credit shall not submit a new application for the credit  
16 for a minimum of two calendar years from the closing date of  
17 the last qualifying period for which the taxpayer received the  
18 credit if the taxpayer lost eligibility to claim the credit  
19 from a previous application pursuant to Subsection N of this  
20 section.

21 P. The economic development department and the  
22 taxation and revenue department shall report to the appropriate  
23 interim legislative committee each year the cost of the high-  
24 wage jobs tax credit to the state and its impact on company  
25 recruitment and job creation.

.223540.1

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. As used in this section:

(1) "benefits" means all remuneration for work performed that is provided to an employee in whole or in part by the employer, other than wages, including the employer's contributions to insurance programs, health care, medical, dental and vision plans, life insurance, employer contributions to pensions, such as a 401(k), and employer-provided services, such as child care, offered by an employer to the employee;

(2) "consecutive qualifying period" means each of the three qualifying periods successively following the qualifying period in which the new high-wage job was created;

(3) "department" means the taxation and revenue department;

(4) "dependent" means "dependent" as defined in 26 U.S.C. 152(a), as that section may be amended or renumbered;

(5) "domicile" means the sole place where an individual has a true, fixed, permanent home. It is the place where the individual has a voluntary, fixed habitation of self and family with the intention of making a permanent home;

(6) "eligible employee" means an individual who is employed in New Mexico by an eligible employer and who is a resident of New Mexico; "eligible employee" does not include an individual who:

(a) is a dependent of the employer;



underscored material = new  
[bracketed material] = delete

1 (b) if the employer is an estate or  
2 trust, is a grantor, beneficiary or fiduciary of the estate or  
3 trust or is a dependent of a grantor, beneficiary or fiduciary  
4 of the estate or trust;

5 (c) if the employer is a corporation, is  
6 a dependent of an individual who owns, directly or indirectly,  
7 more than fifty percent in value of the outstanding stock of  
8 the corporation; or

9 (d) if the employer is an entity other  
10 than a corporation, estate or trust, is a dependent of an  
11 individual who owns, directly or indirectly, more than fifty  
12 percent of the capital and profits interests in the entity;

13 (7) "eligible employer" means an employer  
14 that, during the applicable qualifying period, would be  
15 eligible for development training program assistance under the  
16 fiscal year 2019 policies defining development training program  
17 eligibility developed by the industrial training board in  
18 accordance with Section 21-19-7 NMSA 1978;

19 (8) "modified combined tax liability" means  
20 the total liability for the reporting period for the [~~gross~~  
21 ~~receipts~~] sales tax imposed by Section 7-9-4 NMSA 1978 together  
22 with any tax collected at the same time and in the same manner  
23 as the [~~gross receipts~~] sales tax, such as the [~~compensating~~  
24 use tax, the withholding tax, the interstate telecommunications  
25 [~~gross receipts~~] sales tax, the surcharges imposed by Section

.223540.1

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

1 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11  
2 NMSA 1978, minus the amount of any credit other than the high-  
3 wage jobs tax credit applied against any or all of these taxes  
4 or surcharges; but "modified combined tax liability" excludes  
5 all amounts collected with respect to local option [~~gross~~  
6 ~~receipts~~] sales taxes;

7 (9) "new high-wage job" means a new job  
8 created in New Mexico by an eligible employer on or after July  
9 1, 2004 and prior to July 1, 2026 that is occupied for at least  
10 forty-four weeks of a qualifying period by an eligible employee  
11 who is paid wages calculated for the qualifying period to be at  
12 least:

13 (a) for a new high-wage job created  
14 prior to July 1, 2015: 1) forty thousand dollars (\$40,000) if  
15 the job is performed or based in or within ten miles of the  
16 external boundaries of a municipality with a population of  
17 sixty thousand or more according to the most recent federal  
18 decennial census or in a class H county; and 2) twenty-eight  
19 thousand dollars (\$28,000) if the job is performed or based in  
20 a municipality with a population of less than sixty thousand  
21 according to the most recent federal decennial census or in the  
22 unincorporated area, that is not within ten miles of the  
23 external boundaries of a municipality with a population of  
24 sixty thousand or more, of a county other than a class H  
25 county; and

.223540.1

1 (b) for a new high-wage job created on  
2 or after July 1, 2015: 1) sixty thousand dollars (\$60,000) if  
3 the job is performed or based in or within ten miles of the  
4 external boundaries of a municipality with a population of  
5 sixty thousand or more according to the most recent federal  
6 decennial census or in a class H county; and 2) forty thousand  
7 dollars (\$40,000) if the job is performed or based in a  
8 municipality with a population of less than sixty thousand  
9 according to the most recent federal decennial census or in the  
10 unincorporated area, that is not within ten miles of the  
11 external boundaries of a municipality with a population of  
12 sixty thousand or more, of a county other than a class H  
13 county;

14 (10) "new job" means a job that is occupied by  
15 an employee who has not been employed in New Mexico by the  
16 eligible employer in the three years prior to the date of hire;

17 (11) "qualifying period" means the period of  
18 twelve months beginning on the day an eligible employee begins  
19 working in a new high-wage job or the period of twelve months  
20 beginning on the anniversary of the day an eligible employee  
21 began working in a new high-wage job;

22 (12) "resident" means a natural person whose  
23 domicile is in New Mexico at the time of hire or within one  
24 hundred eighty days of the date of hire;

25 (13) "threshold job" means a job that is

underscored material = new  
[bracketed material] = delete

1 occupied for at least forty-four weeks of a calendar year by an  
2 eligible employee and that meets the wage requirements for a  
3 "new high-wage job"; and

4 (14) "wages" means all compensation paid by an  
5 eligible employer to an eligible employee through the  
6 employer's payroll system, including those wages that the  
7 employee elects to defer or redirect or the employee's  
8 contribution to a 401(k) or cafeteria plan program, but "wages"  
9 does not include benefits or the employer's share of payroll  
10 taxes, social security or medicare contributions, federal or  
11 state unemployment insurance contributions or workers'  
12 compensation."

13 SECTION 263. Section 7-9G-2 NMSA 1978 (being Laws 2007,  
14 Chapter 229, Section 1, as amended) is amended to read:

15 "7-9G-2. ADVANCED ENERGY COMBINED REPORTING TAX CREDIT--  
16 [~~GROSS RECEIPTS~~] SALES TAX--[~~COMPENSATING~~] USE TAX--WITHHOLDING  
17 TAX.--

18 A. Except as otherwise provided in this section, a  
19 taxpayer that holds an interest in a qualified generating  
20 facility located in New Mexico may claim a credit to be  
21 computed pursuant to the provisions of this section. The  
22 credit provided by this section may be referred to as the  
23 "advanced energy combined reporting tax credit".

24 B. As used in this section:

25 (1) "advanced energy tax credit" means the

.223540.1

1 advanced energy income tax credit, the advanced energy  
2 corporate income tax credit and the advanced energy combined  
3 reporting tax credit;

4 (2) "coal-based electric generating facility"  
5 means a new or repowered generating facility and an associated  
6 coal gasification facility, if any, that uses coal to generate  
7 electricity and that meets the following specifications:

8 (a) emits the lesser of: 1) what is  
9 achievable with the best available control technology; or  
10 2) thirty-five thousandths pound per million British thermal  
11 units of sulfur dioxide, twenty-five thousandths pound per  
12 million British thermal units of oxides of nitrogen and one  
13 hundredth pound per million British thermal units of total  
14 particulates in the flue gas;

15 (b) removes the greater of: 1) what is  
16 achievable with the best available control technology; or 2)  
17 ninety percent of the mercury from the input fuel;

18 (c) captures and sequesters or controls  
19 carbon dioxide emissions so that by the later of January 1,  
20 2017 or eighteen months after the commercial operation date of  
21 the coal-based electric generating facility, no more than one  
22 thousand one hundred pounds per megawatt-hour of carbon dioxide  
23 is emitted into the atmosphere;

24 (d) all infrastructure required for  
25 sequestration is in place by the later of January 1, 2017 or

.223540.1

1 eighteenth months after the commercial operation date of the  
2 coal-based electric generating facility;

3 (e) includes methods and procedures to  
4 monitor the disposition of the carbon dioxide captured and  
5 sequestered from the coal-based electric generating facility;  
6 and

7 (f) does not exceed a name-plate  
8 capacity of seven hundred net megawatts;

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

13 (4) "eligible generation plant costs" means  
14 expenditures for the development and construction of a  
15 qualified generating facility, including permitting; site  
16 characterization and assessment; engineering; design; carbon  
17 dioxide capture, treatment, compression, transportation and  
18 sequestration; site and equipment acquisition; and fuel supply  
19 development used directly and exclusively in a qualified  
20 generating facility;

21 (5) "entity" means an individual, estate,  
22 trust, receiver, cooperative association, club, corporation,  
23 company, firm, partnership, limited liability company, limited  
24 liability partnership, joint venture, syndicate or other  
25 association or a gas, water or electric utility owned or

underscored material = new  
[bracketed material] = delete

1 operated by a county or municipality;

2 (6) "geothermal electric generating facility"  
3 means a facility with a name-plate capacity of one megawatt or  
4 more that uses geothermal energy to generate electricity,  
5 including a facility that captures and provides geothermal  
6 energy to a preexisting electric generating facility using  
7 other fuels in part;

8 ~~[(7) "gross receipts tax due to the state"~~  
9 ~~means the taxpayer's gross receipts liability for the reporting~~  
10 ~~period that is:~~

11 ~~(a) determined by, if the taxpayer's~~  
12 ~~business location is described in Subsection A of Section~~  
13 ~~7-1-6.4 NMSA 1978, multiplying the taxpayer's taxable gross~~  
14 ~~receipts for the reporting period by the difference between the~~  
15 ~~gross receipts tax rate specified in Section 7-9-4 NMSA 1978~~  
16 ~~and one and two hundred twenty-five thousandths percent; or~~

17 ~~(b) equal to, if the taxpayer's business~~  
18 ~~location is not described in Subsection A of Section 7-1-6.4~~  
19 ~~NMSA 1978, the gross receipts tax rate specified in Section~~  
20 ~~7-9-4 NMSA 1978;~~

21 ~~{8}~~ (7) "interest in a qualified generating  
22 facility" means title to a qualified generating facility; a  
23 leasehold interest in a qualified generating facility; an  
24 ownership interest in a business or entity that is taxed for  
25 federal income tax purposes as a partnership that holds title

.223540.1

underscored material = new  
[bracketed material] = delete

1 to or a leasehold interest in a qualified generating facility;  
2 or an ownership interest, through one or more intermediate  
3 entities that are each taxed for federal income tax purposes as  
4 a partnership, in a business that holds title to or a leasehold  
5 interest in a qualified generating facility;

6 ~~[(9)]~~ (8) "name-plate capacity" means the  
7 maximum rated output of the facility measured as alternating  
8 current or the equivalent direct current measurement;

9 ~~[(10)]~~ (9) "qualified generating facility"  
10 means a facility that begins construction not later than  
11 December 31, 2015 and is:

12 (a) a solar thermal electric generating  
13 facility that begins construction on or after July 1, 2007 and  
14 that may include an associated renewable energy storage  
15 facility;

16 (b) a solar photovoltaic electric  
17 generating facility that begins construction on or after  
18 July 1, 2009 and that may include an associated renewable  
19 energy storage facility;

20 (c) a geothermal electric generating  
21 facility that begins construction on or after July 1, 2009;

22 (d) a recycled energy project if that  
23 facility begins construction on or after July 1, 2007; or

24 (e) a new or repowered coal-based  
25 electric generating facility and an associated coal

.223540.1



underscored material = new  
[bracketed material] = delete

1 gasification facility;

2 [~~(11)~~] (10) "recycled energy" means energy  
3 produced by a generation unit with a name-plate capacity of not  
4 more than fifteen megawatts that converts the otherwise lost  
5 energy from the exhaust stacks or pipes to electricity without  
6 combustion of additional fossil fuel;

7 (11) "sales tax due to the state" means the  
8 taxpayer's sales tax liability for the reporting period that  
9 is:

10 (a) determined by, if the taxpayer's  
11 business location is described in Subsection A of Section  
12 7-1-6.4 NMSA 1978, multiplying the taxpayer's taxable gross  
13 receipts for the reporting period by the difference between the  
14 sales tax rate specified in Section 7-9-4 NMSA 1978 and one and  
15 two hundred twenty-five thousandths percent; or

16 (b) equal to, if the taxpayer's business  
17 location is not described in Subsection A of Section 7-1-6.4  
18 NMSA 1978, the sales tax rate specified in Section 7-9-4 NMSA  
19 1978;

20 (12) "sequester" means to store, or  
21 chemically convert, carbon dioxide in a manner that prevents  
22 its release into the atmosphere and may include the use of  
23 geologic formations and enhanced oil, coalbed methane or  
24 natural gas recovery techniques;

25 (13) "solar photovoltaic electric generating

.223540.1

1 facility" means an electric generating facility with a name-  
2 plate capacity of one megawatt or more that uses solar  
3 photovoltaic energy to generate electricity; and

4 (14) "solar thermal electric generating  
5 facility" means an electric generating facility with a  
6 name-plate capacity of one megawatt or more that uses solar  
7 thermal energy to generate electricity, including a facility  
8 that captures and provides solar energy to a preexisting  
9 electric generating facility using other fuels in part.

10 C. A taxpayer that holds an interest in a qualified  
11 generating facility may be allocated the right to claim the  
12 advanced energy combined reporting tax credit without regard to  
13 the taxpayer's relative interest in the qualified generating  
14 facility if:

15 (1) the business entity making the allocation  
16 provides notice of the allocation and the taxpayer's interest  
17 in the qualified generating facility to the department on forms  
18 prescribed by the department;

19 (2) allocations to the taxpayer and all other  
20 taxpayers allocated a right to claim the advanced energy tax  
21 credit shall not exceed one hundred percent of the advanced  
22 energy tax credit allowed for the qualified generating  
23 facility; and

24 (3) the taxpayer and all other taxpayers  
25 allocated a right to claim the advanced energy tax credits

.223540.1

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

1 collectively own at least a five percent interest in the  
2 qualified generating facility.

3 D. Upon receipt of the notice of an allocation of  
4 the right to claim all or a portion of the advanced energy  
5 combined reporting tax credit, the department shall verify the  
6 allocation due to the recipient.

7 E. Subject to the limit imposed in Subsection [K] J  
8 of this section, the advanced energy combined reporting tax  
9 credit with respect to a qualified generating facility shall  
10 equal six percent of the eligible generation plant costs of the  
11 qualified generating facility. Taxpayers eligible to claim an  
12 advanced energy combined reporting tax credit holding less than  
13 one hundred percent of the interest in the qualified generating  
14 facility shall designate an individual to report annually to  
15 the department. That designated individual shall report the  
16 eligible generation plant costs incurred during the calendar  
17 year and the relative interest of those costs attributed to  
18 each eligible interest holder. The taxpayers shall submit a  
19 copy of the relative interests attributed to each interest  
20 holder to the department, and any change to the apportioned  
21 interests shall be submitted to the department. The designated  
22 person and the department may identify a mutually acceptable  
23 reporting schedule.

24 F. A taxpayer may apply for the advanced energy  
25 combined reporting tax credit by submitting to the taxation and

.223540.1

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

1 revenue department a certificate issued by the department of  
2 environment pursuant to Subsection K of this section,  
3 documentation showing the taxpayer's interest in the qualified  
4 generating facility identified in the certificate,  
5 documentation of all eligible generation plant costs incurred  
6 by the taxpayer prior to the date of the application by the  
7 taxpayer for the advanced energy combined reporting tax credit  
8 and any other information the taxation and revenue department  
9 requests to determine the amount of tax credit due to the  
10 taxpayer.

11 G. A taxpayer having applied for and been granted  
12 approval to claim an advanced energy combined reporting tax  
13 credit by the department pursuant to this section may claim an  
14 amount of available credit against the taxpayer's [~~gross~~  
15 ~~receipts~~] sales tax, [~~compensating~~] use tax or withholding tax  
16 due to the state. Any balance of the advanced energy combined  
17 reporting tax credit that the taxpayer is approved to claim  
18 after applying that tax credit against the taxpayer's [~~gross~~  
19 ~~receipts~~] sales tax, [~~compensating~~] use tax or withholding tax  
20 liabilities may be claimed by the taxpayer against the  
21 taxpayer's tax liability pursuant to the Income Tax Act by  
22 claiming an advanced energy income tax credit or against the  
23 taxpayer's tax liability pursuant to the Corporate Income and  
24 Franchise Tax Act by claiming an advanced energy corporate  
25 income tax credit. The advanced energy combined reporting tax

.223540.1

underscored material = new  
[bracketed material] = delete

1 credit is not refundable. The total amount of tax credit  
2 claimed pursuant to this section, when combined with the  
3 advanced energy tax credits claimed pursuant to the Income Tax  
4 Act and the Corporate Income and Franchise Tax Act, shall not  
5 exceed the total amount of advanced energy tax credits approved  
6 by the department for the qualified generating facility.

7 H. A taxpayer that is liable for the payment of  
8 [~~gross receipts or compensating~~] sales or use tax with respect  
9 to the ownership, development, construction, maintenance or  
10 operation of a new coal-based electric generating facility that  
11 does not meet the criteria for a qualified generating facility  
12 and that begins construction after January 1, 2007 shall not  
13 claim an advanced energy tax combined reporting credit pursuant  
14 to this section or a [~~gross receipts~~] sales tax credit, a  
15 [~~compensating~~] use tax credit or a withholding tax credit  
16 pursuant to any other state law.

17 I. If the amount of the advanced energy tax credit  
18 approved by the department exceeds the taxpayer's liability,  
19 the excess may be carried forward for up to ten years.

20 J. The aggregate amount of advanced energy tax  
21 credit that may be claimed with respect to each qualified  
22 generating facility shall not exceed sixty million dollars  
23 (\$60,000,000).

24 K. An entity that holds an interest in a qualified  
25 generating facility may request a certificate of eligibility

.223540.1

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

1 from the department of environment to enable the requester to  
2 apply for the advanced energy combined reporting tax credit.

3 The department of environment:

4 (1) shall determine if the facility is a  
5 qualified generating facility;

6 (2) shall require that the requester provide  
7 the department of environment with the information necessary to  
8 assess whether the requester's facility meets the criteria to  
9 be a qualified generating facility;

10 (3) shall issue a certificate to the  
11 requester stating that the facility is or is not a qualified  
12 generating facility within one hundred eighty days after  
13 receiving all information necessary to make a determination;

14 (4) shall:

15 (a) issue rules governing the procedure  
16 for administering the provisions of this subsection and  
17 Subsection L of this section and for providing certificates of  
18 eligibility for advanced energy tax credits;

19 (b) issue a schedule of fees in which no  
20 fee exceeds one hundred fifty thousand dollars (\$150,000); and

21 (c) deposit fees collected pursuant to  
22 this paragraph in the state air quality permit fund created  
23 pursuant to Section 74-2-15 NMSA 1978; and

24 (5) shall report annually to the appropriate  
25 interim legislative committee information that will allow the

.223540.1

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

1 legislative committee to analyze the effectiveness of the  
2 advanced energy tax credits, including the identity of  
3 qualified generating facilities, the energy production means  
4 used, the amount of emissions identified in this section  
5 reduced and removed by those qualified generating facilities  
6 and whether any requests for certificates of eligibility could  
7 not be approved due to program limits.

8 L. If the department of environment issues a  
9 certificate of eligibility to a taxpayer stating that the  
10 taxpayer holds an interest in a qualified generating facility  
11 and the taxpayer does not sequester or control carbon dioxide  
12 emissions to the extent required by this section by the later  
13 of January 1, 2017 or eighteen months after the commercial  
14 operation date of the qualified generating facility, the  
15 taxpayer's certification as a qualified generating facility  
16 shall be revoked by the department of environment and the  
17 taxpayer shall repay to the state tax credits granted pursuant  
18 to this section; provided that if the taxpayer demonstrates to  
19 the department of environment that the taxpayer made every  
20 effort to sequester or control carbon dioxide emissions to the  
21 extent feasible and the facility's inability to meet the  
22 sequestration requirements of a qualified generating facility  
23 was beyond the facility's control, in which case the  
24 department of environment shall determine, after a public  
25 hearing, the amount of the tax credit that should be repaid to

.223540.1

underscoring material = new  
[bracketed material] = delete

1 the state. The department of environment, in its  
2 determination, shall consider the environmental performance of  
3 the facility and the extent to which the inability to meet the  
4 sequestration requirements of a qualified generating facility  
5 was in the control of the taxpayer. The repayment as  
6 determined by the department of environment shall be paid  
7 within one hundred eighty days following a final order by the  
8 department of environment.

9 M. Expenditures for which a taxpayer claims an  
10 advanced energy combined reporting tax credit pursuant to this  
11 section are ineligible for credits pursuant to the provisions  
12 of the Investment Credit Act or any other credit against  
13 personal income tax, corporate income tax, [~~compensating tax,~~  
14 ~~gross receipts~~] sales tax, use tax or withholding tax.

15 N. A taxpayer shall apply for approval for a  
16 credit within one year following the end of the calendar year  
17 in which the eligible generation plant costs are incurred."

18 SECTION 264. Section 7-9I-2 NMSA 1978 (being Laws 2005,  
19 Chapter 104, Section 18, as amended) is amended to read:

20 "7-9I-2. DEFINITIONS.--As used in the Affordable Housing  
21 Tax Credit Act:

22 A. "affordable housing project" means land  
23 acquisition, construction, building acquisition, remodeling,  
24 improvement, rehabilitation, conversion or weatherization for  
25 residential housing that is approved by the authority and that

.223540.1



underscored material = new  
[bracketed material] = delete

1 includes single-family housing or multifamily housing;

2 B. "authority" means the New Mexico mortgage  
3 finance authority;

4 C. "department" means the taxation and revenue  
5 department;

6 D. "modified combined tax liability" means the  
7 total liability for the reporting period for the [~~gross~~  
8 ~~receipts~~] sales tax imposed by Section 7-9-4 NMSA 1978  
9 together with any tax collected at the same time and in the  
10 same manner as the [~~gross receipts~~] sales tax, such as the  
11 [~~compensating~~] use tax, the withholding tax, the interstate  
12 telecommunications [~~gross receipts~~] sales tax, the surcharges  
13 imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed  
14 by Section 63-9F-11 NMSA 1978, minus the amount of any credit  
15 other than the affordable housing tax credit applied against  
16 any or all of these taxes or surcharges; but "modified  
17 combined tax liability" excludes all amounts collected with  
18 respect to local option [~~gross receipts~~] sales taxes and  
19 governmental [~~gross receipts~~] sales taxes; and

20 E. "person" means an individual, tribal  
21 government, housing authority, corporation, limited liability  
22 company, partnership, joint venture, syndicate, association or  
23 nonprofit organization."

24 SECTION 265. Section 7-9I-5 NMSA 1978 (being Laws 2005,  
25 Chapter 104, Section 21) is amended to read:

.223540.1

1 "7-9I-5. AFFORDABLE HOUSING TAX CREDIT.--

2 A. The tax credit provided in this section may be  
3 referred to as the "affordable housing tax credit". Except as  
4 otherwise provided by the Affordable Housing Tax Credit Act, a  
5 holder of an investment voucher that submits the investment  
6 voucher to the department may apply for, and the department  
7 may allow, a tax credit in an amount not to exceed the value  
8 of the investment voucher during the tax year in which the  
9 authority certifies to the department:

10 (1) completion of a service for which an  
11 investment voucher has been issued pursuant to the Affordable  
12 Housing Tax Credit Act; or

13 (2) approval by the authority or completion  
14 of an affordable housing project for which a land, building or  
15 cash donation has been made and for which an investment  
16 voucher has been issued pursuant to the Affordable Housing Tax  
17 Credit Act.

18 B. A holder of an investment voucher may apply all  
19 or a portion of the affordable housing tax credit against the  
20 holder's modified combined tax liability, personal income tax  
21 liability or corporate income tax liability. Any balance of  
22 the affordable housing tax credit claimed may be carried  
23 forward for up to five years from the calendar year during  
24 which the authority certifies to the department approval of  
25 the affordable housing project for which the investment

.223540.1

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

1 voucher used to claim the affordable housing tax credit is  
2 issued. No amount of the affordable housing tax credit may be  
3 applied against a local option [~~gross receipts~~] sales tax  
4 imposed by a municipality or county or against the [~~government~~  
5 ~~gross receipts~~] governmental sales tax.

6 C. Notwithstanding the provisions of Section 7-1-8  
7 NMSA 1978, the department may disclose to a person the balance  
8 of the affordable housing tax credit remaining with respect to  
9 any investment voucher submitted by that person."

10 SECTION 266. Section 7-9J-2 NMSA 1978 (being Laws 2007,  
11 Chapter 204, Section 12, as amended) is amended to read:

12 "7-9J-2. DEFINITIONS.--As used in the Alternative Energy  
13 Product Manufacturers Tax Credit Act:

14 A. "alternative energy product" means an  
15 alternative energy vehicle, fuel cell system, renewable energy  
16 system or any component of an alternative energy vehicle, fuel  
17 cell system or renewable energy system; components for  
18 integrated gasification combined cycle coal facilities and  
19 equipment related to the sequestration of carbon from  
20 integrated gasification combined cycle plants; or, beginning  
21 in taxable year 2011 and ending in taxable year 2019, a  
22 product extracted from or secreted by a single cell  
23 photosynthetic organism;

24 B. "alternative energy vehicle" means a motor  
25 vehicle manufactured by an original equipment manufacturer

.223540.1

1 that fully warrants and certifies that the motor vehicle meets  
2 the federal motor vehicle safety standards and is designed to  
3 be propelled in whole or in part by electricity; "alternative  
4 energy vehicle" includes a gasoline-electric hybrid motor  
5 vehicle exempt from the motor vehicle excise tax pursuant to  
6 Subsection G of Section 7-14-6 NMSA 1978;

7 C. "component" means a part, assembly of parts,  
8 material, ingredient or supply that is incorporated directly  
9 into an end product;

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

14 E. "fuel cell system" means a system that converts  
15 hydrogen, natural gas or waste gas to electricity without  
16 combustion, including:

17 (1) a fuel cell or a system used to generate  
18 or reform hydrogen for use in a fuel cell; or

19 (2) a system used to generate or reform  
20 hydrogen for use in a fuel cell, including:

21 (a) electrolyzers that use renewable  
22 energy; and

23 (b) reformers that use natural gas as  
24 the feedstock;

25 F. "manufacturing" means combining or processing

underscored material = new  
[bracketed material] = delete

1 components or materials to increase their value for sale in  
2 the ordinary course of business, but "manufacturing" does not  
3 include construction, farming, power generation or processing  
4 natural resources;

5 G. "manufacturing equipment" means an essential  
6 machine, mechanism or tool or a component of an essential  
7 machine, mechanism or tool used directly and exclusively in a  
8 taxpayer's manufacturing operation and that is subject to  
9 depreciation pursuant to the Internal Revenue Code of 1986 by  
10 the taxpayer carrying on the manufacturing; provided that  
11 "manufacturing equipment" does not include a vehicle that  
12 leaves the site of a manufacturing operation for the purpose  
13 of transporting persons or property, including property for  
14 which the taxpayer claims a credit pursuant to Section 7-9-79  
15 NMSA 1978;

16 H. "manufacturing operation" means a plant  
17 employing personnel to perform production tasks, in  
18 conjunction with manufacturing equipment not previously  
19 existing at the site, to produce alternative energy products;

20 I. "modified combined tax liability" means the  
21 total liability for the reporting period for the [~~gross~~  
22 ~~receipts~~] sales tax imposed by Section 7-9-4 NMSA 1978  
23 together with any tax collected at the same time and in the  
24 same manner as [~~that gross receipts~~] the sales tax, such as  
25 the [~~compensating~~] use tax, the withholding tax, the

.223540.1

underscored material = new  
[bracketed material] = delete

1 interstate telecommunications [~~gross receipts~~] sales tax, the  
2 surcharge imposed by Section 63-9D-5 NMSA 1978 and the  
3 surcharge imposed by Section 63-9F-11 NMSA 1978, minus the  
4 amount of any credit other than the alternative energy product  
5 manufacturers tax credit applied against any or all of those  
6 taxes or surcharges; provided that "modified combined tax  
7 liability" excludes all amounts collected with respect to  
8 local option [~~gross receipts~~] sales taxes;

9 J. "pass-through entity" means a business  
10 association other than:

11 (1) a sole proprietorship;  
12 (2) an estate or trust;  
13 (3) a corporation, limited liability company,  
14 partnership or other entity that is not a sole proprietorship  
15 taxed as a corporation for federal income tax purposes for the  
16 taxable year; or

17 (4) a partnership that is organized as an  
18 investment partnership in which the partner's income is  
19 derived solely from interest, dividends and sales of  
20 securities;

21 K. "qualified expenditure" means an expenditure  
22 for the purchase of manufacturing equipment made after July 1,  
23 2006 by a taxpayer approved by the department;

24 L. "renewable energy" means energy from solar  
25 heat, solar light, wind, geothermal energy, landfill gas or

.223540.1

underscored material = new  
[bracketed material] = delete

1 biomass either singly or in combination that produces low or  
2 zero emissions and has substantial long-term production  
3 potential;

4 M. "renewable energy system" means a system using  
5 only renewable energy to produce hydrogen or to generate  
6 electricity, including related cogeneration systems that  
7 create mechanical energy or that produce heat or steam for  
8 space or water heating and agricultural or small industrial  
9 processes and includes a:

- 10 (1) photovoltaic energy system;
- 11 (2) solar-thermal energy system;
- 12 (3) biomass energy system;
- 13 (4) wind energy system;
- 14 (5) hydrogen production system; or
- 15 (6) battery cell energy system; and

16 N. "taxpayer" means a person, including a  
17 shareholder, member, partner or other owner of a pass-through  
18 entity, that is liable for payment of a tax or to whom an  
19 assessment has been made if the assessment remains unabated or  
20 the amount thereof has not been paid."

21 SECTION 267. Section 7-10-1 NMSA 1978 (being Laws 1970,  
22 Chapter 26, Section 1, as amended) is amended to read:

23 "7-10-1. SHORT TITLE.--Chapter 7, Article 10 NMSA 1978  
24 may be cited as the "[~~Gross Receipts~~] Sales Tax Registration  
25 Act"."

.223540.1

underscored material = new  
[bracketed material] = delete

1           SECTION 268. Section 7-10-3 NMSA 1978 (being Laws 1970,  
2 Chapter 26, Section 3, as amended) is amended to read:

3           "7-10-3. DEFINITIONS.--As used in the [~~Gross Receipts~~]  
4 Sales Tax Registration Act:

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

9           B. "person" means any individual, estate, trust,  
10 receiver, cooperative association, club, corporation, company,  
11 firm, partnership, joint venture, syndicate or other entity;  
12 and

13           C. "state" means any state agency, department or  
14 office that has authority to contract in the name of the state  
15 or to make payments from state funds."

16           SECTION 269. Section 7-10-4 NMSA 1978 (being Laws 1970,  
17 Chapter 26, Section 4, as amended) is amended to read:

18           "7-10-4. PERSONS DOING BUSINESS WITH THE STATE--  
19 REGISTRATION TO PAY THE [~~GROSS RECEIPTS~~] SALES TAX REQUIRED.--

20 Any person leasing or selling property to the state or  
21 performing services for the state, as those terms are used in  
22 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act,  
23 shall be registered with the department to pay the [~~gross~~  
24 ~~receipts~~] sales tax unless that person has no business  
25 location, employees or property in New Mexico and does not

.223540.1



underscored material = new  
[bracketed material] = delete

1 conduct business in New Mexico through agents or contractors."

2 SECTION 270. Section 7-10-5 NMSA 1978 (being Laws 1970,  
3 Chapter 26, Section 5, as amended) is amended to read:

4 "7-10-5. PENALTY FOR NONCOMPLIANCE.--If any person  
5 required to register under the provisions of Section 7-10-4  
6 NMSA 1978 is not registered to pay the [~~gross receipts~~] sales  
7 tax, the state shall withhold payment of the amount due until  
8 the person has presented evidence of registration with the  
9 department to pay the [~~gross receipts~~] sales tax."

10 SECTION 271. Section 7-14-6 NMSA 1978 (being Laws 1988,  
11 Chapter 73, Section 16, as amended) is amended to read:

12 "7-14-6. EXEMPTIONS FROM TAX.--

13 A. A person who acquires a vehicle out of state  
14 thirty or more days before establishing a domicile in this  
15 state is exempt from the tax if the vehicle was acquired for  
16 personal use.

17 B. A person applying for a certificate of title  
18 for a vehicle registered in another state is exempt from the  
19 tax if the person has previously registered and titled the  
20 vehicle in New Mexico and has owned the vehicle continuously  
21 since that time.

22 C. A vehicle with a certificate of title owned by  
23 this state or any political subdivision is exempt from the  
24 tax.

25 D. A person is exempt from the tax if the person

.223540.1

1 has a disability at the time the person purchases a vehicle  
2 and can prove to the motor vehicle division of the department  
3 or its agent that modifications have been made to the vehicle  
4 that are:

- 5 (1) due to that person's disability; and
- 6 (2) necessary to enable that person to drive  
7 that vehicle or be transported in that vehicle.

8 E. A person is exempt from the tax if the person  
9 is a bona fide resident of New Mexico who served in the armed  
10 forces of the United States and who suffered, while serving in  
11 the armed forces or from a service-connected cause, the loss  
12 or complete and total loss of use of:

- 13 (1) one or both legs at or above the ankle;  
14 or
- 15 (2) one or both arms at or above the wrist.

16 F. A person who acquires a vehicle for subsequent  
17 lease shall be exempt from the tax if:

- 18 (1) the person does not use the vehicle in  
19 any manner other than holding it for lease or sale or leasing  
20 or selling it in the ordinary course of business;
- 21 (2) the lease is for a term of more than six  
22 months;
- 23 (3) the receipts from the subsequent lease  
24 are subject to the [~~gross receipts~~] sales tax; and
- 25 (4) the vehicle does not have a gross vehicle

underscoring material = new  
[bracketed material] = delete

1 weight of over twenty-six thousand pounds.

2 G. From July 1, 2004 through June 30, 2009,  
3 vehicles that are gasoline-electric hybrid vehicles with a  
4 United States environmental protection agency fuel economy  
5 rating of at least twenty-seven and one-half miles per gallon  
6 are eligible for a one-time exemption from the tax at the time  
7 of the issuance of the original certificate of title for the  
8 vehicle."

9 SECTION 272. Section 7-14-7.1 NMSA 1978 (being Laws  
10 1991, Chapter 197, Section 4, as amended) is amended to read:

11 "7-14-7.1. CREDIT--VEHICLES USED FOR SHORT-TERM  
12 LEASING--REQUIREMENTS--REPORTS.--

13 A. Upon application of the owner, the secretary  
14 shall suspend payment of the tax and issue a certificate of  
15 title without payment of the tax for any vehicle the leasing  
16 of which is subject to the Leased Vehicle [~~Gross Receipts~~]  
17 Sales Tax Act, if:

18 (1) the vehicle is acquired by the owner on  
19 or after July 1, 1991;

20 (2) the vehicle is required to be registered  
21 in this state;

22 (3) the owner presents proof satisfactory to  
23 the secretary that the owner is registered with the department  
24 to pay the leased vehicle [~~gross receipts~~] sales tax; and

25 (4) the owner declares that the vehicle for

.223540.1

underscored material = new  
[bracketed material] = delete

1 which issuance of a certificate of title is being applied will  
2 be part of a vehicle fleet of at least five vehicles, will be  
3 used primarily as a short-term rental vehicle and that each  
4 period of rental or lease will not exceed six months.

5 B. If an owner has paid the motor vehicle  
6 excise tax after July 1, 1991 with respect to a vehicle that  
7 qualifies for suspension of the motor vehicle excise tax  
8 pursuant to Subsection A of this section, the owner may apply  
9 for a refund of the motor vehicle excise tax paid, but the  
10 application for refund [~~must~~] shall be made within one year of  
11 the date certificate of title was issued to the owner for the  
12 vehicle. If application is made after that time, the claim  
13 for refund is not timely and the motor vehicle excise tax paid  
14 shall not be refunded.

15 C. On or before the twenty-fifth day of the month  
16 following the close of the calendar year, the owner shall  
17 submit to the department in a form prescribed by the secretary  
18 a report indicating the total collections of leased vehicle  
19 [~~gross receipts~~] sales tax collected in lieu of the tax. The  
20 report shall also indicate the amount of tax that would have  
21 been paid in the state of New Mexico for the preceding  
22 calendar year.

23 D. If the total amount of leased vehicle [~~gross~~  
24 ~~receipts~~] sales tax is less than the amount of tax that would  
25 have been collected, the owner shall pay the difference to the

.223540.1

underscoring material = new  
[bracketed material] = delete

1 department at the time of filing the report required by  
2 Subsection ~~[B]~~ C of this section.

3 E. Once the total amount of leased vehicle [~~gross~~  
4 ~~receipts~~] sales tax credited with respect to a vehicle for  
5 which payment of the motor vehicle excise tax is suspended  
6 pursuant to Subsection A of this section equals or exceeds the  
7 amount of motor vehicle excise tax due on that vehicle, or the  
8 owner has paid the difference pursuant to Subsection D of this  
9 section, the secretary shall cause the records of the  
10 department to indicate that the motor vehicle excise tax due  
11 with respect to that vehicle is paid in full and that payment  
12 is no longer suspended."

13 SECTION 273. Section 7-14A-1 NMSA 1978 (being Laws 1991,  
14 Chapter 197, Section 5, as amended) is amended to read:

15 "7-14A-1. SHORT TITLE.--Chapter 7, Article 14A NMSA 1978  
16 may be cited as the "Leased Vehicle [~~Gross Receipts~~] Sales Tax  
17 Act"."

18 SECTION 274. Section 7-14A-2 NMSA 1978 (being Laws 1991,  
19 Chapter 197, Section 6, as amended) is amended to read:

20 "7-14A-2. DEFINITIONS.--As used in the Leased Vehicle  
21 [~~Gross Receipts~~] Sales Tax Act:

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

.223540.1

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

1           B. "engaging in business" means carrying on or  
2 causing to be carried on the leasing of vehicles with the  
3 purpose of direct or indirect benefit;

4           C. "gross receipts" means the total amount of  
5 money or the value of other consideration received from  
6 leasing vehicles used in New Mexico, but excludes cash  
7 discounts allowed and taken, leased vehicle [~~gross receipts~~]  
8 sales tax payable on transactions for the reporting period,  
9 [~~gross receipts~~] sales tax payable pursuant to the [~~Gross~~  
10 ~~Receipts and Compensating~~] Sales and Use Tax Act on  
11 transactions for the reporting period and taxes imposed  
12 pursuant to the provisions of any local option [~~gross~~  
13 ~~receipts~~] sales tax, as that term is defined in the Tax  
14 Administration Act, that is payable on transactions for the  
15 reporting period and any type of time-price differential.  
16 Also excluded from "gross receipts" are any gross receipts or  
17 sales taxes imposed by an Indian nation, tribe or pueblo,  
18 provided that the tax is approved, if approval is required by  
19 federal law or regulation, by the secretary of the interior of  
20 the United States, and provided further that the gross  
21 receipts or sales tax imposed by the Indian nation, tribe or  
22 pueblo provides a reciprocal exclusion for gross receipts,  
23 sales or gross receipts-based excise taxes imposed by the  
24 state or its political subdivisions. In an exchange in which  
25 the money or other consideration received does not represent

.223540.1

underscored material = new  
[bracketed material] = delete

1 the value of the lease of the vehicle, "gross receipts" means  
2 the reasonable value of the lease of the vehicle. When the  
3 leasing of vehicles is made under a leasing contract, the  
4 seller or lessor may elect to treat all receipts under those  
5 contracts as gross receipts as and when the payments are  
6 actually received. "Gross receipts" also includes amounts  
7 paid by members of any cooperative association or similar  
8 organization for the lease of vehicles by that organization;

9 D. "leasing" means any arrangement whereby, for a  
10 consideration, a vehicle without a driver furnished by the  
11 lessor or owner is employed for or by any person other than  
12 the owner of the vehicle for a period of not more than six  
13 months;

14 E. "person" means any individual, estate, trust,  
15 receiver, cooperative association, club, corporation, company,  
16 firm, partnership, joint venture, syndicate or other entity;  
17 and

18 F. "vehicle" means a passenger automobile designed  
19 to accommodate six or fewer adult human beings that is part of  
20 a fleet of five or more passenger automobiles owned by the  
21 same person."

22 SECTION 275. Section 7-14A-3 NMSA 1978 (being Laws 1991,  
23 Chapter 197, Section 7) is amended to read:

24 "7-14A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
25 "LEASED VEHICLE [~~GROSS RECEIPTS~~] SALES TAX".--

.223540.1

underscored material = new  
[bracketed material] = delete

1           A. For the privilege of engaging in business, an  
2 excise tax equal to five percent of gross receipts is imposed  
3 on any person engaging in business in New Mexico.

4           B. The tax imposed by this section shall be  
5 referred to as the "leased vehicle [~~gross receipts~~] sales  
6 tax".

7           **SECTION 276.** Section 7-14A-3.1 NMSA 1978 (being Laws  
8 1993, Chapter 359, Section 1, as amended) is amended to read:

9           "7-14A-3.1. IMPOSITION AND RATE--LEASED VEHICLE  
10 SURCHARGE.--

11           A. Except as provided in Subsection B of this  
12 section, there is imposed a surcharge on the leasing of a  
13 vehicle to another person by a person engaging in business in  
14 New Mexico if the lease is subject to the leased vehicle  
15 [~~gross receipts~~] sales tax. The amount of this surcharge is  
16 two dollars (\$2.00) for each day the vehicle is leased by the  
17 person. The surcharge may be referred to as the "leased  
18 vehicle surcharge".

19           B. The leased vehicle surcharge imposed in  
20 Subsection A of this section shall not apply to the lease of a  
21 temporary replacement vehicle if the lessee signs a statement  
22 that the temporary replacement vehicle is to be used as a  
23 replacement for another vehicle that is being repaired,  
24 serviced or replaced. For the purposes of this section,  
25 "temporary replacement vehicle" means a vehicle that is:

.223540.1



underscored material = new  
[bracketed material] = delete

1 (1) used by an individual in place of another  
2 vehicle that is unavailable for use by the individual due to  
3 loss, damage, mechanical breakdown or need for servicing; and

4 (2) leased temporarily by or on behalf of the  
5 individual or loaned temporarily to the individual by a  
6 vehicle repair facility or dealer while the other vehicle is  
7 being repaired, serviced or replaced."

8 SECTION 277. Section 7-14A-4 NMSA 1978 (being Laws 1991,  
9 Chapter 197, Section 8, as amended) is amended to read:

10 "7-14A-4. PRESUMPTION OF TAXABILITY.--To prevent evasion  
11 of the leased vehicle [~~gross receipts~~] sales tax and the  
12 leased vehicle surcharge and to aid in their administration,  
13 it is presumed that all receipts of a person engaging in  
14 business are subject to the leased vehicle [~~gross receipts~~]  
15 sales tax and that all vehicles leased by that person are  
16 subject to the leased vehicle surcharge."

17 SECTION 278. Section 7-14A-5 NMSA 1978 (being Laws 1991,  
18 Chapter 197, Section 9) is amended to read:

19 "7-14A-5. SEPARATELY STATING THE LEASED VEHICLE [~~GROSS~~  
20 ~~RECEIPTS~~] SALES TAX.--When the leased vehicle [~~gross receipts~~]  
21 sales tax is stated separately on the books of the lessor and  
22 if the total amount of tax that is stated separately on  
23 transactions reportable within one reporting period is in  
24 excess of the amount of leased vehicle [~~gross receipts~~] sales  
25 tax otherwise payable on the transactions on which the tax was

.223540.1

underscored material = new  
[bracketed material] = delete

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

4 SECTION 279. Section 7-14A-6 NMSA 1978 (being Laws 1991,  
5 Chapter 197, Section 10, as amended) is amended to read:

6 "7-14A-6. DATE PAYMENT DUE.--The tax and the surcharge  
7 imposed by the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act  
8 are to be paid on or before the twenty-fifth day of the month  
9 following the month in which the taxable event occurs."

10 SECTION 280. Section 7-14A-7 NMSA 1978 (being Laws 1991,  
11 Chapter 197, Section 11) is amended to read:

12 "7-14A-7. DEDUCTION--TRANSACTIONS IN INTERSTATE  
13 COMMERCE.--Receipts from transactions in interstate commerce  
14 may be deducted from gross receipts to the extent that the  
15 imposition of the leased vehicle [~~gross receipts~~] sales tax  
16 would be unlawful under the United States constitution."

17 SECTION 281. Section 7-14A-10 NMSA 1978 (being Laws  
18 1991, Chapter 197, Section 14, as amended) is amended to read:

19 "7-14A-10. DISTRIBUTION OF PROCEEDS.--At the end of each  
20 month, the net receipts attributable to the leased vehicle  
21 [~~gross receipts~~] sales tax and any associated penalties and  
22 interest shall be distributed as follows:

23 A. one-fourth to the local governments road fund;

24 and

25 B. three-fourths to the highway infrastructure

.223540.1

underscored material = new  
[bracketed material] = delete

1 fund."

2 SECTION 282. Section 7-14A-11 NMSA 1978 (being Laws  
3 1991, Chapter 197, Section 15, as amended) is amended to read:

4 "7-14A-11. ADMINISTRATION.--

5 A. The department shall interpret the provisions  
6 of the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act.

7 B. The department shall administer and enforce the  
8 collection of the leased vehicle [~~gross receipts~~] sales tax  
9 and the leased vehicle surcharge, and the Tax Administration  
10 Act applies to the administration and enforcement of the tax  
11 and the surcharge."

12 SECTION 283. Section 7-16A-13.1 NMSA 1978 (being Laws  
13 2001, Chapter 43, Section 2, as amended by Laws 2006, Chapter  
14 73, Section 1 and by Laws 2006, Chapter 74, Section 2) is  
15 amended to read:

16 "7-16A-13.1. CLAIM FOR REFUND OF SPECIAL FUEL EXCISE TAX  
17 PAID ON SPECIAL FUEL.--

18 A. Upon the submission of proof satisfactory to  
19 the department, a user of special fuel may submit and the  
20 department may allow a claim for refund of tax paid on special  
21 fuel used to propel a vehicle authorized by contract with the  
22 public education department or with a public school district  
23 as a school bus, to propel a vehicle off-road, to operate  
24 auxiliary equipment by a power take-off from the main engine  
25 or transmission of a vehicle or to operate a non-automotive

.223540.1

underscored material = new  
[bracketed material] = delete

1 apparatus mounted on a vehicle when the special fuel used for  
2 such purposes and the special fuel used to propel the vehicle  
3 on the highways are drawn from a common supply tank. The  
4 vehicle must be registered with the department. The user must  
5 be registered with the department for purposes of reporting  
6 and paying [~~gross receipts~~] sales tax.

7 B. No person may submit claims for refund pursuant  
8 to the provisions of this section more frequently than  
9 quarterly. No claim for refund may be submitted or allowed on  
10 less than one hundred gallons.

11 C. The department may prescribe the documents  
12 necessary to support a claim for refund pursuant to the  
13 provisions of this section. The department may prescribe the  
14 use of types of monitoring or measuring equipment.

15 D. This section applies to special fuel purchased  
16 on or after July 1, 2001, except for the refund for special  
17 fuel used to propel a school bus, which applies to special  
18 fuel purchased on or after July 1, 2005."

19 SECTION 284. Section 7-19-10 NMSA 1978 (being Laws 1979,  
20 Chapter 397, Section 1, as amended) is amended to read:

21 "7-19-10. SHORT TITLE.--Sections 7-19-10 through 7-19-18  
22 NMSA 1978 may be cited as the "Supplemental Municipal [~~Gross~~  
23 ~~Receipts~~] Sales Tax Act"."

24 SECTION 285. Section 7-19-11 NMSA 1978 (being Laws 1979,  
25 Chapter 397, Section 2, as amended) is amended to read:

.223540.1

underscored material = new  
[bracketed material] = delete

1 "7-19-11. DEFINITIONS.--As used in the Supplemental  
2 Municipal [~~Gross Receipts~~] Sales Tax Act:

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

7 B. "governing body" means the city council or city  
8 commission of a municipality;

9 C. "municipality" means any incorporated city,  
10 town or village having previously qualified to impose and did  
11 impose the tax pursuant to the provisions of the Supplemental  
12 Municipal [~~Gross Receipts~~] Sales Tax Act in effect prior to  
13 [~~this 1997 act~~] the enactment of Laws 1997, Chapter 219;

14 D. "person" means an individual or any other legal  
15 entity;

16 E. "refunding bonds" means bonds issued pursuant  
17 to the provisions of the Supplemental Municipal [~~Gross~~  
18 ~~Receipts~~] Sales Tax Act to refund supplemental municipal  
19 [~~gross receipts~~] sales tax bonds issued pursuant to the  
20 provisions of that act;

21 F. "state [~~gross receipts~~] sales tax" means the  
22 [~~gross receipts~~] sales tax imposed under the [~~Gross Receipts~~  
23 ~~and Compensating~~] Sales and Use Tax Act; and

24 G. "supplemental municipal [~~gross receipts~~] sales  
25 tax" means the tax authorized to be imposed under the

.223540.1

underscored material = new  
[bracketed material] = delete

1 Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act."

2 SECTION 286. Section 7-19-12 NMSA 1978 (being Laws 1979,  
3 Chapter 397, Section 3, as amended) is amended to read:

4 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL MUNICIPAL  
5 [~~GROSS RECEIPTS~~] SALES TAX--AUTHORIZATION FOR ISSUANCE OF  
6 SUPPLEMENTAL MUNICIPAL [~~GROSS RECEIPTS~~] SALES TAX BONDS--  
7 ELECTION REQUIRED.--

8 A. The majority of the members elected to the  
9 governing body of a municipality may enact an ordinance  
10 imposing an excise tax on any person engaging in business in  
11 the municipality for the privilege of engaging in business in  
12 the municipality. This tax is to be referred to as the  
13 "supplemental municipal [~~gross receipts~~] sales tax". The rate  
14 of the tax shall not exceed one percent of the gross receipts  
15 of the person engaging in business and shall be imposed in  
16 one-fourth percent increments if less than one percent.

17 B. The governing body of a municipality enacting  
18 an ordinance imposing the tax authorized in Subsection A of  
19 this section shall submit the question of imposing such tax  
20 and the question of the issuance of supplemental municipal  
21 [~~gross receipts~~] sales tax bonds in an amount not to exceed  
22 nine million dollars (\$9,000,000), for which the revenue from  
23 the supplemental municipal [~~gross receipts~~] sales tax is  
24 dedicated, to the qualified electors of the municipality at a  
25 regular or special election.

.223540.1

underscored material = new  
[bracketed material] = delete

1           C. The questions referred to in Subsection B of  
2 this section shall be submitted to a vote of the qualified  
3 electors of the municipality as two separate ballot questions,  
4 which shall be substantially in the following form:

5                   (1) "Shall the municipality be authorized to  
6 issue supplemental municipal [~~gross receipts~~] sales tax bonds  
7 in an amount of not exceeding \_\_\_\_\_ dollars for  
8 the purpose of constructing and equipping and otherwise  
9 acquiring a municipal water supply system?

10                               For \_\_\_\_\_ Against \_\_\_\_\_"; and

11                   (2) "Shall the municipality impose an excise  
12 tax for the privilege of engaging in business in the  
13 municipality which shall be known as the "supplemental  
14 municipal [~~gross receipts~~] sales tax" and which shall be  
15 imposed at a rate of \_\_\_\_\_ percent of the gross receipts  
16 of the person engaging in business, the proceeds of which are  
17 dedicated to the payment of supplemental municipal [~~gross~~  
18 ~~receipts~~] sales tax bonds?

19                               For \_\_\_\_\_ Against \_\_\_\_\_".

20           D. Only those voters who are registered electors  
21 who reside within the municipality shall be permitted to vote  
22 on these two questions. The procedures for conducting the  
23 election shall be substantially the same as the applicable  
24 provisions in Sections 3-30-1, 3-30-6 and 3-30-7 NMSA 1978  
25 relating to municipal debt.

underscored material = new  
[bracketed material] = delete

1           E. If at an election called pursuant to this  
2 section a majority of the voters voting on each of the two  
3 questions vote in the affirmative on each [~~such~~] question,  
4 [~~then~~] the ordinance imposing the supplemental municipal  
5 [~~gross receipts~~] sales tax shall be approved. If at such  
6 election a majority of the voters voting on such questions  
7 [~~fail~~] fails to approve any of the questions, [~~then~~] the  
8 ordinance imposing the tax shall be disapproved and the  
9 questions required to be submitted by Subsection B of this  
10 section shall not be submitted to the voters for a period of  
11 one year from the date of the election.

12           F. Any ordinance enacted under the provisions of  
13 this section shall include an effective date of either July 1  
14 or January 1, whichever date occurs first after the expiration  
15 of at least five months from the date of the election. A  
16 certified copy of any ordinance imposing a supplemental  
17 municipal [~~gross receipts~~] sales tax shall be mailed to the  
18 [~~division~~] department within five days after the ordinance is  
19 adopted by the approval by the electorate. Any ordinance  
20 repealing the imposition of a tax under the provisions of the  
21 Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act shall  
22 become effective on either July 1 or January 1, after the  
23 expiration of at least five months from the date the ordinance  
24 is repealed by the governing body.

25           G. Nothing in this section is intended to or does



underscored material = new  
[bracketed material] = delete

1 alter the effectiveness or validity of any actions taken in  
2 accordance with Subsection G of Section 80 of Chapter 20 of  
3 Laws 1986."

4 SECTION 287. Section 7-19-13 NMSA 1978 (being Laws 1979,  
5 Chapter 397, Section 4) is amended to read:

6 "7-19-13. ORDINANCE [~~MUST~~] SHALL CONFORM TO CERTAIN  
7 PROVISIONS OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND  
8 USE TAX ACT AND REQUIREMENTS OF THE [~~DIVISION~~] DEPARTMENT.--

9 A. Any ordinance imposing a supplemental municipal  
10 [~~gross receipts~~] sales tax shall adopt by reference the same  
11 definitions and the same provisions relating to exemptions and  
12 deductions as are contained in the [~~Gross Receipts and~~  
13 ~~Compensating~~] Sales and Use Tax Act then in effect and as it  
14 may be amended from time to time.

15 B. The governing body of any municipality imposing  
16 or increasing the supplemental municipal [~~gross receipts~~]  
17 sales tax [~~must~~] shall adopt the language of the model  
18 ordinance furnished to the municipality by the [~~division~~]  
19 department for the portion of the ordinance relating to the  
20 tax."

21 SECTION 288. Section 7-19-14 NMSA 1978 (being Laws 1979,  
22 Chapter 397, Section 5, as amended) is amended to read:

23 "7-19-14. SPECIFIC EXEMPTIONS.--No supplemental  
24 municipal [~~gross receipts~~] sales tax shall be imposed on the  
25 gross receipts arising from:

.223540.1

underscoring material = new  
[bracketed material] = delete

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

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

9           SECTION 289. Section 7-19-15 NMSA 1978 (being Laws 1979,  
10 Chapter 397, Section 6, as amended) is amended to read:

11           "7-19-15. COLLECTION BY DEPARTMENT--TRANSFER OF  
12 PROCEEDS--DEDUCTIONS.--

13           A. The department shall collect the supplemental  
14 municipal [~~gross receipts~~] sales tax in the same manner and at  
15 the same time it collects the state [~~gross receipts~~] sales  
16 tax.

17           B. The department shall withhold an administrative  
18 fee pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA  
19 1978. The department shall transfer to each municipality for  
20 which it is collecting a supplemental municipal [~~gross~~  
21 ~~receipts~~] sales tax the amount of the tax collected less the  
22 administrative fee withheld and less any disbursements for tax  
23 credits, refunds and the payment of interest applicable to the  
24 supplemental municipal [~~gross receipts~~] sales tax. Transfer  
25 of the tax to a municipality shall be made within the month

.223540.1

underscoring material = new  
[bracketed material] = delete

1 following the month in which the tax is collected."

2 SECTION 290. Section 7-19-16 NMSA 1978 (being Laws 1979,  
3 Chapter 397, Section 7) is amended to read:

4 "7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND  
5 ENFORCEMENT OF TAX.--

6 A. The [~~division~~] department shall interpret the  
7 provisions of the Supplemental Municipal [~~Gross Receipts~~]  
8 Sales Tax Act.

9 B. The [~~division~~] department shall administer and  
10 enforce the collection of the supplemental municipal [~~gross~~  
11 ~~receipts~~] sales tax, and the Tax Administration Act applies to  
12 the administration and enforcement of the tax."

13 SECTION 291. Section 7-19-17 NMSA 1978 (being Laws 1979,  
14 Chapter 397, Section 8, as amended) is amended to read:

15 "7-19-17. ISSUANCE OF BONDS--PURPOSES.--

16 A. If the ordinance imposing the supplemental  
17 municipal [~~gross receipts~~] sales tax is approved as provided  
18 in Subsection E of Section 7-19-12 NMSA 1978, the governing  
19 body of a municipality may issue bonds pursuant to the  
20 Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act in an  
21 amount not to exceed nine million dollars (\$9,000,000). The  
22 supplemental municipal [~~gross receipts~~] sales tax bonds shall  
23 be issued for the purpose of constructing and equipping and  
24 otherwise acquiring a municipal water supply system, including  
25 the purchase of water rights and easements, equipment and

.223540.1

underscoring material = new  
[bracketed material] = delete

1 professional fees related thereto, to be paid back from the  
2 proceeds of the supplemental municipal [~~gross receipts~~] sales  
3 tax imposed.

4 B. Supplemental municipal [~~gross receipts~~] sales  
5 tax bonds shall be issued and sold as provided in the  
6 Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act. The  
7 governing body of the municipality shall determine at its  
8 discretion the terms, covenants and conditions of the  
9 supplemental municipal [~~gross receipts~~] sales tax bonds,  
10 including but not limited to date of issuance, denomination,  
11 maturity, coupon rates, call features, premium, registration,  
12 refundability and other matters covering the general and  
13 technical aspects of their issuance. These bonds may be  
14 either serial or term and may be sold by the governing body of  
15 the municipality at the time and in the manner as the  
16 governing body may elect, at either public or private sale.  
17 The supplemental municipal [~~gross receipts~~] sales tax bonds  
18 shall not be considered or held to be general obligations of  
19 the municipality issuing them and are payable solely from the  
20 revenue accruing from the revenue of the supplemental  
21 municipal [~~gross receipts~~] sales tax. The ordinance  
22 authorizing the tax shall be irrevocable until these bonds  
23 are fully paid."

24 SECTION 292. Section 7-19-17.1 NMSA 1978 (being Laws  
25 1997, Chapter 219, Section 4) is amended to read:

.223540.1

1 "7-19-17.1. REFUNDING BONDS--AUTHORIZATION.--

2 A. Any municipality may issue refunding bonds for  
3 the purpose of refinancing, paying and discharging all or any  
4 part of outstanding supplemental municipal [~~gross receipts~~]  
5 sales tax bonds of any one or more or all outstanding issues:

6 (1) for the acceleration, deceleration or  
7 other modification of the payment of such obligations,  
8 including without limitation any capitalization of any  
9 interest thereon in arrears or about to become due for any  
10 period not exceeding one year from the date of the refunding  
11 bonds;

12 (2) for the purpose of reducing interest  
13 costs or affecting other economies;

14 (3) for the purpose of modifying or  
15 eliminating restrictive contractual limitations pertaining to  
16 the issuance of additional bonds, otherwise concerning the  
17 outstanding bonds or to any facilities relating thereto; or

18 (4) for any combination of such purposes.

19 B. The municipality may pledge irrevocably for the  
20 payment of interest and principal on refunding bonds the  
21 appropriate pledged revenues, which may be pledged to an  
22 original issue of bonds as provided in the Supplemental  
23 Municipal [~~Gross Receipts~~] Sales Tax Act. Nothing in this  
24 section shall permit the pledge of the [~~gross receipts~~]  
25 supplemental municipal sales tax revenue to the payment of

.223540.1

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

1 bonds that refund bonds issued under any other provision of  
2 law.

3 C. Refunding bonds may be issued separately or  
4 issued in combination in one series or more.

5 D. Refunding bonds issued pursuant to the  
6 Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act shall be  
7 authorized by ordinance. Any bonds that are refunded under  
8 the provisions of this section shall be paid at maturity or on  
9 any permitted prior redemption date in the amounts, at the  
10 time and places and, if called prior to maturity, in  
11 accordance with any applicable notice provisions, all as  
12 provided in the proceedings authorizing the issuance of the  
13 refunded bonds, or otherwise appertaining thereto, except for  
14 any such bond that is voluntarily surrendered for exchange or  
15 payment by the holder or owner.

16 E. Provision shall be made for paying the bonds  
17 refunded at the time or places provided in Subsection D of  
18 this section. The principal amount of the refunding bonds  
19 shall not exceed, but may be less than or be the same as, the  
20 principal amount of the bonds being refunded so long as  
21 provision is duly and sufficiently made for the payment of the  
22 refunded bonds.

23 F. The proceeds of refunding bonds, including any  
24 accrued interest and premium appertaining to the sale of  
25 refunding bonds, shall either be immediately applied to the

.223540.1

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

1 retirement of the bonds being refunded or be placed in escrow  
2 in a commercial bank or trust company that possesses and is  
3 exercising trust powers and that is a member of the federal  
4 deposit insurance corporation, to be applied to the payment of  
5 the principal of, interest on and any prior redemption premium  
6 due in connection with the bonds being refunded; provided that  
7 such refunding bond proceeds, including any accrued interest  
8 and any premium appertaining to a sale of refunding bonds, may  
9 be applied to the establishment and maintenance of a reserve  
10 fund and to the payment of expenses incidental to the  
11 refunding and the issuance of the refunding bonds, the  
12 interest on the refunding bonds and the principal of the  
13 refunding bonds or both interest and principal as the  
14 municipality may determine. Nothing in this section requires  
15 the establishment of an escrow if the refunded bonds become  
16 due and payable within one year from the date of the refunding  
17 bonds and if the amounts necessary to retire the refunded  
18 bonds within that time are deposited with the paying agent for  
19 the refunded bonds. Any such escrow shall not necessarily be  
20 limited to proceeds of refunding bonds but may include other  
21 money available for its escrow purpose. Any proceeds in  
22 escrow pending such use may be invested or reinvested in  
23 bills, certificates of indebtedness, notes or bonds that are  
24 direct obligations of or the principal and interest of which  
25 obligations are unconditionally guaranteed by the United

.223540.1

underscored material = new  
[bracketed material] = delete

1 States or in certificates of deposit of banks that are members  
2 of the federal deposit insurance corporation, the par value of  
3 which certificates of deposit is collateralized by a pledge of  
4 obligations of or the payment of which is unconditionally  
5 guaranteed by the United States, the par value of which  
6 obligations is at least seventy-five percent of the par value  
7 of the certificates of deposit. Such proceeds and investments  
8 in escrow, together with any interest or other income to be  
9 derived from any such investment, shall be in an amount at all  
10 times sufficient as to principal, interest, any prior  
11 redemption premium due and any charges of the escrow agent  
12 payable therefrom to pay the bonds being refunded as they  
13 become due at their respective maturities or due at any  
14 designated prior redemption date in connection with which the  
15 municipality shall exercise a prior redemption option. Any  
16 purchaser of any refunding bond issued pursuant to the  
17 provisions of the Supplemental Municipal [~~Gross Receipts~~]  
18 Sales Tax Act is in no manner responsible for the application  
19 of the proceeds thereof by the municipality or any of its  
20 officers, agents or employees.

21 G. Refunding bonds may be sold at a public or  
22 negotiated sale and may bear such additional terms and  
23 provisions as may be determined by the municipality subject to  
24 limitations in the Supplemental Municipal [~~Gross Receipts~~]  
25 Sales Tax Act. The terms, provisions and authorization of the

.223540.1



underscoring material = new  
[bracketed material] = delete

1 refunding bonds are not subject to the provisions of any other  
2 statute, provided that the Public Securities Limitation of  
3 Action Act shall be fully applicable to the issuance of  
4 refunding bonds.

5 H. The municipality shall receive from the  
6 department of finance and administration written approval of  
7 any refunding bonds issued pursuant to the provisions of this  
8 section."

9 SECTION 293. Section 7-19-18 NMSA 1978 (being Laws 1979,  
10 Chapter 397, Section 9, as amended) is amended to read:

11 "7-19-18. SUPPLEMENTAL MUNICIPAL [~~GROSS RECEIPTS~~] SALES  
12 TAX--USE OF PROCEEDS--RESTRICTION.--

13 A. The proceeds from the supplemental municipal  
14 [~~gross receipts~~] sales tax shall be deposited in a special  
15 improvement account of the municipality and shall be used only  
16 for:

17 (1) the payment of the principal of, interest  
18 on, any prior redemption premiums due in connection with and  
19 other expenses related to the supplemental municipal [~~gross~~  
20 ~~receipts~~] sales tax bonds issued pursuant to the Supplemental  
21 Municipal [~~Gross Receipts~~] Sales Tax Act;

22 (2) the funding of any reserves and other  
23 accounts in connection with such bonds;

24 (3) refunding bonds; and

25 (4) to the extent not needed for those

.223540.1

underscored material = new  
[bracketed material] = delete

1 purposes, the improvement of the municipality's water system.

2 B. When any issue of supplemental municipal [~~gross~~  
3 ~~receipts~~] sales tax bonds is fully paid, the supplemental  
4 municipal [~~gross receipts~~] sales tax shall cease to be imposed  
5 for that issue, but may continue to be imposed for bonds  
6 enacted and approved pursuant to Section 7-19-12 NMSA 1978 and  
7 thereafter issued, or for refunding bonds issued pursuant to  
8 Section [~~4 of this 1997 act~~] 7-19-17.1 NMSA 1978. Any money  
9 remaining in a special improvement account after the  
10 obligations for supplemental municipal [~~gross receipts~~] sales  
11 tax bonds and refunding bonds are fully paid may be  
12 transferred to any other fund of the municipality."

13 SECTION 294. Section 7-19D-1 NMSA 1978 (being Laws 1993,  
14 Chapter 346, Section 1, as amended) is amended to read:

15 "7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA 1978  
16 may be cited as the "Municipal Local Option [~~Gross Receipts~~  
17 ~~and Compensating~~] Sales and Use Taxes Act"."

18 SECTION 295. Section 7-19D-2 NMSA 1978 (being Laws 1993,  
19 Chapter 346, Section 2) is amended to read:

20 "7-19D-2. DEFINITIONS.--As used in the Municipal Local  
21 Option [~~Gross Receipts~~] Sales and Use Taxes Act:

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

.223540.1

underscoring material = new  
[bracketed material] = delete

1           B. "governing body" means the city council or city  
2 commission of a city, the board of trustees of a town or  
3 village and the board of county commissioners of H-class  
4 counties;

5           C. "municipality" means any incorporated city,  
6 town or village, whether incorporated under general act,  
7 special act or special charter, and an H-class county;

8           D. "person" means an individual or any other legal  
9 entity; and

10           E. "state [~~gross receipts~~] sales tax" means the  
11 [~~gross receipts~~] sales tax imposed [~~under~~] pursuant to  
12 provisions of the [~~Gross Receipts and Compensating~~] Sales and  
13 Use Tax Act."

14           SECTION 296. Section 7-19D-3 NMSA 1978 (being Laws 1993,  
15 Chapter 346, Section 3) is amended to read:

16           "7-19D-3. EFFECTIVE DATE OF ORDINANCE.--An ordinance  
17 imposing, amending or repealing a tax or an increment of tax  
18 authorized by the Municipal Local Option [~~Gross Receipts~~]  
19 Sales and Use Taxes Act shall be effective on July 1 or  
20 January 1, whichever date occurs first after the expiration of  
21 at least three months from the date the adopted ordinance is  
22 mailed or delivered to the department. The ordinance shall  
23 include that effective date."

24           SECTION 297. Section 7-19D-4 NMSA 1978 (being Laws 1993,  
25 Chapter 346, Section 4) is amended to read:

.223540.1

underscored material = new  
[bracketed material] = delete

1 "7-19D-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS  
2 OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT  
3 AND REQUIREMENTS OF THE DEPARTMENT.--

4 A. An ordinance imposing a tax [~~under~~] pursuant to  
5 the provisions of the Municipal Local Option [~~Gross Receipts~~]  
6 Sales and Use Taxes Act shall adopt by reference the same  
7 definitions and the same provisions relating to exemptions and  
8 deductions as are contained in the [~~Gross Receipts and~~  
9 ~~Compensating~~] Sales and Use Tax Act then in effect and as it  
10 may be amended from time to time.

11 B. The governing body of any municipality imposing  
12 a tax [~~under~~] pursuant to provisions of the Municipal Local  
13 Option [~~Gross Receipts~~] Sales and Use Taxes Act shall impose  
14 the tax by adopting the model ordinance with respect to the  
15 tax furnished to the municipality by the department. An  
16 ordinance that does not conform substantially to the model  
17 ordinance of the department is not valid."

18 SECTION 298. Section 7-19D-5 NMSA 1978 (being Laws 1993,  
19 Chapter 346, Section 5, as amended) is amended to read:

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

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

.223540.1

underscored material = new  
[bracketed material] = delete

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 state [~~gross receipts~~] sales tax distribution is made pursuant  
6 to Section 7-1-6.4 NMSA 1978."

7 SECTION 299. Section 7-19D-6 NMSA 1978 (being Laws 1993,  
8 Chapter 346, Section 6) is amended to read:

9 "7-19D-6. COPY OF ORDINANCE TO BE SUBMITTED TO  
10 DEPARTMENT.--A certified copy of the ordinance imposing or  
11 repealing a tax authorized [~~under~~] by the Municipal Local  
12 Option [~~Gross Receipts~~] Sales and Use Taxes Act or changing  
13 the tax rate imposed shall be mailed or delivered to the  
14 department within five days after the later of the date the  
15 ordinance is adopted or the date the results of any election  
16 held with respect to the ordinance are certified to be in  
17 favor of the ordinance."

18 SECTION 300. Section 7-19D-7 NMSA 1978 (being Laws 1993,  
19 Chapter 346, Section 7, as amended) is amended to read:

20 "7-19D-7. COLLECTION BY DEPARTMENT.--The department  
21 shall collect each tax imposed pursuant to the provisions of  
22 the Municipal Local Option [~~Gross Receipts and Compensating~~]  
23 Sales and Use Taxes Act in the same manner and at the same  
24 time it collects the state [~~gross receipts and compensating~~]  
25 sales and use taxes."

.223540.1

underscoring material = new  
[bracketed material] = delete

1           SECTION 301. Section 7-19D-8 NMSA 1978 (being Laws 1993,  
2 Chapter 346, Section 8) is amended to read:

3           "7-19D-8. INTERPRETATION OF ACT--ADMINISTRATION AND  
4 ENFORCEMENT OF ACT.--

5           A. The department shall interpret the provisions  
6 of the Municipal Local Option [~~Gross Receipts~~] Sales and Use  
7 Taxes Act.

8           B. The department shall administer and enforce the  
9 collection of each tax authorized [~~under~~] by the provisions of  
10 the Municipal Local Option [~~Gross Receipts~~] Sales and Use  
11 Taxes Act, and the Tax Administration Act applies to the  
12 administration and enforcement of each tax."

13           SECTION 302. Section 7-19D-9 NMSA 1978 (being Laws 1978,  
14 Chapter 151, Section 1, as amended) is amended to read:

15           "7-19D-9. MUNICIPAL [~~GROSS RECEIPTS~~] SALES TAX--  
16 AUTHORITY TO IMPOSE RATE.--

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

.223540.1

underscoring material = new  
[bracketed material] = delete

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

15 B. The tax imposed pursuant to Subsection A of  
16 this section may be referred to as the "municipal [~~gross~~  
17 ~~receipts~~] sales tax".

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

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

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

.223540.1

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

1 of forty-five hundredths percent, shall not go into effect  
2 until after an election is held and a majority of the voters  
3 in the municipality voting in the election votes in favor of  
4 the tax. Increments approved by voters prior to July 1, 2019  
5 shall be included in the increments approved by the voters, as  
6 provided in this 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  
22 charter 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



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

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

.223540.1

underscored material = new  
[bracketed material] = delete

1 on 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~~] Sales and Use Taxes Act. If at such an election  
5 a majority of the registered voters voting on the question  
6 disapproves the ordinance, the ordinance imposing the tax  
7 shall be deemed repealed and the question of imposing any  
8 increment of the municipal [~~gross receipts~~] sales tax  
9 authorized in this section shall not be considered again by  
10 the governing body for a period of one year from the date of  
11 the election.

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

22 SECTION 303. Section 7-19D-9.1 NMSA 1978 (being Laws  
23 2019, Chapter 270, Section 50) is amended to read:

24 "7-19D-9.1. MUNICIPAL [~~COMPENSATING~~] USE TAX.--

25 A. Beginning July 1, 2021, for the privilege of

.223540.1

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

1 using tangible personal property in a municipality, there is  
2 imposed on the person using the property an excise tax at a  
3 rate equal to the combined [~~gross receipts~~] sales tax rates  
4 imposed and in effect pursuant to the Supplemental Municipal  
5 [~~Gross Receipts~~] Sales Tax Act and the Municipal Local Option  
6 [~~Gross Receipts and Compensating~~] Sales and Use Taxes Act of  
7 the value of tangible personal property that was:

8 (1) manufactured by the person using the  
9 property in the state; or

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

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

23 C. For the privilege of using a license or  
24 franchise in a municipality, there is imposed on the person  
25 using the license or franchise an excise tax equal to the tax

.223540.1

underscoring material = new  
[bracketed material] = delete

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

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

25 E. The governing body of a municipality may

.223540.1

underscoring material = new  
[bracketed material] = delete

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

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

16 G. The tax imposed by this section may be cited as  
17 the "municipal [~~compensating~~] use tax".

18 SECTION 304. Section 7-19D-14 NMSA 1978 (being Laws  
19 2005, Chapter 212, Section 2) is amended to read:

20 "7-19D-14. QUALITY OF LIFE [~~GROSS RECEIPTS~~] SALES TAX--  
21 AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS--USE OF REVENUE--  
22 ELECTION.--

23 A. Prior to January 1, 2016, the majority of the  
24 members of the governing body of a municipality may enact an  
25 ordinance imposing an excise tax at a rate not to exceed one-  
.223540.1

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

1 fourth percent of the gross receipts of a person engaging in  
2 business in the municipality for the privilege of engaging in  
3 business. The tax may be imposed in one or more increments of  
4 one-sixteenth percent not to exceed an aggregate rate of one-  
5 fourth percent. The tax shall be imposed for a period of not  
6 more than ten years from the effective date of the ordinance  
7 imposing the tax. Having enacted an ordinance imposing the  
8 tax prior to January 1, 2016 pursuant to the provisions of  
9 this section, the governing body may enact subsequent  
10 ordinances for succeeding periods of not more than ten years;  
11 provided that each ordinance meets the requirements of this  
12 section and of the Municipal Local Option [~~Gross Receipts~~]  
13 Sales and Use Taxes Act. The tax imposed pursuant to the  
14 provisions of this section may be referred to as the "quality  
15 of life [~~gross receipts~~] sales tax".

16 B. The governing body, at the time of enacting an  
17 ordinance imposing the quality of life [~~gross receipts~~] sales  
18 tax, shall dedicate the revenue to cultural programs and  
19 activities provided by a local government and to cultural  
20 programs, events and activities provided by contract or  
21 operating agreement with nonprofit or publicly owned cultural  
22 organizations and institutions.

23 C. An ordinance imposing any increment of the  
24 quality of life [~~gross receipts~~] sales tax shall not go into  
25 effect until after an election is held and a majority of the

.223540.1

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

1 voters in the municipality voting in the election votes in  
2 favor of imposing the tax. The governing body shall adopt a  
3 resolution calling for an election within ninety days of the  
4 date the ordinance is adopted on the question of imposing the  
5 tax. The question may be submitted to the voters as a  
6 separate question at a general election or at a special  
7 election called for that purpose by the governing body. A  
8 special election shall be called, conducted and canvassed in  
9 substantially the same manner as provided by law for general  
10 elections. In any election held, the ballot shall clearly  
11 state the purpose to which the revenue will be dedicated  
12 pursuant to this section. If a majority of the voters voting  
13 on the question approves the ordinance imposing the quality of  
14 life [~~gross receipts~~] sales tax, the ordinance shall become  
15 effective in accordance with the provisions of the Municipal  
16 Local Option [~~Gross Receipts~~] Sales and Use Taxes Act. If the  
17 question of imposing the quality of life [~~gross receipts~~]  
18 sales tax fails, the governing body shall not again propose  
19 the imposition of the tax for a period of one year from the  
20 date of the election.

21 D. The quality of life [~~gross receipts~~] sales tax  
22 revenue shall be used to meet the following goals: promoting  
23 and preserving cultural diversity; enhancing the quality of  
24 cultural programs and activities; fostering greater access to  
25 cultural opportunities; promoting culture in order to further

.223540.1

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

1 economic development within the municipality; and supporting  
2 programs, events and organizations with direct, identifiable  
3 and measurable public benefit to residents of the  
4 municipality. It is the objective of the quality of life  
5 ~~[gross receipts]~~ sales tax that the revenue from the tax be  
6 used to expand and sustain existing programs and to develop  
7 new programs, events and activities, rather than to replace  
8 other funding sources for existing programs, events and  
9 activities.

10 E. The governing body of a municipality that  
11 imposes the quality of life ~~[gross receipts]~~ sales tax shall,  
12 within sixty days of the election approving the imposition of  
13 the tax, appoint a municipal cultural advisory board  
14 consisting of between nine and fifteen members. Persons  
15 appointed to the board shall be residents of the municipality  
16 who are knowledgeable about the activities eligible for  
17 quality of life tax funding. The members of the board shall  
18 be appointed for fixed terms and shall not be removed during  
19 their terms except for malfeasance. The terms of the initial  
20 board members shall be staggered so that one-third of the  
21 members are appointed for one-year terms, one-third are  
22 appointed for two-year terms and one-third are appointed for  
23 three-year terms. Subsequent appointments to the board shall  
24 be for three-year terms. If a vacancy on the board occurs,  
25 the governing body shall appoint a replacement member for the

.223540.1



underscored material = new  
[bracketed material] = delete

1 remainder of the unexpired term. A board member shall not  
2 serve for more than two consecutive terms.

3 F. The municipal cultural advisory board shall  
4 have the responsibility of overseeing the distribution of the  
5 quality of life [~~gross receipts~~] sales tax revenue for the  
6 goals listed in Subsection D of this section. The board  
7 shall:

8 (1) biennially submit recommendations to the  
9 governing body for expenditures of revenue from the quality of  
10 life [~~gross receipts~~] sales tax that are allocated pursuant to  
11 this section through contracts for services with appropriate  
12 organizations and institutions;

13 (2) establish and publicize the necessary  
14 qualifications for organizations and institutions to receive  
15 quality of life [~~gross receipts~~] sales tax funding; and

16 (3) develop guidelines and procedures for  
17 applying for funding through a request for proposals process  
18 and the criteria by which contracts will be awarded. The  
19 evaluation process shall include a public review component.

20 G. The municipal cultural advisory board shall  
21 establish reporting requirements for recipients of the quality  
22 of life [~~gross receipts~~] sales tax revenue. The board shall  
23 provide to the governing body an annual evaluation of the use  
24 of revenue from the quality of life [~~gross receipts~~] sales tax  
25 to ensure that it is meeting the goals listed in Subsection D

.223540.1

underscoring material = new  
[bracketed material] = delete

1 of this section.

2 H. Every four years, the municipal cultural  
3 advisory board shall review and revise as necessary:

4 (1) the guidelines and procedures for  
5 applying for funding; and

6 (2) the criteria by which applications for  
7 funding will be evaluated.

8 I. As used in this section:

9 (1) "cultural organizations and institutions"  
10 means organizations or institutions that have as a primary  
11 purpose the advancement or preservation of zoology, museums,  
12 library sciences, art, music, theater, dance, literature or  
13 the humanities; and

14 (2) "municipality" means an incorporated  
15 municipality except for an incorporated municipality with a  
16 population in excess of two hundred fifty thousand according  
17 to the most recent federal decennial census."

18 SECTION 305. Section 7-19D-15 NMSA 1978 (being Laws  
19 2006, Chapter 15, Section 14, as amended) is amended to read:

20 "7-19D-15. MUNICIPAL REGIONAL SPACEPORT [~~GROSS RECEIPTS~~]  
21 SALES TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

22 A. A majority of the members of the governing body  
23 of a municipality that desires to become a member of a  
24 regional spaceport district pursuant to the Regional Spaceport  
25 District Act shall impose by ordinance an excise tax at a rate  
.223540.1

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

1 not to exceed one-half percent of the gross receipts of a  
2 person engaging in business in the municipality for the  
3 privilege of engaging in business. A tax imposed pursuant to  
4 this section may be imposed by one or more ordinances, each  
5 imposing any number of tax rate increments, but an increment  
6 shall not be less than one-sixteenth percent of the gross  
7 receipts of a person engaging in business in the municipality,  
8 and the aggregate of all rates shall not exceed one-half  
9 percent of the gross receipts of a person engaging in business  
10 in the municipality. The tax may be referred to as the  
11 "municipal regional spaceport [~~gross receipts~~] sales tax".

12 B. A governing body, at the time of enacting an  
13 ordinance imposing a tax authorized in Subsection A of this  
14 section, shall dedicate a minimum of seventy-five percent of  
15 the revenue to a regional spaceport district for the  
16 financing, planning, designing, engineering and construction  
17 of a regional spaceport pursuant to the Regional Spaceport  
18 District Act and may dedicate no more than twenty-five percent  
19 of the revenue for spaceport-related projects as approved by  
20 resolution of the governing body of the municipality.

21 C. An ordinance imposing a municipal regional  
22 spaceport [~~gross receipts~~] sales tax shall not go into effect  
23 until after an election is held and a majority of the voters  
24 of the municipality voting in the election votes in favor of  
25 imposing the tax. The governing body shall adopt a resolution

.223540.1

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

1 calling for an election within seventy-five days of the date  
2 the ordinance is adopted on the question of imposing the tax.  
3 The question shall be submitted to the voters of the  
4 municipality as a separate question at a regular local  
5 election or at a special election called for that purpose by  
6 the governing body. An election shall be called, conducted  
7 and canvassed as provided in the Local Election Act. If a  
8 majority of the voters voting on the question approves the  
9 ordinance imposing the municipal regional spaceport [~~gross~~  
10 ~~receipts~~] sales tax, the ordinance shall become effective in  
11 accordance with the provisions of the Municipal Local Option  
12 [~~Gross Receipts~~] Sales and Use Taxes Act. If the question of  
13 imposing the municipal regional spaceport [~~gross receipts~~]  
14 sales tax fails, the governing body shall not again propose  
15 the imposition of an increment of the tax for a period of one  
16 year from the date of the election.

17 D. The governing body of a municipality imposing  
18 the municipal regional spaceport [~~gross receipts~~] sales tax  
19 shall transfer a minimum of seventy-five percent of all  
20 proceeds from the tax to the regional spaceport district of  
21 which it is a member for regional spaceport purposes in  
22 accordance with the provisions of the Regional Spaceport  
23 District Act. The governing body of a municipality imposing  
24 the municipal regional spaceport [~~gross receipts~~] sales tax  
25 may retain no more than twenty-five percent of the municipal

.223540.1

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

1 regional spaceport [~~gross receipts~~] sales tax for spaceport-  
2 related projects as approved by resolution of the governing  
3 body."

4 SECTION 306. Section 7-19D-16 NMSA 1978 (being Laws  
5 2007, Chapter 148, Section 1) is amended to read:

6 "7-19D-16. MUNICIPAL HIGHER EDUCATION FACILITIES [~~GROSS~~  
7 ~~RECEIPTS~~] SALES TAX.--

8 A. The majority of the members of the governing  
9 body of an eligible municipality may impose by ordinance an  
10 excise tax at a rate not to exceed one-fourth of one percent  
11 of the gross receipts of a person engaging in business in the  
12 municipality for the privilege of engaging in business. The  
13 tax may be imposed in increments of one-sixteenth of one  
14 percent not to exceed an aggregate rate of one-fourth of one  
15 percent. The tax shall be imposed for a period of not more  
16 than twenty years from the effective date of the ordinance  
17 imposing the tax.

18 B. The tax imposed pursuant to this section may be  
19 referred to as the "municipal higher education facilities  
20 [~~gross receipts~~] sales tax".

21 C. The governing body, at the time of enacting an  
22 ordinance imposing a rate of tax authorized in Subsection A of  
23 this section, shall dedicate the revenue only for:

24 (1) acquisition, construction, renovation or  
25 improvement of facilities of a four-year post-secondary public

.223540.1

underscoring material = new  
[bracketed material] = delete

1 educational institution located in the municipality and  
2 acquisition of or improvements to land for those facilities;  
3 or

4 (2) payment of municipal higher education  
5 facilities [~~gross receipts~~] sales tax revenue bonds issued  
6 pursuant to Chapter 3, Article 31 NMSA 1978.

7 D. An ordinance imposing any increment of the  
8 municipal higher education facilities [~~gross receipts~~] sales  
9 tax shall not go into effect until after an election is held  
10 and a majority of the voters of the municipality voting in the  
11 election votes in favor of imposing the tax. The governing  
12 body shall adopt a resolution calling for an election on the  
13 question of imposing the tax at the next regular municipal  
14 election. The question shall be submitted to the voters of  
15 the municipality as a separate question. If a majority of the  
16 voters voting on the question approves the ordinance imposing  
17 the municipal higher education facilities [~~gross receipts~~]  
18 sales tax, the ordinance shall become effective in accordance  
19 with the provisions of the Municipal Local Option [~~Gross~~  
20 ~~Receipts~~] Sales and Use Taxes Act. If the question of  
21 imposing the municipal higher education facilities [~~gross~~  
22 ~~receipts~~] sales tax fails, the governing body shall not again  
23 propose the imposition of any increment of the tax for a  
24 period of one year from the date of the election.

25 E. For the purposes of this section, "eligible

.223540.1

underscored material = new  
[bracketed material] = delete

1 municipality" means a municipality that has a population  
2 greater than fifty thousand according to the most recent  
3 federal decennial census and that is located in a class B  
4 county having a net taxable value for rate-setting purposes  
5 for the 2006 property tax year or any subsequent year of more  
6 than two billion dollars (\$2,000,000,000)."

7 SECTION 307. Section 7-19D-17 NMSA 1978 (being Laws  
8 2012, Chapter 58, Section 1, as amended) is amended to read:

9 "7-19D-17. FEDERAL WATER PROJECT [~~GROSS RECEIPTS~~] SALES  
10 TAX--AUTHORIZATION--USE OF REVENUE--REFERENDUM.--

11 A. A majority of the members of the governing body  
12 of a municipality may enact an ordinance imposing an excise  
13 tax on any person engaging in business in the municipality for  
14 the privilege of engaging in business. The rate of the tax  
15 shall not exceed one-fourth percent of the gross receipts of  
16 the person engaging in business. An ordinance enacting the  
17 tax authorized by this section is subject to a positive  
18 referendum.

19 B. The tax imposed pursuant to this section may be  
20 referred to as the "federal water project [~~gross receipts~~]  
21 sales tax".

22 C. The governing body of a municipality, at the  
23 time of enacting an ordinance imposing the rate of the tax  
24 authorized in this section, shall dedicate the revenue for the  
25 repayment of loan obligations to the federal government for

.223540.1

underscoring material = new  
[bracketed material] = delete

1 the construction, expansion, operation and maintenance of a  
2 water delivery system and for the expansion, operation and  
3 maintenance of that water delivery system after the loan  
4 obligation to the federal government is retired or repaid.  
5 The revenue from the federal water project [~~gross receipts~~]  
6 sales tax shall not be dedicated to repay revenue bonds or any  
7 other form of bonds.

8 D. An ordinance imposing the federal water project  
9 [~~gross receipts~~] sales tax shall not go into effect until an  
10 election is held and a majority of the voters of the  
11 municipality voting in the election votes in favor of imposing  
12 the tax. The governing body shall adopt a resolution calling  
13 for an election within seventy-five days of the date the  
14 ordinance is adopted on the question of imposing the tax. The  
15 question shall be submitted to the voters of the municipality  
16 as a separate question at a regular local election or at a  
17 special election called for that purpose by the governing  
18 body. An election shall be called, conducted and canvassed as  
19 provided in the Local Election Act. If a majority of the  
20 voters voting on the question approves the ordinance imposing  
21 the federal water project [~~gross receipts~~] sales tax, then the  
22 ordinance shall become effective on January 1 or July 1 in  
23 accordance with the provisions of the Municipal Local Option  
24 [~~Gross Receipts~~] Sales and Use Taxes Act. If the question of  
25 imposing the federal water project [~~gross receipts~~] sales tax

.223540.1



underscored material = new  
[bracketed material] = delete

1 fails, the governing body shall not again propose the  
2 imposition of the tax for a period of one year from the date  
3 of the election.

4 ~~[E. A municipality that imposed a federal water~~  
5 ~~project gross receipts tax pursuant to this section shall not~~  
6 ~~also impose a municipal capital outlay gross receipts tax.~~

7 F.] E. As used in this section, "municipality"  
8 means an incorporated municipality that has a population  
9 pursuant to the most recent federal decennial census of  
10 greater than twenty thousand but less than twenty-five  
11 thousand and is located in a class B county."

12 SECTION 308. Section 7-20E-1 NMSA 1978 (being Laws 1993,  
13 Chapter 354, Section 1, as amended) is amended to read:

14 "7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA 1978  
15 may be cited as the "County Local Option [~~Gross Receipts and~~  
16 ~~Compensating~~] Sales and Use Taxes Act"."

17 SECTION 309. Section 7-20E-2 NMSA 1978 (being Laws 1993,  
18 Chapter 354, Section 2, as amended by Laws 1994, Chapter 93,  
19 Section 1 and also by Laws 1994, Chapter 97, Section 1) is  
20 amended to read:

21 "7-20E-2. DEFINITIONS.--As used in the County Local  
22 Option [~~Gross Receipts~~] Sales and Use Taxes Act:

23 A. "county" means, unless specifically defined  
24 otherwise in the County Local Option [~~Gross Receipts~~] Sales  
25 and Use Taxes Act, a county, including an H class county;

.223540.1

underscored material = new  
[bracketed material] = delete

1           B. "county area" means that portion of a county  
2 located outside the boundaries of any municipality, except  
3 that for H class counties, "county area" means the entire  
4 county;

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

9           D. "governing body" means the county commission of  
10 the county or the county council of an H class county;

11           E. "person" means an individual or any other legal  
12 entity; and

13           F. "state [~~gross receipts~~] sales tax" means the  
14 [~~gross receipts~~] sales tax imposed under the [~~Gross Receipts~~  
15 ~~and Compensating~~] Sales and Use Tax Act."

16           SECTION 310. Section 7-20E-3 NMSA 1978 (being Laws 1993,  
17 Chapter 354, Section 3, as amended) is amended to read:

18           "7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE  
19 OF ORDINANCE.--

20           A. The governing body of a county imposing a tax  
21 or an increment of tax authorized by the County Local Option  
22 [~~Gross Receipts~~] Sales and Use Taxes Act or any other county  
23 local option [~~gross receipts~~] sales tax act that is subject to  
24 optional referendum selection shall select, when enacting the  
25 ordinance imposing the tax, one of the following referendum

.223540.1

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

1 options:

2 (1) the ordinance imposing the tax or  
3 increment of tax shall go into effect on July 1 or January 1  
4 in accordance with the provisions of the County Local Option  
5 [~~Gross Receipts~~] Sales and Use Taxes Act, but an election may  
6 be called in the county on the question of approving or  
7 disapproving that ordinance as follows:

8 (a) an election shall be called when:  
9 1) in a county having a referendum provision in its charter, a  
10 petition requesting such an election is filed pursuant to the  
11 requirements of that provision in the charter and signed by  
12 the number of registered voters in the county equal to the  
13 number of registered voters required in its charter to seek a  
14 referendum; and 2) in all other counties, a petition  
15 requesting such an election is filed with the county clerk  
16 within sixty days of enactment of the ordinance by the  
17 governing body and the petition has been signed by a number of  
18 registered voters in the county equal to at least five percent  
19 of the number of the voters in the county who were registered  
20 to vote in the most recent general election;

21 (b) the signatures on the petition  
22 requesting an election shall be verified by the county clerk.  
23 If the petition is verified by the county clerk as containing  
24 the required number of signatures of registered voters, the  
25 governing body shall adopt a resolution calling an election on

.223540.1

underscored material = new  
[bracketed material] = delete

1 the question of approving or disapproving the ordinance. The  
2 election shall be held within sixty days after the date the  
3 petition is verified by the county clerk, or it may be held in  
4 conjunction with a general election if that election occurs  
5 within sixty days after the date of the verification. The  
6 election shall be called, held, conducted and canvassed in  
7 substantially the same manner as provided by law for general  
8 elections; and

9 (c) if a majority of the registered  
10 voters voting on the question approves the ordinance, the  
11 ordinance shall go into effect on July 1 or January 1 in  
12 accordance with the provisions of the County Local Option  
13 [~~Gross Receipts~~] Sales and Use Taxes Act. If at such an  
14 election a majority of the registered voters voting on the  
15 question disapproves the ordinance, the ordinance imposing the  
16 tax shall be deemed repealed and the question of imposing the  
17 tax or increment of tax shall not be considered again by the  
18 governing body for a period of one year from the date of the  
19 election; or

20 (2) the ordinance imposing the tax or  
21 increment of tax shall not go into effect until after an  
22 election is held and a simple majority of the registered  
23 voters of the county voting on the question votes in favor of  
24 imposing the tax or increment of tax. The governing body  
25 shall adopt a resolution calling for an election within

.223540.1

underscored material = new  
[bracketed material] = delete

1 seventy-five days of the date the ordinance is adopted on the  
2 question of imposing the tax or increment of tax. Such  
3 question may be submitted to the voters and voted upon as a  
4 separate question at any general election or at any special  
5 election called for that purpose by the governing body. The  
6 election upon the question shall be called, held, conducted  
7 and canvassed in substantially the same manner as may be  
8 provided by law for general elections. If the question of  
9 imposing the tax or increment of tax fails, the governing body  
10 shall not again propose the tax or increment of tax for a  
11 period of one year after the election.

12 B. An ordinance imposing, amending or repealing a  
13 tax or an increment of tax authorized by the County Local  
14 Option [~~Gross Receipts~~] Sales and Use Taxes Act shall be  
15 effective on July 1 or January 1, whichever date occurs first  
16 after the expiration of at least three months from the date  
17 the adopted ordinance is mailed or delivered to the  
18 department. The ordinance shall include that effective date."

19 SECTION 311. Section 7-20E-4 NMSA 1978 (being Laws 1993,  
20 Chapter 354, Section 4) is amended to read:

21 "7-20E-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS  
22 OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT  
23 AND REQUIREMENTS OF THE DEPARTMENT.--

24 A. An ordinance imposing a tax [~~under~~] pursuant to  
25 the provisions of the County Local Option [~~Gross Receipts~~]

.223540.1

underscoring material = new  
[bracketed material] = delete

1 Sales and Use Taxes Act shall adopt by reference the same  
2 definitions and the same provisions relating to exemptions and  
3 deductions as are contained in the [~~Gross Receipts and~~  
4 ~~Compensating~~] Sales and Use Tax Act then in effect and as it  
5 may be amended from time to time.

6 B. The governing body of any county imposing a tax  
7 [~~under~~] authorized by the County Local Option [~~Gross Receipts~~]  
8 Sales and Use Taxes Act shall impose the tax by adopting the  
9 model ordinance with respect to the tax furnished to the  
10 county by the department. An ordinance that does not conform  
11 substantially to the model ordinance of the department is not  
12 valid."

13 SECTION 312. Section 7-20E-6 NMSA 1978 (being Laws 1993,  
14 Chapter 354, Section 6) is amended to read:

15 "7-20E-6. COPY OF ORDINANCE TO BE SUBMITTED TO  
16 DEPARTMENT.--A certified copy of any ordinance imposing or  
17 repealing a tax or an increment of a tax authorized [~~under~~] by  
18 the County Local Option [~~Gross Receipts~~] Sales and Use Taxes  
19 Act or changing the tax rate imposed shall be mailed or  
20 delivered to the department within five days after the later  
21 of the date the ordinance is adopted or the date the results  
22 of any election held with respect to the ordinance are  
23 certified to be in favor of the ordinance."

24 SECTION 313. Section 7-20E-7 NMSA 1978 (being Laws 1993,  
25 Chapter 354, Section 7, as amended) is amended to read:

.223540.1

underscored material = new  
[bracketed material] = delete

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

7 SECTION 314. Section 7-20E-8 NMSA 1978 (being Laws 1993,  
8 Chapter 354, Section 8) is amended to read:

9 "7-20E-8. INTERPRETATION OF ACT--ADMINISTRATION AND  
10 ENFORCEMENT OF ACT.--

11 A. The department shall interpret the provisions  
12 of the County Local Option [~~Gross Receipts~~] Sales and Use  
13 Taxes Act.

14 B. The department shall administer and enforce the  
15 collection of each tax authorized [~~under~~] by the provisions of  
16 the County Local Option [~~Gross Receipts~~] Sales and Use Taxes  
17 Act, and the Tax Administration Act applies to the  
18 administration and enforcement of each tax."

19 SECTION 315. Section 7-20E-9 NMSA 1978 (being Laws 1983,  
20 Chapter 213, Section 30, as amended) is amended to read:

21 "7-20E-9. COUNTY [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY  
22 TO IMPOSE RATE--COUNTY HEALTH CARE ASSISTANCE FUND  
23 REQUIREMENTS.--

24 A. A majority of the members of the governing body  
25 of a county may impose by ordinance an excise tax on the gross

.223540.1

underscored material = new  
[bracketed material] = delete

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

14 B. The tax authorized by this section is to be  
15 referred to as the "county [~~gross receipts~~] sales tax".

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

21 (1) a governing body may choose to require an  
22 election to impose increments up to a total of one percent;  
23 and

24 (2) the remaining increments, up to a total  
25 of twenty-five hundredths percent, shall not go into effect

.223540.1



underscored material = new  
[bracketed material] = delete

1 until after an election is held and a majority of the voters  
2 in the county voting in the election votes in favor of the  
3 tax. Increments approved by voters prior to July 1, 2019  
4 shall be included in the increments approved by the voters, as  
5 provided in this paragraph.

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

12 (1) a governing body may choose to require an  
13 election to impose increments that total twelve hundredths  
14 percent; but

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

22 E. A class A county with a county hospital  
23 operated and maintained pursuant to a lease or operating  
24 agreement with a state educational institution named in  
25 Article 12, Section 11 of the constitution of New Mexico shall

.223540.1

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

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

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

.223540.1

underscored material = new  
[bracketed material] = delete

1 to the Indigent Hospital and County Health Care Act."

2 SECTION 316. Section 7-20E-9.1 NMSA 1978 (being Laws  
3 2019, Chapter 270, Section 53) is amended to read:

4 "7-20E-9.1. COUNTY [~~COMPENSATING~~] USE TAX.--

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

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

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

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

.223540.1

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

1 adjusted basis for federal income tax purposes is established  
2 for the property, a reasonable value of the property shall be  
3 used.

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

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

.223540.1

underscored material = new  
[bracketed material] = delete

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

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

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

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

24 SECTION 317. Section 7-20E-12.1 NMSA 1978 (being Laws  
25 1994, Chapter 14, Section 1, as amended) is amended to read:

.223540.1

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

1           "7-20E-12.1. COUNTY HOSPITAL EMERGENCY [~~GROSS RECEIPTS~~]  
2     SALES TAX--AUTHORITY TO IMPOSE--USE OF PROCEEDS.--

3           A. A majority of the members of a governing body  
4     may enact an ordinance imposing an excise tax on a person  
5     engaging in business in the county for the privilege of  
6     engaging in business. The rate of the tax shall be one-fourth  
7     of one percent of the gross receipts of the person engaging in  
8     business. The tax shall be imposed for a period of not more  
9     than two years from the effective date of the ordinance  
10    imposing the tax. The tax may be imposed for an additional  
11    period not to exceed three years from the date of the  
12    ordinance imposing the tax for that period. On or after July  
13    1, 1997:

14                   (1) in a county described in Paragraph (1) of  
15    Subsection D of this section, the tax may be imposed for the  
16    period necessary for payment of bonds or a loan for  
17    acquisition of land or buildings for and the design,  
18    construction, equipping, remodeling or improvement of a county  
19    hospital facility, but the period shall not exceed twenty  
20    years from the effective date of the ordinance imposing the  
21    tax for that period; provided, however, that a majority of the  
22    members of a governing body that has enacted an ordinance  
23    imposing the tax pursuant to the provisions of this paragraph  
24    may, prior to the date of the delayed repeal of the ordinance,  
25    enact an ordinance to extend the period of imposition of the

.223540.1

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

1 previously imposed tax for an additional twenty years and  
2 modify the purposes for which the revenue from the tax is  
3 dedicated, consistent with one or more of the purposes  
4 permitted pursuant to this paragraph; and

5 (2) in a county described in Paragraph (2) of  
6 Subsection D of this section, the tax may be imposed for the  
7 period necessary for payment of bonds or a loan for  
8 acquisition, equipping, remodeling or improvement of a county  
9 health facility, but the period shall not exceed twenty years  
10 from the effective date of the ordinance imposing the tax for  
11 that period.

12 B. The tax imposed by this section may be referred  
13 to as the "county hospital emergency ~~[gross receipts]~~ sales  
14 tax".

15 C. At the time of enacting the ordinance imposing  
16 the tax authorized in this section:

17 (1) if the effective date of the tax is prior  
18 to July 1, 1997, the governing body shall dedicate the revenue  
19 for current operations and maintenance of a hospital owned by  
20 the county or a hospital with which the county has entered  
21 into a health care facilities contract; provided that a  
22 majority of the members of a governing body may enact an  
23 ordinance to change the purposes for which the revenue from a  
24 previously imposed tax is dedicated and to dedicate that  
25 revenue during the remainder of the tax imposition period to

.223540.1

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

1 payment of bonds or a loan for acquisition of land or  
2 buildings for, and the design, construction, equipping,  
3 remodeling or improvement of, a county hospital facility; and

4 (2) if the effective date of the tax is on or  
5 after July 1, 1997:

6 (a) the governing body of a county  
7 described in Paragraph (1) of Subsection D of this section  
8 shall dedicate the revenue for the period of time the tax is  
9 imposed to payment of a bond or loan for acquisition,  
10 equipping, remodeling and improvement of a county hospital  
11 facility; provided, however, that a majority of the members of  
12 a governing body that has imposed the tax and dedicated the  
13 revenue from that imposition pursuant to the provisions of  
14 this paragraph may, prior to the date of the delayed repeal of  
15 the ordinance imposing the tax, enact an ordinance to extend  
16 the period of imposition of the tax as provided in Paragraph  
17 (1) of Subsection A of this section and modify the purposes  
18 for which the revenue from the previously imposed tax is  
19 dedicated, and dedicate that revenue to payment of bonds or a  
20 loan for acquisition of land or buildings for, and the design,  
21 construction, equipping, remodeling or improvement of, a  
22 county hospital facility; and

23 (b) the governing body of a county  
24 described in Paragraph (2) of Subsection D of this section  
25 shall dedicate the revenue for the period of time the tax is

.223540.1



underscored material = new  
[bracketed material] = delete

1 imposed to payment of a bond or loan for acquisition,  
2 equipping, remodeling and improvement of a county health  
3 facility.

4 D. As used in this section, "county" means:

5 (1) a class B county with a population of  
6 less than ten thousand according to the 1990 federal decennial  
7 census and with a net taxable value for rate-setting purposes  
8 for the 1993 property tax year in excess of one hundred  
9 million dollars (\$100,000,000); or

10 (2) a class B county with a population of  
11 less than ten thousand according to the 1990 federal decennial  
12 census and with a net taxable value for rate-setting purposes  
13 for the 1997 property tax year of more than one hundred  
14 million dollars (\$100,000,000) but less than one hundred  
15 twenty million dollars (\$120,000,000)."

16 SECTION 318. Section 7-20E-13 NMSA 1978 (being Laws  
17 1987, Chapter 45, Section 3, as amended) is amended to read:

18 "7-20E-13. SPECIAL COUNTY HOSPITAL [~~GROSS RECEIPTS~~]  
19 SALES TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

20 A. The majority of the members of the governing  
21 body may enact an ordinance imposing an excise tax on any  
22 person engaging in business in the county for the privilege of  
23 engaging in business. The rate of the tax shall be one-eighth  
24 [~~of one~~] percent of the gross receipts of the person engaging  
25 in business. The tax shall be imposed for a period of not

.223540.1

underscored material = new  
[bracketed material] = delete

1 more than five years from the effective date of the ordinance  
2 imposing the tax. Having once enacted an ordinance under this  
3 section, the governing body may enact subsequent ordinances  
4 for succeeding periods of not more than five years; provided  
5 that each such ordinance meets the requirements of the County  
6 Local Option [~~Gross Receipts~~] Sales and Use Taxes Act with  
7 respect to the tax imposed by this section.

8 B. The tax imposed by this section may be referred  
9 to as the "special county hospital [~~gross receipts~~] sales  
10 tax".

11 C. For the purposes of this section, "county"  
12 means:

13 (1) a county:

14 (a) having a population of more than  
15 ten thousand but less than ten thousand six hundred, according  
16 to the last federal decennial census or any subsequent  
17 decennial census, and having a net taxable value for  
18 rate-setting purposes for the 1986 property tax year or any  
19 subsequent year of more than eighty-two million dollars  
20 (\$82,000,000) but less than eighty-two million three hundred  
21 thousand dollars (\$82,300,000);

22 (b) that has imposed a rate of one  
23 dollar fifty cents (\$1.50) to each one thousand dollars  
24 (\$1,000) of net taxable value of property as defined in the  
25 Property Tax Code for property taxation purposes in the county

.223540.1

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

1 and to each one thousand dollars (\$1,000) of the assessed  
2 value of products severed and sold in the school district as  
3 determined under the Oil and Gas Ad Valorem Production Tax Act  
4 and the Oil and Gas Production Equipment Ad Valorem Tax Act or  
5 has made an appropriation of funds or has imposed another tax  
6 that produces an amount not less than the revenue that would  
7 be produced by applying a rate of one dollar fifty cents  
8 (\$1.50) to each one thousand dollars (\$1,000) of net taxable  
9 value of property as defined in the Property Tax Code for  
10 property taxation purposes in the school district and to each  
11 one thousand dollars (\$1,000) of the assessed value of  
12 products severed and sold in the school district as determined  
13 under the Oil and Gas Ad Valorem Production Tax Act and the  
14 Oil and Gas Production Equipment Ad Valorem Tax Act. The  
15 proceeds of any tax imposed or appropriation made shall be  
16 dedicated for current operations and maintenance of a hospital  
17 owned and operated by the county or operated and maintained by  
18 another party pursuant to a lease with the county; and

19 (c) having qualified at any time under  
20 this definition shall continue to be qualified as a county and  
21 authorized to implement the provisions of this section; and

22 (2) a class B county having a population of  
23 more than seventeen thousand five hundred but less than  
24 nineteen thousand according to the 1990 federal decennial  
25 census and having a net taxable value for property tax

.223540.1

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

1 rate-setting purposes of under three hundred million dollars  
2 (\$300,000,000).

3 D. The governing body of a county described in  
4 Paragraph (1) of Subsection C of this section shall, at the  
5 time of enacting an ordinance imposing the rate of the tax  
6 authorized in Subsection A of this section, dedicate the  
7 revenue for current operations and maintenance of a hospital  
8 owned and operated by the county or operated and maintained by  
9 another party pursuant to a lease with the county, and the use  
10 of these proceeds shall be for the care and maintenance of  
11 sick and indigent persons and shall be an expenditure for a  
12 public purpose. In any election held, the ballot shall  
13 clearly state the purpose to which the revenue will be  
14 dedicated, and the revenue shall be used by the county for  
15 that purpose.

16 E. The governing body of a county described in  
17 Paragraph (2) of Subsection C of this section shall, at the  
18 time of enacting an ordinance imposing the rate of the tax  
19 authorized in Subsection A of this section, dedicate the  
20 revenue for county ambulance transport costs or for operation  
21 of a rural health clinic. In any election held, the ballot  
22 shall clearly state the purposes to which the revenue will be  
23 dedicated, and the revenue shall be used by the county for  
24 those purposes.

25 F. Any ordinance enacted under the provisions of  
.223540.1

underscored material = new  
[bracketed material] = delete

1 Subsection A of this section shall include an effective date  
2 of either July 1 or January 1 in accordance with the  
3 provisions of the County Local Option [~~Gross Receipts~~] Sales  
4 and Use Taxes Act.

5 G. The ordinance shall not go into effect until  
6 after an election is held and a simple majority of the  
7 qualified electors of the county voting in the election votes  
8 in favor of imposing the special county hospital [~~gross~~  
9 ~~receipts~~] sales tax. The governing body shall adopt a  
10 resolution calling for an election within seventy-five days of  
11 the date the ordinance is adopted on the question of imposing  
12 the tax. The question may be submitted to the qualified  
13 electors and voted upon as a separate question in a general  
14 election or in any special election called for that purpose by  
15 the governing body. A special election upon the question  
16 shall be called, held, conducted and canvassed in  
17 substantially the same manner as provided by law for general  
18 elections. If the question of imposing a special county  
19 hospital [~~gross receipts~~] sales tax fails, the governing body  
20 shall not again propose a special county hospital [~~gross~~  
21 ~~receipts~~] sales tax for a period of one year after the  
22 election. A certified copy of any ordinance imposing a  
23 special county hospital [~~gross receipts~~] sales tax shall be  
24 mailed to the department within five days after the ordinance  
25 is adopted in any election called for that purpose.

.223540.1

underscored material = new  
[bracketed material] = delete

1           H. A single election may be held on the question  
2 of imposing a special county hospital [~~gross receipts~~] sales  
3 tax as authorized in this section, on the question of imposing  
4 a special county hospital gasoline tax as authorized in the  
5 Special County Hospital Gasoline Tax Act and on the question  
6 of imposing a mill levy pursuant to the Hospital Funding Act."

7           **SECTION 319.** Section 7-20E-14 NMSA 1978 (being Laws  
8 1987, Chapter 45, Section 8, as amended) is amended to read:

9           "7-20E-14. SPECIAL COUNTY HOSPITAL [~~GROSS RECEIPTS~~]  
10 SALES TAX--USE OF PROCEEDS.--The funds provided through the  
11 special county hospital [~~gross receipts~~] sales tax shall be  
12 administered by the governing body of the county. In a county  
13 described in Paragraph (1) of Subsection C of Section 7-20E-13  
14 NMSA 1978, the funds shall be disbursed by the county  
15 treasurer to a hospital within the county, subject to the  
16 approval by the governing body of a budget or plan for use of  
17 the funds submitted by that hospital's governing board."

18           **SECTION 320.** Section 7-20E-18 NMSA 1978 (being Laws  
19 1991, Chapter 212, Section 7, as amended) is amended to read:

20           "7-20E-18. COUNTY HEALTH CARE [~~GROSS RECEIPTS~~] SALES  
21 TAX--AUTHORITY TO IMPOSE RATE.--

22           A. The majority of the members of the governing  
23 body of any county may enact an ordinance imposing an excise  
24 tax at a rate of one-sixteenth percent of the gross receipts  
25 of any person engaging in business in the county for the

.223540.1

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

1 privilege of engaging in business in the county. Any  
2 ordinance imposing an excise tax pursuant to this section  
3 shall not be subject to a referendum. The governing body of a  
4 county shall, at the time of enacting an ordinance imposing  
5 the tax, dedicate the revenue to the county-supported medicaid  
6 fund. This tax is to be referred to as the "county health  
7 care [~~gross receipts~~] sales tax".

8 B. In addition to the imposition of the county  
9 health care [~~gross receipts~~] sales tax authorized by  
10 Subsection A of this section, the majority of the members of  
11 the governing body of a county having a population of more  
12 than five hundred thousand persons according to the most  
13 recent federal decennial census may enact an ordinance  
14 imposing an additional one-sixteenth percent increment of  
15 county health care [~~gross receipts~~] sales tax; provided that  
16 the imposition of the additional increment shall be for a  
17 period that ends no later than June 30, 2009. To continue an  
18 increment after June 30, 2009 or beyond any five-year period  
19 for which the increment has been imposed, the members of the  
20 governing body shall review the need for the increment and if  
21 the majority of the members vote in favor of continuing the  
22 increment imposed pursuant to this subsection, the increment  
23 shall be imposed for an additional period of five years. The  
24 governing body of the county shall, at the time of enacting an  
25 ordinance imposing the additional increment of county health

.223540.1

underscored material = new  
[bracketed material] = delete

1 care [~~gross receipts~~] sales tax, dedicate the revenue to the  
2 support of indigent patients.

3 C. Any ordinance enacted pursuant to the  
4 provisions of Subsection A or B of this section shall include  
5 an effective date of either July 1 or January 1 in accordance  
6 with the provisions of the County Local Option [~~Gross~~  
7 ~~Receipts~~] Sales and Use Taxes Act."

8 SECTION 321. Section 7-20E-20 NMSA 1978 (being Laws  
9 2001, Chapter 328, Section 1, as amended) is amended to read:

10 "7-20E-20. COUNTY EDUCATION [~~GROSS RECEIPTS~~] SALES  
11 TAX--AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF REVENUE.--

12 A. Upon submission of a resolution to the  
13 governing body pursuant to Subsection D of this section, the  
14 governing body of a county shall enact an ordinance imposing  
15 or reimposing an excise tax at a rate of one-half of one  
16 percent on any person engaging in business in the county for  
17 the privilege of engaging in business in the county. The tax  
18 imposed pursuant to this section may be referred to as the  
19 "county education [~~gross receipts~~] sales tax".

20 B. The governing body, at the time of enacting an  
21 ordinance imposing a county education [~~gross receipts~~] sales  
22 tax pursuant to this section shall dedicate the revenue only  
23 for the payment of county education [~~gross receipts~~] sales tax  
24 bonds for public school capital projects and off-campus  
25 instruction program capital projects, if any, in the county.

.223540.1



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

1 The tax shall be imposed for the period necessary for payment  
2 of the principal and interest on the county education [~~gross~~  
3 ~~receipts~~] sales tax revenue bonds issued to accomplish the  
4 purpose for which the revenue is dedicated, but the period  
5 shall not exceed ten years from the effective date of the  
6 ordinance imposing the tax.

7 C. The governing body may reimpose a county  
8 education [~~gross receipts~~] sales tax to be effective upon  
9 termination of a previously imposed county education [~~gross~~  
10 ~~receipts~~] sales tax by following the procedures set forth in  
11 this section.

12 D. Upon a finding of need, the boards of every  
13 school district in a county that is either located wholly  
14 within the exterior boundaries of the county or that has a  
15 student membership no more than ten percent of whom reside  
16 outside the exterior boundaries of the county may enter into a  
17 joint agreement to submit a resolution to the governing body  
18 of the county requiring the governing body to impose a county  
19 education [~~gross receipts~~] sales tax and to issue county  
20 education [~~gross receipts~~] sales tax revenue bonds for funding  
21 public school capital projects and, if applicable, off-campus  
22 instruction program capital projects. The boards must agree  
23 to provide at least one-fourth of the bond proceeds for  
24 capital projects for an off-campus instruction program, if one  
25 of the school districts in the county has established such a

.223540.1

underscored material = new  
[bracketed material] = delete

1 program. The remaining revenues shall be distributed  
2 proportionately to each school district for public school  
3 capital outlay projects, including capital projects at charter  
4 schools and state-chartered charter schools within the school  
5 district, based on the ratio that the population of each  
6 school district, according to the 2010 federal decennial  
7 census, bears to the population of all of the school districts  
8 in the county that are parties to the agreement.

9 E. An ordinance imposing the county education  
10 [~~gross receipts~~] sales tax shall not go into effect until  
11 after an election is held and a majority of the voters in the  
12 county voting in the election votes in favor of imposing the  
13 tax. The governing body shall adopt a resolution calling for  
14 an election within sixty days of the date the ordinance is  
15 adopted on the question of imposing the tax. The question  
16 shall be submitted to the voters of the county as a separate  
17 question at a general election or at a special election called  
18 for that purpose by the governing body. A special election  
19 shall be called, conducted and canvassed in substantially the  
20 same manner as provided by law for general elections. If a  
21 majority of the voters voting on the question approves the  
22 ordinance imposing the county education [~~gross receipts~~] sales  
23 tax, then the ordinance shall become effective in accordance  
24 with the provisions of the County Local Option [~~Gross~~  
25 ~~Receipts~~] Sales and Use Taxes Act. If the question of

.223540.1

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

1 imposing the county education [~~gross receipts~~] sales tax  
2 fails, a resolution from the boards of school districts in the  
3 county may not again be proposed to the governing body  
4 requesting imposition of the tax for a period of one year from  
5 the date of the election.

6 F. The proceeds from county education [~~gross~~  
7 ~~receipts~~] sales tax revenue bonds shall be administered by the  
8 governing body and disbursed by the county treasurer to the  
9 respective school districts in the amounts and for the  
10 purposes authorized in this section and as set out in the  
11 resolution submitted by the boards to the governing body.

12 G. As used in this section:

13 (1) "board" means the governing body of a  
14 school district;

15 (2) "capital projects" means the designing,  
16 constructing and equipping of new buildings; the remodeling,  
17 renovating or making additions to and equipping existing  
18 buildings; or the improving or equipping of the grounds  
19 surrounding buildings;

20 (3) "county" means:

21 (a) a class B county with a population  
22 of less than twenty-five thousand according to the 1990  
23 federal decennial census and a net taxable value for property  
24 tax purposes for the 1999 property tax year of more than five  
25 hundred million dollars (\$500,000,000);

.223540.1

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

1 (b) a county that has imposed a local  
2 hospital gross receipts tax pursuant to the Local Hospital  
3 Gross Receipts Tax Act, which tax will expire on December 31,  
4 2001; and

5 (c) a county that has previously  
6 imposed a county education [~~gross receipts~~] sales tax; and

7 (4) "off-campus instruction program" means a  
8 program established by a school district pursuant to the  
9 Off-Campus Instruction Act."

10 SECTION 322. Section 7-20E-22 NMSA 1978 (being Laws  
11 2002, Chapter 14, Section 1, as amended) is amended to read:

12 "7-20E-22. COUNTY EMERGENCY COMMUNICATIONS AND EMERGENCY  
13 MEDICAL AND BEHAVIORAL HEALTH SERVICES TAX--AUTHORITY TO  
14 IMPOSE COUNTYWIDE OR ONLY IN THE COUNTY AREA--ORDINANCE  
15 REQUIREMENTS-- USE OF REVENUE--ELECTION.--

16 A. The majority of the members of the governing  
17 body of an eligible county that does not have in effect a tax  
18 imposed pursuant to Subsection B of this section may enact an  
19 ordinance imposing an excise tax at a rate not to exceed one-  
20 fourth percent of the gross receipts of a person engaging in  
21 business in the county for the privilege of engaging in  
22 business. The tax imposed by this subsection may be referred  
23 to as the "countywide emergency communications and emergency  
24 medical and behavioral health services tax".

25 B. The majority of the members of the governing

.223540.1

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

1 body of an eligible county that does not have in effect a tax  
2 imposed pursuant to Subsection A of this section may enact an  
3 ordinance imposing an excise tax at a rate not to exceed one-  
4 fourth percent of the gross receipts of a person engaging in  
5 business in the county area for the privilege of engaging in  
6 business. The tax imposed by this subsection may be referred  
7 to as the "county area emergency communications and emergency  
8 medical and behavioral health services tax".

9 C. The taxes authorized in Subsections A and B of  
10 this section may be imposed in one or more increments of one-  
11 sixteenth percent not to exceed an aggregate rate of one-  
12 fourth percent.

13 D. The governing body, at the time of enacting an  
14 ordinance imposing a rate of tax authorized in Subsection A or  
15 B of this section, shall dedicate the revenue to one or more  
16 of the following purposes:

17 (1) operation of an emergency communications  
18 center that has been determined by the local government  
19 division of the department of finance and administration to be  
20 a consolidated public safety answering point. That operation  
21 may include the construction, improvement, remodel or purchase  
22 of one or more buildings to use as an emergency communications  
23 center or the purchase of emergency communications equipment  
24 for the center;

25 (2) operation of emergency medical services

.223540.1

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

1 provided by the county, including the purchase of ambulatory  
2 transport vehicles; or

3 (3) provision of behavioral health services,  
4 including alcohol abuse and substance abuse treatment.

5 E. An ordinance imposing any increment of the  
6 countywide emergency communications and emergency medical and  
7 behavioral health services tax or the county area emergency  
8 communications and emergency medical and behavioral health  
9 services tax shall not go into effect until after an election  
10 is held and a majority of the voters voting in the election  
11 votes in favor of imposing the tax. In the case of an  
12 ordinance imposing an increment of the countywide emergency  
13 communications and emergency medical and behavioral health  
14 services tax, the election shall be conducted countywide. In  
15 the case of an ordinance imposing the county area emergency  
16 communications and emergency medical and behavioral health  
17 services tax, the election shall be conducted only in the  
18 county area. The governing body shall adopt a resolution  
19 calling for an election within seventy-five days of the date  
20 the ordinance is adopted on the question of imposing the tax.  
21 The question may be submitted to the voters as a separate  
22 question at a general election or at a special election called  
23 for that purpose by the governing body. A special election  
24 shall be called, conducted and canvassed in substantially the  
25 same manner as provided by law for general elections. In any

.223540.1

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

1 election held, the ballot shall clearly state the purpose to  
2 which the revenue will be dedicated pursuant to Subsection D  
3 of this section. If a majority of the voters voting on the  
4 question approves the imposition of the countywide emergency  
5 communications and emergency medical and behavioral health  
6 services tax or the county area emergency communications and  
7 emergency medical and behavioral health services tax, the  
8 ordinance shall become effective in accordance with the  
9 provisions of the County Local Option [~~Gross Receipts~~] Sales  
10 and Use Taxes Act. If the question of imposing the tax fails,  
11 the governing body shall not again propose the imposition of  
12 any increment of either tax for a period of one year from the  
13 date of the election.

14 F. For the purposes of this section, "eligible  
15 county" means:

16 (1) a county that operates or, pursuant to a  
17 joint powers agreement, is served by an emergency  
18 communications center that has been determined by the local  
19 government division of the department of finance and  
20 administration to be a consolidated public safety answering  
21 point; or

22 (2) in the case of a county imposing the tax  
23 for the purposes provided in Paragraph (3) of Subsection D of  
24 this section, a county that operates or contracts for the  
25 operation of a behavioral health services facility providing

.223540.1

underscoring material = new  
[bracketed material] = delete

1 alcohol abuse, substance abuse and inpatient and outpatient  
2 behavioral health treatment."

3 SECTION 323. Section 7-20E-23 NMSA 1978 (being Laws  
4 2004, Chapter 17, Section 2, as amended) is amended to read:

5 "7-20E-23. COUNTY REGIONAL TRANSIT [~~GROSS RECEIPTS~~]  
6 SALES TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

7 A. Upon a request by resolution of the board of  
8 directors of a regional transit district, a majority of the  
9 members of the governing body of each county that is within  
10 the district shall impose by identical ordinances an excise  
11 tax at the rate specified in the resolution, but not to exceed  
12 one-half percent of the gross receipts of any person engaging  
13 in business in the district for the privilege of engaging in  
14 business. A tax imposed pursuant to this section may be  
15 imposed by one or more ordinances, each imposing any number of  
16 tax rate increments, but an increment shall not be less than  
17 one-sixteenth percent of the gross receipts of any person  
18 engaging in business in the district and the aggregate of all  
19 rates shall not exceed one-half percent of the gross receipts  
20 of any person engaging in business in the district. The tax  
21 may be referred to as the "county regional transit [~~gross~~  
22 ~~receipts~~] sales tax".

23 B. Each governing body, at the time of enacting an  
24 ordinance imposing the tax authorized in Subsection A of this  
25 section, shall dedicate the revenue for the purposes

.223540.1



underscored material = new  
[bracketed material] = delete

1 authorized by the Regional Transit District Act.

2 C. An ordinance imposing a county regional transit  
3 [~~gross receipts~~] sales tax shall not go into effect until  
4 after a joint election is held by all counties within the  
5 district and a majority of the voters of the district voting  
6 in the election votes in favor of imposing the tax. Each  
7 governing body shall adopt an ordinance calling for a joint  
8 election within seventy-five days of the date the resolution  
9 is adopted on the question of imposing the tax. The question  
10 shall be submitted to the voters of the district as a separate  
11 question at a general election or at a joint special election  
12 called for that purpose by each governing body. A joint  
13 special election shall be called, conducted and canvassed  
14 substantially in the same manner as provided by law for  
15 general elections. If a majority of the voters in the  
16 district voting on the question approves the ordinance  
17 imposing the county regional transit [~~gross receipts~~] sales  
18 tax, the ordinance shall become effective in accordance with  
19 the provisions of the County Local Option [~~Gross Receipts~~]  
20 Sales and Use Taxes Act. If the question of imposing the  
21 county regional transit [~~gross receipts~~] sales tax fails, the  
22 governing bodies shall not again propose the imposition of any  
23 increment of the tax for a period of one year from the date of  
24 the election.

25 D. The governing body of a county imposing a

.223540.1

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

1 county regional transit [~~gross receipts~~] sales tax shall  
2 transfer all proceeds from the tax to the regional transit  
3 district for the purposes specified in the ordinance and in  
4 accordance with the provisions of the Regional Transit  
5 District Act.

6 E. As used in this section, "county within the  
7 district" means a county within which lies any portion of a  
8 regional transit district."

9 SECTION 324. Section 7-20E-25 NMSA 1978 (being Laws  
10 2006, Chapter 15, Section 15) is amended to read:

11 "7-20E-25. COUNTY REGIONAL SPACEPORT [~~GROSS RECEIPTS~~]  
12 SALES TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

13 A. A majority of the members of the governing body  
14 of a county that desires to become a member of a regional  
15 spaceport district pursuant to the Regional Spaceport District  
16 Act shall impose by ordinance an excise tax at a rate not to  
17 exceed one-half percent of the gross receipts of a person  
18 engaging in business in the district area of the county for  
19 the privilege of engaging in business. A tax imposed pursuant  
20 to this section may be imposed by one or more ordinances, each  
21 imposing any number of tax rate increments, but an increment  
22 shall not be less than one-sixteenth percent of the gross  
23 receipts of a person engaging in business in the district area  
24 of the county, and the aggregate of all rates shall not exceed  
25 one-half percent of the gross receipts of a person engaging in

.223540.1

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

1 business in the district area of the county. The tax may be  
2 referred to as the "county regional spaceport [~~gross receipts~~  
3 sales tax".

4 B. A governing body, at the time of enacting an  
5 ordinance imposing the tax authorized in Subsection A of this  
6 section, shall dedicate a minimum of seventy-five percent of  
7 the proceeds of the revenue to the regional spaceport district  
8 for the financing, planning, designing and engineering and  
9 construction of a spaceport or for projects or services of the  
10 district pursuant to the Regional Spaceport District Act and  
11 may dedicate no more than twenty-five percent of the revenue  
12 for spaceport-related projects as approved by resolution of  
13 the governing body of the county.

14 C. An ordinance imposing a county regional  
15 spaceport [~~gross receipts~~] sales tax shall not go into effect  
16 until after an election is held and a majority of the voters  
17 of the district area of the county voting in the election  
18 votes in favor of imposing the tax. The governing body shall  
19 adopt an ordinance calling for an election within seventy-five  
20 days of the date the resolution is adopted on the question of  
21 imposing the tax. The question shall be submitted to the  
22 voters of the district area of the county as a separate  
23 question at a general election or at a special election called  
24 for that purpose by the governing body. A special election  
25 shall be called, conducted and canvassed substantially in the

.223540.1

underscored material = new  
[bracketed material] = delete

1 same manner as provided by law for general elections. If a  
2 majority of the voters voting on the question approves the  
3 ordinance imposing the county regional spaceport [~~gross~~  
4 ~~receipts~~] sales tax, the ordinance shall become effective in  
5 accordance with the provisions of the County Local Option  
6 [~~Gross Receipts~~] Sales and Use Taxes Act. If the question of  
7 imposing the county regional spaceport [~~gross receipts~~] sales  
8 tax fails, the governing body shall not again propose the  
9 imposition of an increment of the tax for a period of one year  
10 from the date of the election.

11 D. The governing body of a county imposing a  
12 county regional spaceport [~~gross receipts~~] sales tax shall  
13 transfer a minimum of seventy-five percent of all proceeds  
14 from the tax to the regional spaceport district of which it is  
15 a member for the purposes in accordance with the provisions of  
16 the Regional Spaceport District Act. The governing body of a  
17 county imposing a county regional spaceport [~~gross receipts~~]  
18 sales tax may retain no more than twenty-five percent of the  
19 county regional spaceport [~~gross receipts~~] sales tax for  
20 spaceport-related projects as approved by the resolution of  
21 the governing body of the county.

22 E. As used in this section, "district area of the  
23 county" means that portion of a county that is outside the  
24 boundaries of a municipality and that is within the boundaries  
25 of a regional spaceport district of which the county is a

.223540.1

underscored material = new  
[bracketed material] = delete

1 member; provided that if no municipality within the county has  
2 imposed a municipal regional spaceport [~~gross receipts~~] sales  
3 tax, "district area of the county" may mean the area within  
4 the boundaries of the county that is within the boundaries of  
5 a regional spaceport district of which the county is a  
6 member."

7 SECTION 325. Section 7-20E-26 NMSA 1978 (being Laws  
8 2007, Chapter 346, Section 1) is amended to read:

9 "7-20E-26. WATER AND SANITATION [~~GROSS RECEIPTS~~] SALES  
10 TAX--AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF REVENUE.--

11 A. An excise tax imposed by a governing body  
12 pursuant to this section may be referred to as the "water and  
13 sanitation [~~gross receipts~~] sales tax". The water and  
14 sanitation [~~gross receipts~~] sales tax shall be imposed by a  
15 governing body as set forth in this section, contingent upon a  
16 majority of the voters voting in an election on the question  
17 of whether to impose a water and sanitation [~~gross receipts~~]  
18 sales tax voting in favor of the imposition.

19 B. Upon receipt of a resolution adopted and  
20 submitted by the board of directors of a water and sanitation  
21 district that requests the governing body to impose a water  
22 and sanitation [~~gross receipts~~] sales tax on behalf of the  
23 water and sanitation district, a governing body shall enact an  
24 ordinance imposing a water and sanitation [~~gross receipts~~]  
25 sales tax in that water and sanitation district. The

.223540.1

underscoring material = new  
[bracketed material] = delete

1 ordinance shall impose the tax at a rate of one-fourth percent  
2 on a person engaging in business within the area of the county  
3 located within the water and sanitation district for the  
4 privilege of engaging in business within that water and  
5 sanitation district within the county.

6 C. The governing body, at the time of enacting an  
7 ordinance imposing a water and sanitation [~~gross receipts~~]  
8 sales tax authorized pursuant to Subsection A of this section,  
9 shall dedicate the revenue only for the operation of the water  
10 and sanitation district for which the tax is imposed. The tax  
11 shall be imposed for six years from the date on which the  
12 water and sanitation [~~gross receipts~~] sales tax goes into  
13 effect.

14 D. Within sixty days of the date the ordinance is  
15 adopted by the governing body, the governing body shall adopt  
16 a resolution calling for an election on the question of  
17 whether to impose a water and sanitation [~~gross receipts~~]  
18 sales tax. The question shall be submitted to the voters of  
19 the water and sanitation district requesting the county to  
20 impose the tax. A special election shall be called, conducted  
21 and canvassed in substantially the same manner as provided by  
22 law for general elections. If a majority of the voters voting  
23 on the question approves the ordinance imposing the water and  
24 sanitation [~~gross receipts~~] sales tax, then the ordinance  
25 shall become effective in accordance with the provisions of

.223540.1

underscoring material = new  
[bracketed material] = delete

1 the County Local Option [~~Gross Receipts~~] Sales and Use Taxes  
2 Act on either January 1 or July 1 following the election  
3 approving the imposition of the tax. If the question of  
4 imposing the water and sanitation [~~gross receipts~~] sales tax  
5 fails, a resolution from the board of directors of the water  
6 and sanitation district initiating the request to the county  
7 to impose a water and sanitation [~~gross receipts~~] sales tax  
8 may not again be submitted to the governing body for a period  
9 of one year from the date of the election.

10 E. The proceeds from the water and sanitation  
11 [~~gross receipts~~] sales tax shall be administered by the  
12 governing body and disbursed by the county treasurer to the  
13 appropriate water and sanitation district in amounts and for  
14 the purposes authorized in this section and as set out in the  
15 resolution submitted by the board of directors to the  
16 governing body. An agreement shall be entered into between  
17 the water and sanitation district and the governing body that  
18 sets out the responsibilities of both parties regarding  
19 administration, distribution and use of the revenue from the  
20 water and sanitation [~~gross receipts~~] sales tax."

21 SECTION 326. Section 7-20E-29 NMSA 1978 (being Laws  
22 2020, Chapter 78, Section 12) is amended to read:

23 "7-20E-29. ELECTRIC GENERATING FACILITY ECONOMIC  
24 DISTRICT [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--  
25 RATE--USE OF REVENUE.--

.223540.1

underscored material = new  
[bracketed material] = delete

1           A. A majority of the members of the governing body  
2 of a county within which a county electric generating facility  
3 economic district is located and a bordering county within  
4 twenty miles of a qualifying electric generating facility may  
5 enact an ordinance imposing an excise tax of up to one-fourth  
6 percent of the gross receipts of any person engaging in  
7 business in the county or county area for the privilege of  
8 engaging in business in the county or county area. The tax  
9 authorized by this section may be referred to as the "county  
10 electric generating facility economic district [~~gross~~  
11 ~~receipts~~] sales tax".

12           B. An ordinance imposing a county electric  
13 generating facility economic district [~~gross receipts~~] sales  
14 tax shall impose the tax in any number of increments of one-  
15 thousandth percent; provided that the aggregate amount of  
16 increments shall not exceed one-fourth percent.

17           C. The governing body, at the time of enacting an  
18 ordinance imposing a county electric generating facility  
19 economic district [~~gross receipts~~] sales tax, shall dedicate  
20 the revenue only for the payment of the interest on and  
21 principal of revenue bonds issued pursuant to the Electric  
22 Generating Facility Economic District Act. Revenue from a  
23 county electric generating facility economic district [~~gross~~  
24 ~~receipts~~] sales tax shall not be used for any other purpose."

25           SECTION 327. Section 7-25-8 NMSA 1978 (being Laws 1966,  
.223540.1



underscoring material = new  
[bracketed material] = delete

1 Chapter 48, Section 8, as amended) is amended to read:

2 "7-25-8. SALES OF NATURAL RESOURCES SUBJECT TO [~~GROSS~~  
3 ~~RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT.--In addition  
4 to being subject to the Resources Excise Tax Act, any person  
5 who sells nonfissionable natural resources other than for  
6 subsequent sale in the ordinary course of business or for use  
7 as an ingredient or component part of a manufactured product  
8 is also subject to the provisions of the [~~Gross Receipts and~~  
9 ~~Compensating~~] Sales and Use Tax Act on such sales."

10 SECTION 328. Section 9-6-5.2 NMSA 1978 (being Laws 2011,  
11 Chapter 106, Section 5) is amended to read:

12 "9-6-5.2. FAILURE TO TIMELY SUBMIT AUDIT REPORTS OR  
13 FINANCIAL REPORTS--ENFORCEMENT POWERS OF SECRETARY.--

14 A. Upon notification by the state auditor pursuant  
15 to Subsection G of Section 12-6-3 NMSA 1978 that a state  
16 agency, state institution, municipality or county has failed  
17 to submit an audit report as required by the Audit Act, the  
18 secretary of finance and administration shall order the  
19 agency, institution, municipality or county to submit monthly  
20 financial reports to the department of finance and  
21 administration until all past-due audit reports have been  
22 submitted to the state auditor and the secretary is satisfied  
23 that the agency, institution, municipality or county is in  
24 compliance with all financial and audit requirements.

25 B. If, ninety days after an order has been issued

.223540.1

1 pursuant to Subsection A of this section to a state agency or  
2 state institution subject to periodic allotments, the agency  
3 or institution has not submitted all past-due reports or has  
4 not otherwise made progress, satisfactory to the state  
5 auditor, toward compliance with the Audit Act, the secretary  
6 may direct the state budget division to temporarily withhold  
7 periodic allotments to the agency or institution pursuant to  
8 Section 6-3-6 NMSA 1978. The amounts withheld and the period  
9 of time for which the allotments are to be withheld shall be  
10 determined by the secretary subject to the following  
11 guidelines:

12 (1) the initial amount withheld shall not  
13 exceed five percent of the allotment and shall be for a period  
14 of no more than three months;

15 (2) every three months, the secretary shall  
16 determine if the agency or institution has submitted all past-  
17 due audit reports or has otherwise made progress, satisfactory  
18 to the state auditor, toward compliance with the Audit Act.  
19 If the secretary determines that past-due reports have not  
20 been submitted and that there has been inadequate progress,  
21 the secretary may direct that the amount being currently  
22 withheld be increased by an additional amount, up to another  
23 five percent of the allotment, for an additional period of up  
24 to three months; and

25 (3) upon a determination that all past-due

underscored material = new  
[bracketed material] = delete

1 audit reports have been submitted or that the agency or  
2 institution is otherwise making progress, satisfactory to the  
3 state auditor, toward compliance with the Audit Act, the  
4 secretary shall direct that all withheld amounts be  
5 distributed to the agency or institution and that future  
6 allotments shall be made in full.

7 C. If, ninety days after an order has been issued  
8 pursuant to Subsection A of this section to a municipality or  
9 county, the municipality or county has not submitted all past-  
10 due reports or has not otherwise made progress, satisfactory  
11 to the state auditor, toward compliance with the Audit Act,  
12 the secretary may direct the secretary of taxation and revenue  
13 to temporarily withhold distributions to the municipality or  
14 county pursuant to Section 7-1-6.15 NMSA 1978. The amounts  
15 withheld, the source of the amounts and the period of time for  
16 which the distributions are to be withheld shall be determined  
17 by the secretary of finance and administration subject to the  
18 following guidelines:

19 (1) transfers to a county or municipality of  
20 receipts from any local option [~~gross receipts~~] sales tax or  
21 from a tax imposed pursuant to the Local Liquor Excise Tax Act  
22 shall not be withheld;

23 (2) the source and amount of a withheld  
24 distribution shall be determined in a manner that will not:

25 (a) impair any outstanding bonds or

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

1 other obligations of the municipality or county; or

2 (b) interrupt a redirected distribution  
3 to the New Mexico finance authority pursuant to an ordinance  
4 or a resolution passed by the county or municipality and a  
5 written agreement of the municipality or county and the New  
6 Mexico finance authority;

7 (3) the initial amount withheld shall not  
8 exceed five percent of the amount that would otherwise be  
9 distributed to the municipality or county pursuant to the Tax  
10 Administration Act and shall be for a period of no more than  
11 three months;

12 (4) every three months, the secretary of  
13 finance and administration shall determine if the municipality  
14 or county has submitted all past-due audit reports or has  
15 otherwise made progress, satisfactory to the state auditor,  
16 toward compliance with the Audit Act. If the secretary  
17 determines that past-due reports have not been submitted and  
18 that there has been inadequate progress, the secretary may  
19 direct that the amount being currently withheld be increased  
20 by an additional amount, up to another five percent of the  
21 amount that would otherwise be distributed, for an additional  
22 period of up to three months; and

23 (5) upon a determination that all past-due  
24 audit reports have been submitted or that the municipality or  
25 county is otherwise making progress, satisfactory to the state

.223540.1

underscored material = new  
[bracketed material] = delete

1 auditor, toward compliance with the Audit Act, the secretary  
2 shall direct that all withheld amounts be distributed to the  
3 municipality or county and that future distributions shall be  
4 made in full.

5 D. After receiving notice from the local  
6 government division of the department of finance and  
7 administration required by Subsection G of Section 6-6-2 NMSA  
8 1978 that a municipality or county has failed to submit two  
9 consecutive financial reports pursuant to Subsection F of that  
10 section, the secretary may direct the secretary of taxation  
11 and revenue to temporarily withhold distributions to the  
12 municipality or county pursuant to Section 7-1-6.15 NMSA 1978.  
13 The amounts withheld, the source of the amounts and the period  
14 of time for which the distributions are to be withheld shall  
15 be determined by the secretary of finance and administration  
16 subject to the following guidelines:

17 (1) transfers to a county or municipality of  
18 receipts from any local option [~~gross receipts~~] sales tax or  
19 from a tax imposed pursuant to the Local Liquor Excise Tax Act  
20 shall not be withheld;

21 (2) the source and amount of a withheld  
22 distribution shall be determined in a manner that will not:

23 (a) impair any outstanding bonds or  
24 other obligations of the municipality or county; or

25 (b) interrupt a redirected distribution

.223540.1

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

1 to the New Mexico finance authority pursuant to an ordinance  
2 or a resolution passed by the county or municipality and a  
3 written agreement of the municipality or county and the New  
4 Mexico finance authority;

5 (3) the initial amount withheld shall not  
6 exceed five percent of the amount that would otherwise be  
7 distributed to the municipality or county pursuant to the Tax  
8 Administration Act and shall be for a period of no more than  
9 three months;

10 (4) every three months, the secretary of  
11 finance and administration shall determine if the municipality  
12 or county has submitted all past-due financial reports or has  
13 otherwise made progress, satisfactory to the local government  
14 division, toward compliance with the law. If the secretary  
15 determines that past-due reports have not been submitted and  
16 that there has been inadequate progress, the secretary may  
17 direct that the amount being currently withheld be increased  
18 by an additional amount, up to another five percent of the  
19 amount that would otherwise be distributed, for an additional  
20 period of up to three months; and

21 (5) upon a determination that all past-due  
22 financial reports have been submitted or that the municipality  
23 or county is otherwise making progress, satisfactory to the  
24 local government division, toward compliance with the law, the  
25 secretary shall direct that all withheld amounts be

.223540.1

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

1 distributed to the municipality or county and that future  
2 distributions shall be made in full."

3 SECTION 329. Section 9-11-12.1 NMSA 1978 (being Laws  
4 1997, Chapter 64, Section 1, as amended) is amended to read:

5 "9-11-12.1. TRIBAL COOPERATIVE AGREEMENTS.--

6 A. The secretary may enter into cooperative  
7 agreements with the Pueblos of Acoma, Cochiti, Jemez, Isleta,  
8 Laguna, Nambe, Picuris, Pojoaque, Sandia, San Felipe, San  
9 Ildefonso, San Juan, Santa Ana, Santa Clara, Santo Domingo,  
10 Taos, Tesuque, Zia and Zuni; the Jicarilla Apache Nation; the  
11 Mescalero Apache Tribe; and the nineteen pueblos acting  
12 collectively for the exchange of information and the  
13 reciprocal, joint or common enforcement, administration,  
14 collection, remittance and audit of [~~gross receipts~~] sales tax  
15 and cannabis excise tax revenues of the party jurisdictions.

16 B. Money collected by the department on behalf of  
17 a tribe in accordance with an agreement entered into pursuant  
18 to this section is not money of this state and shall be  
19 collected and disbursed in accordance with the terms of the  
20 agreement, notwithstanding any other provision of law.

21 C. The secretary is empowered to promulgate such  
22 rules and to establish such procedures as the secretary deems  
23 appropriate for the collection and disbursement of funds due a  
24 tribe and for the receipt of money collected by a tribe for  
25 the account of this state under the terms of a cooperative

.223540.1

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

1 agreement entered into under the authority of this section,  
2 including procedures for identification of taxpayers or  
3 transactions that are subject only to the taxing authority of  
4 the tribe, taxpayers or transactions that are subject only to  
5 the taxing authority of this state and taxpayers or  
6 transactions that are subject to the taxing authority of both  
7 party jurisdictions.

8 D. Nothing in an agreement entered into pursuant  
9 to this section shall be construed as authorizing this state  
10 or a tribe to tax a person or transaction that federal law  
11 prohibits that government from taxing, authorizing a state or  
12 tribal court to assert jurisdiction over a person who is not  
13 otherwise subject to that court's jurisdiction or affecting  
14 any issue of the respective civil or criminal jurisdictions of  
15 this state or the tribe. Nothing in an agreement entered into  
16 pursuant to this section shall be construed as an assertion or  
17 an admission by either this state or a tribe that the taxes of  
18 one have precedence over the taxes of the other when a person  
19 or transaction is subject to the taxing authority of both  
20 governments. An agreement entered into pursuant to this  
21 section shall be construed solely as an agreement between the  
22 two party governments and shall not alter or affect the  
23 government-to-government relations between this state and any  
24 other tribe.

25 E. As used in this section:

.223540.1



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

1 (1) "tribal" means of or pertaining to a  
2 tribe; and

3 (2) "tribe" means an Indian nation, tribe or  
4 pueblo located entirely in New Mexico."

5 SECTION 330. Section 13-1-66.1 NMSA 1978 (being Laws  
6 1989, Chapter 69, Section 4, as amended) is amended to read:

7 "13-1-66.1. DEFINITION--LOCAL PUBLIC WORKS PROJECT.--  
8 "Local public works project" means a project of a local public  
9 body that uses architectural or engineering services requiring  
10 professional services costing fifty thousand dollars (\$50,000)  
11 or more or landscape architectural or surveying services  
12 requiring professional services costing ten thousand dollars  
13 (\$10,000) or more, excluding applicable state and local [~~gross~~  
14 ~~receipts~~] sales taxes."

15 SECTION 331. Section 13-1-91 NMSA 1978 (being Laws 1984,  
16 Chapter 65, Section 64, as amended by Laws 2007, Chapter 312,  
17 Section 4 and by Laws 2007, Chapter 315, Section 2) is amended  
18 to read:

19 "13-1-91. DEFINITION--STATE PUBLIC WORKS PROJECT.--  
20 "State public works project" means a project of a state  
21 agency, not including projects of the state educational  
22 institutions, the supreme court building commission, the  
23 legislature or local public bodies, that uses architectural or  
24 engineering services requiring professional services costing  
25 fifty thousand dollars (\$50,000) or more or landscape

.223540.1

underscoring material = new  
[bracketed material] = delete

1 architectural or surveying services requiring professional  
2 services costing ten thousand dollars (\$10,000) or more,  
3 excluding applicable state and local [~~gross receipts~~] sales  
4 taxes."

5 SECTION 332. Section 13-1-108 NMSA 1978 (being Laws  
6 1984, Chapter 65, Section 81, as amended) is amended to read:

7 "13-1-108. COMPETITIVE SEALED BIDS--AWARD.--A contract  
8 solicited by competitive sealed bids shall be awarded with  
9 reasonable promptness by written notice to the lowest  
10 responsible bidder. Contracts solicited by competitive sealed  
11 bids shall require that the bid amount exclude the applicable  
12 state [~~gross receipts~~] sales tax or applicable local option  
13 tax but that the contracting agency shall be required to pay  
14 the applicable tax, including any increase in the applicable  
15 tax becoming effective after the date the contract is entered  
16 into. The applicable [~~gross receipts~~] sales tax or applicable  
17 local option tax shall be shown as a separate amount on each  
18 billing or request for payment made under the contract."

19 SECTION 333. Section 13-1-125 NMSA 1978 (being Laws  
20 1984, Chapter 65, Section 98, as amended) is amended to read:

21 "13-1-125. SMALL PURCHASES.--

22 A. A central purchasing office shall procure  
23 services, construction or items of tangible personal property  
24 having a value not exceeding sixty thousand dollars (\$60,000),  
25 excluding applicable state and local [~~gross receipts~~] sales

.223540.1

underscoring material = new  
[bracketed material] = delete

1 taxes, in accordance with the applicable small purchase rules  
2 adopted by the secretary, a local public body or a central  
3 purchasing office that has the authority to issue rules.

4 B. Notwithstanding the requirements of Subsection  
5 A of this section, a central purchasing office may procure  
6 professional services having a value not exceeding sixty  
7 thousand dollars (\$60,000), excluding applicable state and  
8 local [~~gross receipts~~] sales taxes, except for the services of  
9 landscape architects or surveyors for state public works  
10 projects or local public works projects, in accordance with  
11 professional services procurement rules promulgated by the  
12 general services department or a central purchasing office  
13 with the authority to issue rules.

14 C. Notwithstanding the requirements of Subsection  
15 A of this section, a state agency or a local public body may  
16 procure services, construction or items of tangible personal  
17 property having a value not exceeding twenty thousand dollars  
18 (\$20,000), excluding applicable state and local [~~gross~~  
19 ~~receipts~~] sales taxes, by issuing a direct purchase order to a  
20 contractor based upon the best obtainable price.

21 D. Procurement requirements shall not be  
22 artificially divided so as to constitute a small purchase  
23 under this section."

24 SECTION 334. Section 15-3B-6 NMSA 1978 (being Laws 1968,  
25 Chapter 43, Section 5, as amended) is amended to read:

.223540.1

underscored material = new  
[bracketed material] = delete

1           "15-3B-6. BUILDING AND REMODELING.--The division may do  
2 all acts necessary and proper for the redesigning, major  
3 renovation and remodeling of present state buildings and the  
4 erection of additional state buildings when needed. The  
5 division may let contracts for these purposes in accordance  
6 with the provisions of the Procurement Code. A contract for  
7 such redesigning, major renovation, remodeling or construction  
8 that costs more than five million dollars (\$5,000,000), not  
9 including [~~gross receipts~~] sales tax, must first be approved  
10 by the state board of finance. This section applies only to  
11 state buildings under the division's jurisdiction."

12           SECTION 335. Section 16-2-19 NMSA 1978 (being Laws 1935,  
13 Chapter 57, Section 16, as amended) is amended to read:

14           "16-2-19. STATE PARK AND RECREATION REVENUES--SOURCE AND  
15 DISBURSEMENT.--All money derived from the operation of state  
16 parks or recreation areas or from the governmental [~~gross~~  
17 ~~receipts~~] sales tax distributions pursuant to Section 7-1-6.38  
18 NMSA 1978 appropriated to the energy, minerals and natural  
19 resources department for state park and recreation capital  
20 improvements or from gifts, donations, bequests or endowments,  
21 except as the money may be pledged for the retirement of bonds  
22 issued under the State Park and Recreation Bond Act or  
23 appropriated for state park and recreation purposes by the  
24 legislature or acquired from any other source whatsoever,  
25 shall not at any time or in any event revert or be transferred

.223540.1

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

1 to general or other state funds; and such funds shall be used  
2 solely for the purpose of acquiring, developing, operating and  
3 maintaining state parks or recreation areas and maintenance,  
4 operation and expenditures of the state [~~park and recreation~~]  
5 parks division of the energy, minerals and natural resources  
6 department, the payment of traveling expenses and salaries of  
7 officers, park superintendents and employees and the  
8 retirement of state park and recreation bonds. Expenditures  
9 shall be made in accordance with budgets approved by the  
10 department of finance and administration."

11 SECTION 336. Section 16-2-29 NMSA 1978 (being Laws 1965,  
12 Chapter 280, Section 10, as amended) is amended to read:

13 "16-2-29. SECURITY--RETIREMENT OF BONDS.--The state  
14 [~~park and recreation~~] parks division of the energy, minerals  
15 and natural resources department may pledge for the retirement  
16 of bonds issued all or any part of the revenues to be produced  
17 from any project to be constructed with bond funds, all or any  
18 part of the governmental [~~gross receipts~~] sales tax  
19 distributions pursuant to Section 7-1-6.38 NMSA 1978  
20 appropriated to the energy, minerals and natural resources  
21 department for state park and recreation area capital  
22 improvements and, except as may be prohibited by existing  
23 contractual arrangements, may also pledge money derived from  
24 the operation of present or future state parks or recreation  
25 areas or from gifts, donations, bequests or endowments for

.223540.1

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

1 state park or recreation purposes or any portion of the same.  
2 Bonds are payable solely from the funds enumerated in this  
3 section and are not general obligations of the state."

4 SECTION 337. Section 17-3-16 NMSA 1978 (being Laws 1964  
5 (1st S.S.), Chapter 17, Section 7, as amended) is amended to  
6 read:

7 "17-3-16. FUNDS--SPECIAL DRAWINGS FOR LICENSES.--

8 A. The director of the department of game and fish  
9 may provide special envelopes and application blanks when a  
10 special drawing is to be held to determine the persons to  
11 receive licenses. Money required to be submitted with these  
12 applications, if enclosed in the special envelopes, need not  
13 be deposited with the state treasurer but may be held by the  
14 director until the successful applicants are determined. At  
15 that time, the fees of the successful applicants shall be  
16 deposited with the state treasurer and the fees submitted by  
17 the unsuccessful applicants shall be returned to them.

18 B. Beginning with the licenses issued from a  
19 special drawing for a hunt code that commences on or after  
20 April 1, 2012:

21 (1) licenses shall be issued as follows:

22 (a) ten percent of the licenses to be  
23 drawn by nonresidents and residents who will be contracted  
24 with a New Mexico outfitter prior to application; and

25 (b) six percent of the licenses to be

.223540.1

1 drawn by nonresidents who are not required to be contracted  
2 with an outfitter; and

3 (2) a minimum of eighty-four percent of the  
4 licenses shall be issued to residents of New Mexico.

5 C. If the number of applicants who apply for  
6 licenses pursuant to the provisions of Paragraphs (1) and (2)  
7 of Subsection B of this section does not constitute the  
8 allocated licenses for either category, then the additional  
9 licenses available may be granted to another category of  
10 applicants. The director shall offer first choice of  
11 undersubscribed hunts to residents, whenever practicable.

12 D. If the determination of the percentages in  
13 Subsection B of this section yields a fraction of:

14 (1) five-tenths or greater, the number of  
15 licenses to be issued shall be rounded up to the next whole  
16 number; and

17 (2) less than five-tenths, the number of  
18 licenses shall be rounded down to the next whole number.

19 E. The fee for a nonresident license for a special  
20 drawing in a high-demand hunt covered in Subsection B of this  
21 section shall be assessed at the same rate as a license for  
22 nonresident quality elk or quality deer. As used in this  
23 subsection, "high-demand hunt" means:

24 (1) a hunt where the total number of  
25 nonresident applicants for a hunt code in each unit exceeds

.223540.1

underscored material = new  
[bracketed material] = delete

1 twenty-two percent of the total applicants and where the total  
2 applicants for a hunt exceeds the number of licenses available  
3 based on application data indicating that this criteria  
4 occurred in each of the two immediately preceding years; or

5 (2) an additional hunt code designated by the  
6 department of game and fish as a quality hunt.

7 F. All antlerless elk hunts pursuant to this  
8 section shall be exclusively for New Mexico residents.

9 G. Hunts on all state wildlife management areas  
10 shall be allocated exclusively to New Mexico residents.

11 H. As used in this section, "New Mexico outfitter"  
12 means a person who has a business:

13 (1) with a valid New Mexico state, county or  
14 municipal business registration and a valid outfitter license  
15 issued by the department of game and fish;

16 (2) that is authorized to do and is doing  
17 outfitting business under the laws of this state;

18 (3) that has paid property taxes or rent on  
19 real property in New Mexico, paid [~~gross receipts~~] sales taxes  
20 and paid at least one other tax administered by the taxation  
21 and revenue department in each of the three years immediately  
22 preceding the submission of an affidavit to the department of  
23 game and fish;

24 (4) the majority of which is owned by the  
25 person who has resided in New Mexico during the three-year

.223540.1



underscored material = new  
[bracketed material] = delete

1 period immediately preceding the submission of an affidavit to  
2 the department of game and fish;

3 (5) that employs at least eighty percent of  
4 the total personnel of the business who are New Mexico  
5 residents; [~~and~~]

6 (6) that has either leased property for ten  
7 years or purchased property greater than fifty thousand  
8 dollars (\$50,000) in value in New Mexico;

9 (7) that, if it has changed its name from  
10 that of a previously certified business, the business is  
11 identical in every way to the previously certified business  
12 that meets all criteria;

13 (8) that possesses all required federal or  
14 state land use permits for the hunt; and

15 (9) that operates as a hunting guide service  
16 during which at least two days are accompanied with the client  
17 in the area where the license is valid."

18 SECTION 338. Section 21-28-7 NMSA 1978 (being Laws 1989,  
19 Chapter 264, Section 7, as amended) is amended to read:

20 "21-28-7. LIMITATIONS ON APPLICATION OF LAWS.--

21 A. A research park corporation shall not be  
22 deemed an agency, public body or other political subdivision  
23 of New Mexico, including for purposes of applying statutes and  
24 laws relating to personnel, procurement of goods and services,  
25 meetings of the board of directors, [~~gross receipts~~] sales

.223540.1

underscoring material = new  
[bracketed material] = delete

1 tax, disposition or acquisition of property, capital outlays,  
2 per diem and mileage and inspection of records.

3 B. A research park corporation shall be deemed:

4 (1) an agency or other political subdivision  
5 of the state for purposes of applying statutes and laws  
6 relating to the furnishing of goods and services to the  
7 university that operates it and the risk management fund; and

8 (2) a public employer for the purposes of the  
9 Public Employee Bargaining Act if it owns, operates or manages  
10 a health care facility or employs individuals who work at a  
11 health care facility.

12 C. A research park corporation, its officers,  
13 directors and employees shall be granted immunity from  
14 liability for any tort as provided in the Tort Claims Act.

15 A research park corporation may enter into agreements with  
16 insurance carriers to insure against a loss in connection with  
17 its operations even though the loss may be included among  
18 losses covered by the risk management fund of New Mexico."

19 SECTION 339. Section 27-5-6.2 NMSA 1978 (being Laws  
20 2014, Chapter 79, Section 16) is amended to read:

21 "27-5-6.2. TRANSFER TO SAFETY NET CARE POOL FUND.--

22 A. A county shall, by ordinance to be effective  
23 July 1, 2014, dedicate to the safety net care pool fund an  
24 amount equal to a [~~gross receipts~~] sales tax rate of  
25 one-twelfth percent applied to the taxable gross receipts

.223540.1

underscoring material = new  
[bracketed material] = delete

1 reported during the prior fiscal year by persons engaging in  
2 business in the county. For purposes of this subsection, a  
3 county may use public funds from any existing authorized  
4 revenue source of the county.

5 B. A county enacting an ordinance pursuant to  
6 Subsection A of this section shall transfer to the safety net  
7 care pool fund by the last day of March, June, September and  
8 December of each year an amount equal to one-fourth of the  
9 county's payment to the safety net care pool fund."

10 SECTION 340. Section 27-10-4 NMSA 1978 (being Laws 1991,  
11 Chapter 212, Section 4, as amended) is amended to read:

12 "27-10-4. ALTERNATIVE REVENUE SOURCE TO IMPOSITION OF  
13 COUNTY HEALTH CARE [~~GROSS RECEIPTS~~] SALES TAX--TRANSFER TO  
14 COUNTY-SUPPORTED MEDICAID FUND.--

15 A. In the event a county does not enact an  
16 ordinance imposing a county health care [~~gross receipts~~] sales  
17 tax pursuant to Section [~~7-20D-3~~] 7-20E-18 NMSA 1978, the  
18 county shall, by ordinance to be effective July 1, 1993,  
19 dedicate to the county-supported medicaid fund an amount equal  
20 to a [~~gross receipts~~] sales tax rate of one-sixteenth [~~of one~~]  
21 percent applied to the taxable gross receipts reported during  
22 the prior fiscal year by persons engaging in business in the  
23 county. For purposes of this subsection, a county may use  
24 funds from any existing authorized revenue source of the  
25 county.

.223540.1

underscored material = new  
[bracketed material] = delete

1           B. For each county that has in effect an ordinance  
2 enacted pursuant to Subsection A of this section on July 1 of  
3 each year, the taxation and revenue department shall certify  
4 to the county by September 15, 1993 and by September 15 of  
5 each subsequent fiscal year the amount of gross receipts  
6 reported for the county for purposes of the [~~gross receipts~~]  
7 sales tax during the prior fiscal year. Upon certification by  
8 the taxation and revenue department, any county enacting an  
9 ordinance pursuant to Subsection A of this section shall  
10 transfer to the county-supported medicaid fund by the last day  
11 of March, June, September and December of each year an amount  
12 equal to a rate of one sixty-fourth [~~of one~~] percent applied  
13 to the certified amount.

14           C. The requirements of an ordinance enacted  
15 pursuant to this section may be terminated for a county only  
16 on the effective date of an ordinance enacted by the county  
17 imposing the county health care [~~gross receipts~~] sales tax;  
18 provided that if the effective date of the ordinance imposing  
19 the tax is January 1, the termination does not apply to the  
20 payments required for September and December of that year."

21           SECTION 341. Section 53-7A-6 NMSA 1978 (being Laws 2003,  
22 Chapter 183, Section 6) is amended to read:

23           "53-7A-6. APPLICATION OF OTHER LAWS.--

24           A. The corporation formed pursuant to the Economic  
25 Development Corporation Act is separate and apart from the

.223540.1

underscored material = new  
[bracketed material] = delete

1 state and shall not be deemed an agency, public body or other  
2 political subdivision of New Mexico for purposes of applying  
3 laws relating to personnel, procurement of goods and services,  
4 [~~gross receipts~~] sales tax, disposition or acquisition of  
5 property, capital outlays and per diem and mileage.

6 B. Notwithstanding the provisions of the Open  
7 Meetings Act, meetings of the corporation shall be closed to  
8 the public when proprietary technical or business information  
9 or any information regarding location or expansion of a  
10 business is discussed.

11 C. Information obtained by the corporation that is  
12 proprietary technical or business information or related to  
13 the possible relocation or expansion of a business shall be  
14 confidential and not subject to inspection pursuant to the  
15 Inspection of Public Records Act.

16 D. The corporation, its officers, directors and  
17 employees shall be granted immunity from liability for any  
18 tort as provided in the Tort Claims Act and may enter into  
19 agreements with insurance carriers to insure against a loss in  
20 connection with its operations even though the loss may be  
21 included among losses covered by the risk management fund of  
22 New Mexico."

23 SECTION 342. Section 53-7B-6 NMSA 1978 (being Laws 2009,  
24 Chapter 66, Section 6) is amended to read:

25 "53-7B-6. APPLICABILITY OF OTHER LAWS.--

.223540.1

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

1           A. Except as otherwise provided in the New Mexico  
2 Research Applications Act, the research applications center  
3 shall not be deemed to be the state, or one of its agencies,  
4 instrumentalities, institutions or political subdivisions for  
5 the purpose of applying any other laws, including those  
6 relating to personnel, meetings of the board, [~~gross receipts~~]  
7 sales taxes, disposition or acquisition of property, capital  
8 outlays, per diem and mileage and inspection of records.

9           B. The research applications center shall be  
10 deemed:

11                   (1) an agency of the state when applying laws  
12 relating to the furnishing of goods and services by the  
13 research applications center to the state or any other agency,  
14 political subdivision or institution of the state;

15                   (2) a local public body for purposes of the  
16 Procurement Code, except that the board may exempt a specific  
17 procurement from the application of the Procurement Code if it  
18 makes a finding that compliance with the Procurement Code  
19 would impede the purposes of the New Mexico Research  
20 Applications Act; and

21                   (3) a governmental entity for purposes of the  
22 Tort Claims Act; provided that the research applications  
23 center may enter into agreements with insurance carriers to  
24 insure against risk in connection with its operations even  
25 though the risk may be included among the risks covered by the

.223540.1

underscored material = new  
[bracketed material] = delete

1 Tort Claims Act."

2 SECTION 343. Section 57-31-3 NMSA 1978 (being Laws 2017,  
3 Chapter 102, Section 3) is amended to read:

4 "57-31-3. DISTRIBUTED ENERGY GENERATION SYSTEM  
5 DISCLOSURES--EXCEPTION.--

6 A. Beginning thirty days after publication in the  
7 New Mexico register of the form disclosure statements issued  
8 by the attorney general pursuant to Section [~~5 of the~~  
9 ~~Distributed Generation Disclosure Act~~] 57-31-5 NMSA 1978, any  
10 agreement governing the financing, sale or lease of a  
11 distributed energy generation system, or the sale of power to  
12 a power purchaser, shall include a written statement with font  
13 no smaller than ten points and no more than four pages, unless  
14 a font larger than ten points is used, separate from the  
15 agreement and separately signed by the buyer or lessee, that  
16 includes the following provisions:

17 (1) the name, address, telephone number and  
18 email address of the buyer or lessee;

19 (2) the name, address, telephone number,  
20 email address and valid state contractor license number of the  
21 person responsible for installing the distributed energy  
22 generation system;

23 (3) the name, address, telephone number,  
24 email address and a valid state contractor license number of  
25 the distributed energy generation system maintenance provider,

.223540.1

underscored material = new  
[bracketed material] = delete

1 if different from the person responsible for installing the  
2 system;

3 (4) a provision notifying the buyer or lessee  
4 of the right to rescind the agreement for a period ending not  
5 less than three business days after the agreement is signed;

6 (5) a description of the distributed energy  
7 generation system design assumptions, including system size,  
8 estimated first-year production and estimated annual system  
9 production decreases, including the overall percentage  
10 degradation over the life of the distributed energy generation  
11 system;

12 (6) a description of any performance  
13 guarantees that a seller or marketer may include in an  
14 agreement;

15 (7) the purchase price of the distributed  
16 energy generation system, total projected lease or power  
17 purchase payments;

18 (8) a description of any one-time or  
19 recurring fees, including the circumstances triggering any  
20 late fees, estimated system removal fees, maintenance fees,  
21 Uniform Commercial Code notice removal and refiling fees,  
22 internet connection fees and automated [~~clearing house~~]  
23 clearinghouse fees;

24 (9) if the seller is financing or leasing the  
25 distributed energy generation system, the total amount

.223540.1



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

1 financed, the total number of payments, the payment frequency,  
2 the amount of the payment expressed in dollars, the payment  
3 due dates and the applicable annual percentage rate; except  
4 that in the case of financing arrangements subject to state or  
5 federal lending disclosure requirements, disclosure of the  
6 annual percentage rate shall be made in accordance with the  
7 applicable state or federal lending disclosure requirements;

8 (10) if a seller or marketer uses a tax  
9 incentive or rebate in determining the price, a provision  
10 identifying each state and federal tax incentive or rebate  
11 used;

12 (11) a description of the ownership and  
13 transferability of any tax credits, rebates, incentives or  
14 renewable energy certificates in connection with the  
15 distributed energy generation system;

16 (12) a list of the following tax obligations  
17 that the buyer may be required to pay or incur as a result of  
18 the contract's provisions, including:

19 (a) the cost of any business personal  
20 property taxes assessed on the distributed energy generation  
21 system in the event of a power purchase agreement or lease;

22 (b) ~~[gross receipts]~~ sales taxes for  
23 any equipment purchased and services rendered;

24 (c) obligations of the power purchaser  
25 or lessee to transfer tax credits or tax incentives of the

.223540.1

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

1 distributed energy generation system to any other person; and

2 (d) in the case of a commercial  
3 installation, a change in assessed property taxes in the event  
4 of a purchase of a distributed energy generation system;

5 (13) a disclosure regarding whether the  
6 warranty or maintenance obligations related to the distributed  
7 energy generation system may be sold or transferred to a third  
8 party;

9 (14) a disclosure regarding any restrictions  
10 pursuant to the agreement on the buyer's or lessee's ability  
11 to modify or transfer ownership of the distributed energy  
12 generation system, including whether any modification or  
13 transfer is subject to review or approval by a third party and  
14 the name, mailing address and telephone number of the entity  
15 responsible for approving the modification or transfer, if  
16 known to the seller or marketer at the time the agreement is  
17 made;

18 (15) a description of all options available  
19 to the buyer or lessee in connection with the continuation,  
20 termination or transfer of the agreement between the buyer or  
21 lessee and the seller or marketer in the event of the transfer  
22 of the real property to which the distributed energy  
23 generation system is affixed;

24 (16) a description of the assumptions used  
25 for any savings estimates that were provided to the buyer or

.223540.1

1 lessee;

2 (17) a disclosure that states: "Actual  
3 utility rates may go up or down and actual savings may vary.  
4 For further information regarding rates, you may contact your  
5 local utility or the public regulation commission. Tax and  
6 other state and federal incentives are subject to change.";

7 (18) a disclosure notifying the buyer or the  
8 lessee of transferability of any warranty obligations to  
9 subsequent buyers or lessees; and

10 (19) a disclosure notifying the buyer or  
11 lessee that interconnection requirements, including time  
12 lines, are established by rules of the public regulation  
13 commission and may be obtained from either the public  
14 regulation commission or the local utility.

15 B. The seller or marketer shall provide the buyer  
16 or lessee with proof that, within thirty days of completion of  
17 installation or modification:

18 (1) all permits required for the installation  
19 or any modification of the distributed energy generation  
20 system were obtained prior to installation; and

21 (2) installation or any modification of the  
22 distributed energy generation system received the approval of  
23 an inspector authorized by the governmental authority having  
24 jurisdiction over the permitting and enforcement authority.

25 C. In the event that a seller or marketer causes a

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

1 financing statement to be filed pursuant to the Uniform  
2 Commercial Code-Secured Transactions, the seller or marketer,  
3 or any successor in interest to the seller or marketer, shall  
4 provide to the buyer or lessee a copy of the filed financing  
5 statement within thirty calendar days of the filing.

6 D. If a promotional document or sales presentation  
7 related to a distributed energy generation system states that  
8 the system will result in certain financial savings for the  
9 buyer or lessee, the document or sales presentation shall  
10 provide the assumptions and calculations used to derive those  
11 savings.

12 E. If a promotional document or sales presentation  
13 related to a distributed energy generation system states that  
14 the system will result in certain energy savings in terms of  
15 production, the document or sales presentation shall provide  
16 the assumptions and calculations used to derive those energy  
17 savings and any comparative estimates. If historical  
18 information is used, it shall be accompanied by the following  
19 statement: "Historical data are not necessarily  
20 representative of future results."."

21 SECTION 344. Section 58-31-3 NMSA 1978 (being Laws 2005,  
22 Chapter 128, Section 3, as amended) is amended to read:

23 "58-31-3. DEFINITIONS.--As used in the Spaceport  
24 Development Act:

25 A. "authority" means the spaceport authority;

.223540.1

underscored material = new  
[bracketed material] = delete

1           B. "project" means any land, building or other  
2 improvements acquired as part of a spaceport or associated  
3 with a spaceport or to aid commerce in connection with a  
4 spaceport and all real and personal property deemed necessary  
5 in connection with the spaceport;

6           C. "revenue" means municipal regional spaceport  
7 [~~gross receipts~~] sales tax and county regional spaceport  
8 [~~gross receipts~~] sales tax revenue received from a regional  
9 spaceport district, revenue generated by a project and any  
10 other legally available funds of the authority;

11           D. "space vehicle" means a vehicle capable of  
12 being flown in space or launching a payload into space; and

13           E. "spaceport" means a facility in New Mexico at  
14 which space vehicles may be launched or landed, including all  
15 facilities and support infrastructure related to launch,  
16 landing or payload processing."

17           SECTION 345. Section 58-31-5 NMSA 1978 (being Laws 2005,  
18 Chapter 128, Section 5, as amended) is amended to read:

19           "58-31-5. AUTHORITY POWERS AND DUTIES.--

20           A. The authority shall:

21                   (1) hire an executive director, who shall  
22 employ the necessary professional, technical and clerical  
23 staff to enable the authority to function efficiently and  
24 shall direct the affairs and business of the authority,  
25 subject to the direction of the authority;

.223540.1

1                   (2) be located within fifty miles of a  
2 southwest regional spaceport;

3                   (3) advise the governor, the governor's staff  
4 and the New Mexico finance authority oversight committee on  
5 methods, proposals, programs and initiatives involving a  
6 southwest regional spaceport that may further stimulate space-  
7 related business and employment opportunities in New Mexico;

8                   (4) initiate, develop, acquire, own,  
9 construct, maintain and lease space-related projects;

10                  (5) make and execute all contracts and other  
11 instruments necessary or convenient to the exercise of its  
12 powers and duties;

13                  (6) create programs to expand high-technology  
14 economic opportunities within New Mexico;

15                  (7) create avenues of communication among  
16 federal government agencies, the space industry, users of  
17 space launch services and academia concerning space business;

18                  (8) promote legislation that will further the  
19 goals of the authority and development of space business;

20                  (9) oversee and fund production of  
21 promotional literature related to the authority's goals;

22                  (10) identify science and technology trends  
23 that are significant to space enterprise and the state and act  
24 as a clearinghouse for space enterprise issues and  
25 information;

.223540.1

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

1 (11) coordinate and expedite the involvement  
2 of the state executive branch's space-related development  
3 efforts; and

4 (12) perform environmental, transportation,  
5 communication, land use and other technical studies necessary  
6 or advisable for projects and programs or to secure licensing  
7 by appropriate United States agencies.

8 B. The authority may:

9 (1) advise and cooperate with municipalities,  
10 counties, state agencies and organizations, appropriate  
11 federal agencies and organizations and other interested  
12 persons and groups;

13 (2) solicit and accept federal, state, local  
14 and private grants of funds or property and financial or other  
15 aid for the purpose of carrying out the provisions of the  
16 Spaceport Development Act;

17 (3) adopt rules governing the manner in which  
18 its business is transacted and the manner in which the powers  
19 of the authority are exercised and its duties performed;

20 (4) operate spaceport facilities, including  
21 acquisition of real property necessary for spaceport  
22 facilities and the filing of necessary documents with  
23 appropriate agencies;

24 (5) construct, purchase, accept donations of  
25 or lease projects located within the state;

.223540.1

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

1 (6) sell, lease or otherwise dispose of a  
2 project upon terms and conditions acceptable to the authority  
3 and in the best interests of the state;

4 (7) issue revenue bonds and borrow money for  
5 the purpose of defraying the cost of acquiring a project by  
6 purchase or construction and of securing the payment of the  
7 bonds or repayment of a loan;

8 (8) enter into contracts with regional  
9 spaceport districts and issue bonds on behalf of regional  
10 spaceport districts for the purpose of financing the purchase,  
11 construction, renovation, equipping or furnishing of a  
12 regional spaceport or a spaceport-related project;

13 (9) refinance a project;

14 (10) contract with any competent private or  
15 public organization or individual to assist in the fulfillment  
16 of its duties;

17 (11) fix, alter, charge and collect tolls,  
18 fees or rentals and impose any other charges for the use of or  
19 for services rendered by any authority facility, program or  
20 service; and

21 (12) contract with regional spaceport  
22 districts to receive municipal spaceport [~~gross receipts~~]  
23 sales tax and county regional spaceport [~~gross receipts~~] sales  
24 tax revenues.

25 C. The authority shall not:

.223540.1



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

1                   (1) incur debt as a general obligation of the  
2 state or pledge the full faith and credit of the state to  
3 repay debt; or

4                   (2) expend funds or incur debt for the  
5 improvement, maintenance, repair or addition to property  
6 unless it is owned by the authority, the state or a political  
7 subdivision of the state."

8                   **SECTION 346.** Section 58-31-6 NMSA 1978 (being Laws 2005,  
9 Chapter 128, Section 6, as amended) is amended to read:

10                   "58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER  
11 TO ISSUE REVENUE BONDS.--

12                   A. The authority may issue revenue bonds on its  
13 own behalf or on behalf of a regional spaceport district, for  
14 regional spaceport purposes and spaceport-related projects.  
15 Revenue bonds so issued may be considered appropriate  
16 investments for the severance tax permanent fund or collateral  
17 for the deposit of public funds if the bonds are rated not  
18 less than "A" by a national rating service and both the  
19 principal and interest of the bonds are fully and  
20 unconditionally guaranteed by a lease agreement executed by an  
21 agency of the United States government or by a corporation  
22 organized and operating within the United States, that  
23 corporation or the long-term debt of that corporation being  
24 rated not less than "A" by a national rating service. All  
25 bonds issued by the authority are legal and authorized

.223540.1

underscored material = new  
[bracketed material] = delete

1 investments for banks, trust companies, savings and loan  
2 associations and insurance companies.

3 B. The authority may pay from the bond proceeds  
4 all expenses, premiums and commissions that the authority  
5 deems necessary or advantageous in connection with the  
6 authorization, sale and issuance of the bonds.

7 C. Authority revenue bonds:

8 (1) may have interest or appreciated  
9 principal value or any part thereof payable at intervals  
10 determined by the authority;

11 (2) may be subject to prior redemption or  
12 mandatory redemption at the authority's option at the time and  
13 upon such terms and conditions with or without the payment of  
14 a premium as may be provided by resolution of the authority;

15 (3) may mature at any time not exceeding  
16 twenty years after the date of issuance if secured by revenue  
17 from the county or municipal regional spaceport [~~gross~~  
18 ~~receipts~~] sales tax or thirty years if secured by revenue from  
19 other sources;

20 (4) may be serial in form and maturity; may  
21 consist of one or more bonds payable at one time or in  
22 installments; or may be in such other form as determined by  
23 the authority;

24 (5) may be in registered or bearer form or in  
25 book-entry form through facilities of a securities depository

.223540.1

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

1 either as to principal or interest or both;

2 (6) shall be sold for cash at, above or below  
3 par and at a price that results in a net effective interest  
4 rate that conforms to the Public Securities Act; and

5 (7) may be sold at public or negotiated sale.

6 D. Subject to the approval of the state board of  
7 finance, the authority may enter into other financial  
8 arrangements if it determines that the arrangements will  
9 assist the authority."

10 SECTION 347. Section 59A-58-2 NMSA 1978 (being Laws  
11 2001, Chapter 206, Section 2, as amended) is amended to read:

12 "59A-58-2. DEFINITIONS.--As used in the Service Contract  
13 Regulation Act:

14 A. "administrator" means a person who is  
15 responsible for administering a service contract that is  
16 issued, sold or offered for sale by a provider or sold by a  
17 seller;

18 B. "automatic renewal provision" means a provision  
19 within a service contract that acts to automatically renew the  
20 service contract after the end of the original term for a  
21 renewal term greater than two months, and such renewal is  
22 effective unless the holder gives notice to the provider or  
23 administrator of the holder's intention to terminate the  
24 service contract;

25 C. "consumer" means a person who purchases, other

underscored material = new  
[bracketed material] = delete

1 than for resale, property used primarily for personal, family  
2 or household purposes and not for business or research  
3 purposes;

4 D. "holder" means a resident of this state who:

5 (1) purchases a service contract; or

6 (2) is legally in possession of a service  
7 contract and is entitled to enforce the rights of the original  
8 purchaser of the service contract;

9 E. "incidental costs" means expenses specified in  
10 a warranty that are incurred by the warranty holder due to the  
11 failure of the product to perform as provided in the contract.

12 Incidental costs may include, without limitation, insurance  
13 policy deductibles, rental vehicle charges, the difference  
14 between the actual value of a motor vehicle at the time of  
15 failure and the cost of a replacement vehicle, [~~gross~~  
16 ~~receipts~~] sales taxes, registration fees, transaction fees and  
17 mechanical inspection fees. Incidental costs may be  
18 reimbursed in either a fixed amount specified in the warranty  
19 or by use of a formula itemizing specific incidental costs  
20 incurred by the warranty holder;

21 F. "maintenance agreement" means a contract for a  
22 limited period that provides only for scheduled maintenance;

23 G. "major manufacturing company" means a person  
24 who:

25 (1) manufactures or produces and sells

.223540.1

1 products under its own name or label or is a wholly owned  
2 subsidiary or affiliate of the person who manufactures or  
3 produces products; and

4 (2) maintains, or its parent company  
5 maintains, a net worth or stockholders' equity of at least one  
6 hundred million dollars (\$100,000,000);

7 H. "property" means all property, whether movable  
8 at the time of purchase or a fixture, that is used primarily  
9 for personal, family or household purposes;

10 I. "provider" means a person who is contractually  
11 obligated to a holder or to indemnify the holder for the costs  
12 of repairing, replacing or performing maintenance on property;

13 J. "reimbursement insurance policy" means a policy  
14 of insurance issued to a provider to either provide  
15 reimbursement to the provider under the terms of the insured  
16 service contracts issued or sold by the provider or, in the  
17 event of the provider's non-performance, to pay on behalf of  
18 the provider all covered contractual obligations incurred by  
19 the provider under the terms of the insured service contracts  
20 issued or sold by the provider;

21 K. "road hazard" means a hazard that is  
22 encountered while driving a motor vehicle and that may include  
23 potholes, rocks, wood debris, metal parts, glass, plastic,  
24 curbs or composite scraps;

25 L. "seller" means a person who sells service

1 contracts that contractually obligate another party or  
2 parties;

3 M. "service contract" means a contract pursuant to  
4 which a provider, in exchange for separately stated  
5 consideration, is obligated for a specified period to a holder  
6 to repair, replace or perform maintenance on, or indemnify or  
7 reimburse the holder for the costs of repairing, replacing or  
8 performing maintenance on, property that is described in the  
9 service contract and that has an operational or structural  
10 failure as a result of a defect in materials, workmanship or  
11 normal wear and tear, including a contract that provides or  
12 includes one or more of the following:

13 (1) incidental payment of indemnity under  
14 limited circumstances, including towing, rental and emergency  
15 road service and food spoilage;

16 (2) the repair, replacement or maintenance of  
17 property for damages that result from power surges or  
18 accidental damage from handling;

19 (3) the repair or replacement of tires and  
20 wheels on a motor vehicle damaged as a result of coming into  
21 contact with road hazards;

22 (4) the removal of dents, dings or creases on  
23 a motor vehicle that can be repaired using the process of  
24 paintless dent removal without affecting the existing paint  
25 finish and without replacing vehicle body panels, sanding,

.223540.1

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

1 bonding or painting;

2 (5) the repair of chips or cracks in motor  
3 vehicle windshields or the replacement of motor vehicle  
4 windshields as a result of damage caused by road hazards;

5 (6) the replacement of a motor vehicle key or  
6 key fob in the event the key or key fob becomes inoperable or  
7 is lost or stolen; and

8 (7) other services approved by the  
9 superintendent if not inconsistent with other provisions of  
10 the Service Contract Regulation Act; and

11 N. "warranty" means a warranty provided solely by  
12 a manufacturer, importer or seller of property for which the  
13 manufacturer, importer or seller did not receive separate  
14 consideration and that:

15 (1) is not negotiated or separated from the  
16 sale of the property;

17 (2) is incidental to the sale of the  
18 property; and

19 (3) guarantees to indemnify the consumer for  
20 defective parts, mechanical or electrical failure, labor or  
21 other remedial measures required to repair or replace the  
22 property and may provide specified incidental costs."

23 SECTION 348. Section 60-1A-20 NMSA 1978 (being Laws  
24 2007, Chapter 39, Section 20, as amended) is amended to read:

25 "60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY

.223540.1

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

1       OFFSET--STATE FAIR COMMISSION DISTRIBUTION--DAILY LICENSE  
2       FEES.--

3               A. A "daily capital outlay tax" of two and three-  
4       sixteenths percent is imposed on the gross amount wagered each  
5       day at a racetrack where horse racing is conducted on the  
6       premises of a racetrack licensee and also on the gross amount  
7       wagered each day when a racetrack licensee is engaged in  
8       simulcasting pursuant to the Horse Racing Act. After  
9       deducting the amount of offset allowed pursuant to this  
10      section, any remaining daily capital outlay tax shall be paid  
11      by the commission to the taxation and revenue department from  
12      the retainage of a racetrack licensee from on-site wagers made  
13      on the licensed premises of the racetrack licensee for deposit  
14      in the general fund. Of the daily capital outlay tax imposed  
15      pursuant to this subsection:

16                   (1) for a class A racetrack licensee, not  
17      more than one-half of the daily capital outlay tax imposed on  
18      the first two hundred fifty thousand dollars (\$250,000) of the  
19      daily handle may be offset by the amount that the class A  
20      racetrack licensee expends for capital improvements or for  
21      long-term financing of capital improvements at the racetrack  
22      licensee's existing facility;

23                   (2) for a class B racetrack licensee, not  
24      more than one-half of the daily capital outlay tax imposed on  
25      the first two hundred fifty thousand dollars (\$250,000) of the

.223540.1



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

1 daily handle may be offset:

2 (a) in an amount not to exceed one-half  
3 of the offset allowed, the amount expended by the class B  
4 racetrack licensee for capital improvements; and

5 (b) in an amount not to exceed one-half  
6 of the offset allowed, the amount expended by the class B  
7 racetrack licensee for advertising, marketing and promoting  
8 horse racing in the state;

9 (3) through December 31, 2014, for both class  
10 A and class B racetrack licensees, an amount equal to one-half  
11 of the daily capital outlay tax is appropriated and  
12 transferred to the state fair commission for expenditure on  
13 capital improvements at the state fairgrounds and for  
14 expenditure on debt service on negotiable bonds issued for the  
15 state fairgrounds' capital improvements; and

16 (4) on and after January 1, 2015, for both  
17 class A and class B racetrack licensees, an amount equal to  
18 one-half of the daily capital outlay tax is appropriated and  
19 transferred to the racehorse testing fund.

20 B. An additional daily license fee of five hundred  
21 dollars (\$500) shall be paid to the commission by the  
22 racetrack licensee for each day of live racing on the premises  
23 of the racetrack licensee.

24 C. Accurate records shall be kept by the racetrack  
25 licensee to show gross amounts wagered, retainage, breakage

.223540.1

underscored material = new  
[bracketed material] = delete

1 and amounts received from interstate common pools and  
2 distributions from gross amounts wagered, retainage, breakage  
3 and amounts received from interstate common pools, as well as  
4 other information the commission may require. Records shall  
5 be open to inspection and shall be audited by the commission,  
6 its authorized representatives or an independent auditor  
7 selected by the commission. The commission may prescribe the  
8 method in which records shall be maintained. A racetrack  
9 licensee shall keep records that are accurate, legible and  
10 easy to understand.

11 D. Notwithstanding any other provision of law,  
12 a political subdivision of the state shall not impose an  
13 occupational tax on a horse racetrack owned or operated by  
14 a racetrack licensee. A political subdivision of the state  
15 shall not impose an excise tax on a horse racetrack owned  
16 or operated by a racetrack licensee. Local option [~~gross~~  
17 ~~receipts~~] sales taxes authorized by the state may be imposed  
18 to the extent authorized and imposed by a subdivision of the  
19 state on a horse racetrack owned or operated by a racetrack  
20 licensee."

21 SECTION 349. Section 60-2E-39 NMSA 1978 (being Laws  
22 1997, Chapter 190, Section 41) is amended to read:

23 "60-2E-39. LIMITATIONS ON TAXES AND LICENSE FEES.--A  
24 political subdivision of the state shall not impose a license  
25 fee or tax on any licensee licensed pursuant to the Gaming

.223540.1

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

1 Control Act except for the imposition of property taxes, local  
2 option [~~gross receipts~~] sales taxes with respect to receipts  
3 not subject to the gaming tax and the distribution provided  
4 for and determined pursuant to Subsection C of Section 60-1-15  
5 and Section 60-1-15.2 NMSA 1978."

6 SECTION 350. Section 60-2E-47 NMSA 1978 (being Laws  
7 1997, Chapter 190, Section 49, as amended) is amended to read:

8 "60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

9 A. An excise tax is imposed on the privilege of  
10 engaging in gaming activities in the state. This tax shall be  
11 known as the "gaming tax".

12 B. The gaming tax is an amount equal to ten  
13 percent of the gross receipts of manufacturer licensees from  
14 the sale, lease or other transfer of gaming devices in or into  
15 the state, except receipts of a manufacturer from the sale,  
16 lease or other transfer to a licensed distributor for  
17 subsequent sale or lease may be excluded from gross receipts;  
18 ten percent of the gross receipts of distributor licensees  
19 from the sale, lease or other transfer of gaming devices in or  
20 into the state; ten percent of the net take of a gaming  
21 operator licensee that is a nonprofit organization; and  
22 twenty-six percent of the net take of every other gaming  
23 operator licensee. For the purposes of this section, "gross  
24 receipts" means the total amount of money or the value of  
25 other consideration received from selling, leasing or

.223540.1

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

1 otherwise transferring gaming devices.

2 C. The gaming tax imposed on a licensee is in lieu  
3 of all state and local [~~gross receipts~~] sales taxes on that  
4 portion of the licensee's gross receipts attributable to  
5 gaming activities.

6 D. The gaming tax is to be paid on or before the  
7 fifteenth day of the month following the month in which the  
8 taxable event occurs. The gaming tax shall be administered  
9 and collected by the taxation and revenue department in  
10 cooperation with the board. The provisions of the Tax  
11 Administration Act apply to the collection and administration  
12 of the tax.

13 E. In addition to the gaming tax, a gaming  
14 operator licensee that is a racetrack shall pay twenty percent  
15 of its net take to purses to be distributed in accordance with  
16 rules adopted by the state racing commission. An amount not  
17 to exceed twenty percent of the interest earned on the balance  
18 of any fund consisting of money for purses distributed by  
19 racetrack gaming operator licensees pursuant to this  
20 subsection may be expended for the costs of administering the  
21 distributions. A racetrack gaming operator licensee shall  
22 spend no less than one-fourth percent of the net take of its  
23 gaming machines to fund or support programs for the treatment  
24 and assistance of compulsive gamblers.

25 F. A nonprofit gaming operator licensee shall

.223540.1

underscored material = new  
[bracketed material] = delete

1 distribute at least sixty percent of the balance of its net  
2 take, after payment of the gaming tax and any income taxes,  
3 for charitable or educational purposes."

4 SECTION 351. Section 60-2F-21 NMSA 1978 (being Laws  
5 2009, Chapter 81, Section 21) is amended to read:

6 "60-2F-21. TAX IMPOSITION.--

7 A. A bingo and raffle tax equal to one-half  
8 percent of the gross receipts of any game of chance held,  
9 operated or conducted for or by a qualified organization shall  
10 be imposed on the qualified organization.

11 B. No other state or local [~~gross receipts~~] sales  
12 tax shall apply to a qualified organization's receipts  
13 generated by a game of chance authorized by the New Mexico  
14 Bingo and Raffle Act.

15 C. The tax imposed pursuant to this section shall  
16 be submitted quarterly to the taxation and revenue department  
17 on or before April 25, July 25, October 25 and January 25.

18 D. The taxation and revenue department shall  
19 administer the tax imposed in this section pursuant to the Tax  
20 Administration Act."

21 SECTION 352. Section 60-6A-6.1 NMSA 1978 (being Laws  
22 2011, Chapter 110, Section 3, as amended) is amended to read:

23 "60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

24 A. In any local option district, a person  
25 qualified pursuant to the provisions of the Liquor Control

.223540.1

1 Act, except as otherwise provided in the Domestic Winery,  
2 Small Brewery and Craft Distillery Act, may apply for and be  
3 issued a craft distiller's license subject to the following  
4 conditions:

5 (1) the applicant submits evidence to the  
6 department that the applicant has a valid and appropriate  
7 permit issued by the federal government to be a craft  
8 distiller;

9 (2) renewal of the license shall be  
10 conditioned upon:

11 (a) no less than sixty percent of the  
12 gross receipts from the sale of spirituous liquors for the  
13 preceding twelve months of the licensee's operation being  
14 derived from the sale of spirituous liquors produced by the  
15 licensee;

16 (b) the manufacture of no less than  
17 five hundred proof gallons of spirituous liquors per license  
18 year at the licensee's premises; and

19 (c) submission to the department by the  
20 licensee of a report showing the number of proof gallons of  
21 spirituous liquors manufactured by the licensee at the  
22 licensee's premises and the annual gross receipts from the  
23 sale of spirituous liquors produced by the licensee and from  
24 the licensee's sale of distilled spirituous liquors produced  
25 by other New Mexico licensed craft distillers;

.223540.1

1 (3) a craft distiller's license shall not be  
2 transferred from person to person or from one location to  
3 another;

4 (4) the provisions of Section 60-6A-18 NMSA  
5 1978 shall not apply to a craft distiller's license; and

6 (5) nothing in this section shall prevent a  
7 craft distiller from receiving other licenses pursuant to the  
8 Liquor Control Act.

9 B. A person to whom a craft distiller's license is  
10 issued pursuant to this section may do any of the following:

11 (1) manufacture or produce spirituous  
12 liquors, including aging, filtering, blending, mixing,  
13 flavoring, coloring, bottling and labeling;

14 (2) store, transport, import or export  
15 spirituous liquors;

16 (3) sell only spirituous liquors that are  
17 packaged by or for the craft distiller to a person holding a  
18 wholesaler's license, a craft distiller's license, a  
19 manufacturer's license, a small brewer's license or a  
20 winegrower's license;

21 (4) deal in warehouse receipts for spirituous  
22 liquors;

23 (5) buy spirituous liquors from other  
24 persons, including licensees and permittees under the Liquor  
25 Control Act, for use in blending, flavoring, mixing or

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

1 bottling of spirituous liquors;

2 (6) buy or otherwise obtain beer from a small  
3 brewer or wine or cider from a winegrower for the purposes  
4 described in this subsection;

5 (7) be deemed a manufacturer for purposes of  
6 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act;

7 (8) conduct spirituous liquor, wine, cider or  
8 beer tastings and sell, by the glass or by the bottle, or in  
9 unbroken packages for consumption off the premises but not for  
10 resale, spirituous liquors of the craft distiller's own  
11 production or spirituous liquors produced by another New  
12 Mexico craft distiller or New Mexico manufacturer on the craft  
13 distiller's premises, wine or cider produced by a winegrower  
14 pursuant to Section 60-6A-11 NMSA 1978 or beer produced and  
15 bottled by or for a small brewer pursuant to Section  
16 60-6A-26.1 NMSA 1978; and

17 (9) at no more than three other locations off  
18 the craft distiller's premises, after the craft distiller has  
19 paid the applicable fee for a craft distiller's off-premises  
20 permit, after the director has determined that the off-  
21 premises locations meet the requirements of the Liquor Control  
22 Act and department rules for new liquor license locations and  
23 after the director has issued a craft distiller's off-premises  
24 permit for each off-premises location, conduct spirituous  
25 liquor, wine, cider or beer tastings and sell by the glass, or

.223540.1



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

1 in unbroken packages for consumption and not for resale,  
2 spirituous liquors produced and bottled by or for the craft  
3 distiller or spirituous liquors produced and bottled by or for  
4 another New Mexico craft distiller or manufacturer, wine or  
5 cider produced by a winegrower pursuant to Section 60-6A-11  
6 NMSA 1978 or beer produced and bottled by or for a small  
7 brewer pursuant to Section 60-6A-26.1 NMSA 1978.

8 C. For a public or private celebration on or off  
9 the craft distiller's premises in any local option district  
10 permitting the sale of alcoholic beverages, a craft distiller  
11 shall pay ten dollars (\$10.00) to the department for a "craft  
12 distiller's public celebration permit" or a "craft distiller's  
13 private celebration permit" to be issued under rules adopted  
14 by the director. Upon request, the department may issue to a  
15 craft distiller a public celebration permit for a location at  
16 the public celebration that is to be shared with other craft  
17 distillers, small brewers and winegrowers.

18 D. At private celebrations on or off the craft  
19 distiller's premises after the craft distiller has paid the  
20 applicable fees and been issued the appropriate permit, the  
21 craft distiller may sell by the glass spirituous liquors  
22 produced by or for the craft distiller, wine or cider produced  
23 by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or beer  
24 produced and bottled by or for a small brewer pursuant to  
25 Section 60-6A-26.1 NMSA 1978.

.223540.1

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

1 E. As used in this section:

2 (1) "private celebration" means any  
3 celebratory activity that is held in a private or public venue  
4 not open to the general public and for which attendance is  
5 subject to private invitation; and

6 (2) "public celebration" includes any state  
7 or county fair, community fiesta, cultural or artistic event,  
8 sporting competition of a seasonal nature or activities held  
9 on an intermittent basis."

10 SECTION 353. Section 60-6A-11 NMSA 1978 (being Laws  
11 1981, Chapter 39, Section 28, as amended) is amended to read:

12 "60-6A-11. WINEGROWER'S LICENSE.--

13 A. A person in this state who produces wine or  
14 cider is exempt from the procurement of any other license  
15 pursuant to the terms of the Liquor Control Act, but not from  
16 the procurement of a winegrower's license. Except during  
17 periods of shortage or reduced availability, at least fifty  
18 percent of a winegrower's overall annual production of wine  
19 shall be produced from grapes or other agricultural products  
20 grown in this state pursuant to rules adopted by the director;  
21 provided, however, that, for purposes of determining annual  
22 production and compliance with the fifty percent New Mexico  
23 grown provision of this subsection, the calculation of a  
24 winegrower's overall annual production of wine shall not  
25 include the winegrower's production of wine for out-of-state

.223540.1

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

1 wine producer license holders.

2 B. A person issued a winegrower's license pursuant  
3 to this section may do any of the following:

4 (1) manufacture or produce wine or cider,  
5 including blending, mixing, flavoring, coloring, bottling and  
6 labeling, whether the wine or cider is manufactured or  
7 produced for a winegrower or an out-of-state wine producer  
8 holding a permit issued pursuant to the Federal Alcohol  
9 Administration Act and a valid license in a state that  
10 authorizes the wine or cider producer to manufacture, produce,  
11 store or sell wine or cider;

12 (2) store, transport, import or export wines  
13 or ciders;

14 (3) sell wines or ciders to a holder of a New  
15 Mexico winegrower's, wine wholesaler's, wholesaler's, wine  
16 exporter's, craft distiller's or small brewer's license or to  
17 a winegrower's agent;

18 (4) transport not more than two hundred cases  
19 of wine in a calendar year to another location within New  
20 Mexico by common carrier;

21 (5) deal in warehouse receipts for wine or  
22 cider;

23 (6) sell wines or ciders in other states or  
24 foreign jurisdictions to the holders of a license issued under  
25 the authority of that state or foreign jurisdiction

.223540.1

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

1 authorizing the purchase of wine or cider;

2 (7) buy wine or cider or distilled wine  
3 products from other persons, including licensees and  
4 permittees under the Liquor Control Act, for use in blending,  
5 mixing or bottling of wines or ciders;

6 (8) buy or otherwise obtain beer from a small  
7 brewer or spirituous liquor from a craft distiller for the  
8 purposes described in this subsection;

9 (9) conduct wine, cider, beer or spirituous  
10 liquor tastings and sell, by the glass or by the bottle, or  
11 sell in unbroken packages for consumption off the premises,  
12 but not for resale, wine or cider of the winegrower's own  
13 production, wine or cider produced by another New Mexico  
14 winegrower on the winegrower's premises, beer produced and  
15 bottled by or for a small brewer pursuant to Section  
16 60-6A-26.1 NMSA 1978 or spirituous liquor produced and bottled  
17 by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA  
18 1978;

19 (10) at no more than three off-premises  
20 locations, conduct wine, cider, beer or spirituous liquor  
21 tastings, sell by the glass and sell in unbroken packages for  
22 consumption off premises, but not for resale, wine or cider of  
23 the winegrower's own production, wine or cider produced by  
24 another New Mexico winegrower or beer produced and bottled by  
25 or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978

.223540.1

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

1 or spirituous liquor produced and bottled by or for a craft  
2 distiller pursuant to Section 60-6A-6.1 NMSA 1978 after the  
3 director has determined that the off-premises locations meet  
4 the requirements of the Liquor Control Act and the department  
5 rules for new liquor license locations;

6 (11) be deemed a manufacturer for purposes of  
7 the ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act;

8 (12) at public celebrations on or off the  
9 winegrower's premises, after the winegrower has paid the  
10 applicable fees and been issued the appropriate permit, to  
11 conduct wine or cider tastings, sell by the glass or the  
12 bottle or sell in unbroken packages, for consumption off  
13 premises, but not for resale, wine or cider produced by or for  
14 the winegrower, beer produced and bottled by or for a small  
15 brewer pursuant to Section 60-6A-26.1 NMSA 1978 or spirituous  
16 liquor produced and bottled by or for a craft distiller  
17 pursuant to Section 60-6A-6.1 NMSA 1978;

18 (13) at private celebrations on or off the  
19 winegrower's premises after the winegrower has paid the  
20 applicable fees and been issued the appropriate permit, sell:

21 (a) by the glass or bottle, wine or  
22 cider produced by or for the winegrower;

23 (b) by the glass, beer produced by a  
24 small brewer pursuant to Section 60-6A-26.1 NMSA 1978; or

25 (c) by the drink, spirituous liquors

.223540.1

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

1 produced and bottled by or for a craft distiller pursuant to  
2 Section 60-6A-6.1 NMSA 1978;

3 (14) sell wine or cider in a growler for  
4 consumption off premises; and

5 (15) in accordance with the provisions of  
6 this section that relate to the sale of wine or cider, accept  
7 and fulfill an order for wine or cider that is placed via an  
8 internet website, whether the financial transaction related to  
9 the order is administered by the licensee or the licensee's  
10 agent.

11 C. At public and private celebrations on or off  
12 the winegrower's premises in any local option district  
13 permitting the sale of alcoholic beverages, the holder of a  
14 winegrower's license shall pay ten dollars (\$10.00) to the  
15 alcoholic beverage control division of the regulation and  
16 licensing department for a "winegrower's public celebration  
17 permit" or a "winegrower's private celebration permit" to be  
18 issued under rules adopted by the director. Upon request, the  
19 alcoholic beverage control division of the regulation and  
20 licensing department may issue to a holder of a winegrower's  
21 license a public celebration permit for a location at the  
22 public celebration that is to be shared with other winegrowers  
23 and small brewers.

24 D. Every application for the issuance or annual  
25 renewal of a winegrower's license shall be on a form

.223540.1

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

1 prescribed by the director and accompanied by a license fee to  
2 be computed as follows on the basis of total annual wine or  
3 cider produced or blended:

4 (1) less than five thousand gallons per year,  
5 twenty-five dollars (\$25.00) per year;

6 (2) between five thousand and one hundred  
7 thousand gallons per year, one hundred dollars (\$100) per  
8 year; and

9 (3) over one hundred thousand gallons per  
10 year, two hundred fifty dollars (\$250) per year.

11 E. As used in this section:

12 (1) "private celebration" means any  
13 celebratory activity that is held in a private or public venue  
14 not open to the general public and for which attendance is  
15 subject to private invitation; and

16 (2) "public celebration" includes any state  
17 or county fair, community fiesta, cultural or artistic event,  
18 sporting competition of a seasonal nature or activities held  
19 on an intermittent basis."

20 SECTION 354. Section 60-6A-11.1 NMSA 1978 (being Laws  
21 2011, Chapter 109, Section 1) is amended to read:

22 "60-6A-11.1. DIRECT WINE SHIPMENT PERMIT--  
23 AUTHORIZATION--RESTRICTIONS.--

24 A. A licensee with a winegrower's license or a  
25 person licensed in a state other than New Mexico that holds a  
.223540.1

1 winery license may apply to the director for and the director  
2 may issue to the applicant a direct wine shipment permit. An  
3 application for a direct wine shipment permit shall include:

4 (1) contact information for the applicant in  
5 a form required by the department;

6 (2) an annual application fee of fifty  
7 dollars (\$50.00) if the applicant does not hold a winegrower's  
8 license;

9 (3) the number of the applicant's  
10 winegrower's license if the applicant is located in  
11 New Mexico or a copy of the applicant's winery license if the  
12 applicant is located in a state other than New Mexico; and

13 (4) any other information or documents  
14 required by the director. Upon approval of an applicant for a  
15 permit, the director shall forward to the taxation and revenue  
16 department the name of each permittee and the contact  
17 information for the permittee.

18 B. A direct wine shipment permit shall be valid  
19 for a permit year. A permittee shall renew a direct wine  
20 shipment permit annually as required by the department to  
21 continue making direct shipments of wine to New Mexico  
22 residents.

23 C. A permittee may ship:

24 (1) not more than two nine-liter cases of  
25 wine monthly to a New Mexico resident who is twenty-one years



underscoring material = new  
[bracketed material] = delete

1 of age or older for the recipient's personal consumption or  
2 use, but not for resale; and

3 (2) wine directly to a New Mexico resident  
4 only in containers that are conspicuously labeled with the  
5 words:

6 "CONTAINS ALCOHOL

7 SIGNATURE OF PERSON 21 YEARS OR OLDER REQUIRED

8 FOR DELIVERY".

9 D. A permittee shall:

10 (1) register with the taxation and revenue  
11 department for the payment of liquor excise tax and [~~gross~~  
12 ~~receipts~~] sales taxes due on the sales of wine pursuant to the  
13 permittee's activities in New Mexico;

14 (2) submit to the jurisdiction of New Mexico  
15 courts to resolve legal actions that arise from the shipping  
16 by the permittee of wine into New Mexico to New Mexico  
17 residents;

18 (3) monthly, by the twenty-fifth day of each  
19 month following the month in which the permittee was issued a  
20 direct wine shipment permit, pay to the taxation and revenue  
21 department the liquor excise tax due and the [~~gross receipts~~]  
22 sales tax due; and

23 (4) submit to an audit by an agent of the  
24 taxation and revenue department of the permittee's records of  
25 the wine shipped pursuant to this section to New Mexico

.223540.1

underscored material = new  
[bracketed material] = delete

1 residents upon notice and during usual business hours.

2 E. As used in this section:

3 (1) "permit year" means the period between  
4 July 1 and June 30 of a year; and

5 (2) "permittee" means a person that is the  
6 holder of a direct wine shipment permit."

7 SECTION 355. Section 60-6A-24 NMSA 1978 (being Laws  
8 1983, Chapter 280, Section 5, as amended) is amended to read:

9 "60-6A-24. WINE BLENDER'S LICENSE.--

10 A. In any local option district, a person  
11 qualified under the provisions of the Liquor Control Act,  
12 except as otherwise provided in the Domestic Winery, ~~[and]~~  
13 Small Brewery and Craft Distillery Act, may apply for and be  
14 issued a wine blender's license.

15 B. A wine blender's license authorizes the person  
16 to whom it is issued to:

17 (1) package, rectify, blend, mix, flavor,  
18 color, label and export wine, whether manufactured or produced  
19 by ~~[him]~~ the person or any other person;

20 (2) sell only wine packaged by or for ~~[him]~~  
21 the person to a person holding a New Mexico wine wholesaler's,  
22 wholesaler's, winegrower's or wine exporter's license or to a  
23 winegrower's agent;

24 (3) deal in warehouse receipts for wine; and

25 (4) be deemed a manufacturer for purposes of

.223540.1

underscoring material = new  
[bracketed material] = delete

1 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act.

2 C. A wine blender's license does not authorize the  
3 person to whom it is issued:

4 (1) to crush, ferment and produce wine from  
5 grapes, berries and other fruits;

6 (2) to obtain or be issued a winer's license,  
7 a retailer's license or a dispenser's license;

8 (3) to buy, sell, receive or deliver wine  
9 from persons other than authorized licensees; or

10 (4) to conduct wine tastings or sell for  
11 consumption off premises, at retail, or to sponsor wine  
12 tastings, either on or off the wine blender's premises."

13 SECTION 356. Section 60-6A-26.1 NMSA 1978 (being Laws  
14 1985, Chapter 217, Section 5, as amended) is amended to read:

15 "60-6A-26.1. SMALL BREWER'S LICENSE.--

16 A. In a local option district, a person qualified  
17 pursuant to the provisions of the Liquor Control Act, except  
18 as otherwise provided in the Domestic Winery, Small Brewery  
19 and Craft Distillery Act, may apply for and be issued a small  
20 brewer's license.

21 B. A small brewer's license authorizes the person  
22 to whom it is issued to:

23 (1) manufacture or produce beer;

24 (2) package, label and export beer, whether  
25 manufactured, bottled or produced by the licensee or any other

.223540.1

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

1 person;

2 (3) sell only beer that is packaged by or for  
3 the licensee to a person holding a wholesaler's license, a  
4 small brewer's license, a craft distiller's license or a  
5 winegrower's license;

6 (4) deal in warehouse receipts for beer;

7 (5) conduct beer, wine, cider and spirituous  
8 liquor tastings and sell for consumption on or off premises,  
9 but not for resale, beer produced and bottled by, or produced  
10 and packaged for, the licensee, beer produced and bottled by  
11 or for another New Mexico small brewer on the small brewer's  
12 premises or wine or cider produced by a winegrower pursuant to  
13 Section 60-6A-11 NMSA 1978 or spirituous liquor produced and  
14 bottled by or for a craft distiller pursuant to Section  
15 60-6A-6.1 NMSA 1978;

16 (6) be deemed a manufacturer for purposes of  
17 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act;

18 (7) at public celebrations off the small  
19 brewer's premises, after the small brewer has paid the  
20 applicable fee for a small brewer's public celebration permit,  
21 conduct tastings and sell by the glass or in unbroken  
22 packages, but not for resale, beer produced and bottled by or  
23 for the small brewer or wine or cider produced by a winegrower  
24 pursuant to Section 60-6A-11 NMSA 1978 or spirituous liquor  
25 produced and bottled by or for a craft distiller pursuant to

.223540.1

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

1 Section 60-6A-6.1 NMSA 1978;

2 (8) at private celebrations on or off the  
3 small brewer's premises after the small brewer has paid the  
4 applicable fees for a private celebration permit, sell by the  
5 glass, beer produced and bottled by or for the small brewer or  
6 wine or cider produced by a winegrower pursuant to Section  
7 60-6A-11 NMSA 1978 or spirituous liquor produced and bottled  
8 by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA  
9 1978;

10 (9) buy or otherwise obtain wine or cider  
11 from a winegrower or spirituous liquor from a craft distiller;

12 (10) for the purposes described in this  
13 subsection, at no more than three other locations off the  
14 small brewer's premises, after the small brewer has paid the  
15 applicable fee for a small brewer's off-premises permit, after  
16 the director has determined that the off-premises locations  
17 meet the requirements of the Liquor Control Act and department  
18 rules for new liquor license locations and after the director  
19 has issued a small brewer's off-premises permit for each off-  
20 premises location, conduct beer tastings and sell by the glass  
21 or in unbroken packages for consumption off the small brewer's  
22 off-premises location, but not for resale, beer produced and  
23 bottled by or for the small brewer, beer produced and bottled  
24 by or for another New Mexico small brewer, wine or cider  
25 produced by a winegrower pursuant to Section 60-6A-11 NMSA

.223540.1

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

1 1978 or spirituous liquor produced and bottled by or for a  
2 craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

3 (11) allow members of the public, on the  
4 licensed premises and under the direct supervision of the  
5 licensee, to manufacture beer for personal consumption and not  
6 for resale using the licensee's equipment and ingredients; and

7 (12) sell beer in a growler for consumption  
8 off premises.

9 C. Renewal of a small brewer's license shall be  
10 conditioned upon submission to the department by the licensee  
11 of a report showing proof that:

12 (1) no less than fifty percent of the gross  
13 receipts from the sale of beer for the preceding twelve months  
14 of the licensee's operation are derived from the sale of beer  
15 produced by the licensee; or

16 (2) the licensee manufactures no less than  
17 fifty barrels of beer per license year at the licensee's  
18 premises.

19 D. At public and private celebrations on or off  
20 the small brewer's premises in a local option district  
21 permitting the sale of alcoholic beverages, the holder of a  
22 small brewer's license shall pay ten dollars (\$10.00) to the  
23 alcoholic beverage control division of the regulation and  
24 licensing department for a "small brewer's public celebration  
25 permit" or a "small brewer's private celebration permit" to be

.223540.1

underscored material = new  
[bracketed material] = delete

1 issued under rules adopted by the director. Upon request, the  
2 alcoholic beverage control division of the regulation and  
3 licensing department may issue to a holder of a small brewer's  
4 license a public celebration permit for a location at the  
5 public celebration that is to be shared with other small  
6 brewers and winegrowers.

7 E. As used in this section:

8 (1) "private celebration" means any  
9 celebratory activity that is held in a private or public venue  
10 not open to the general public and for which attendance is  
11 subject to private invitation; and

12 (2) "public celebration" includes any state  
13 or county fair, community fiesta, cultural or artistic event,  
14 sporting competition of a seasonal nature or activities held  
15 on an intermittent basis."

16 SECTION 357. Section 61-18A-28.1 NMSA 1978 (being Laws  
17 1992, Chapter 36, Section 2) is amended to read:

18 "61-18A-28.1. ADDITIONAL COLLECTION FROM DEBTORS.--

19 A. Unless the agreement between the debtor and the  
20 creditor or the agreement between the collection agency and  
21 the creditor otherwise expressly prohibits, a collection  
22 agency may collect from the debtor an amount equal to the  
23 [~~gross receipts~~] sales tax and the local option [~~gross~~  
24 ~~receipts~~] sales taxes, as those terms are defined in the  
25 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act,  
.223540.1

underscored material = new  
[bracketed material] = delete

1 imposed on the receipts of the collection agency that result  
2 from the collection of a debt from the debtor.

3 B. For purposes of this section, a collection  
4 agency does not mean a person who collects [~~his~~] the person's  
5 own debts using a name other than [~~his~~] the person's own which  
6 would indicate that a third person is collecting or attempting  
7 to collect such debts."

8 SECTION 358. Section 62-6-4.5 NMSA 1978 (being Laws  
9 2003, Chapter 336, Section 4) is amended to read:

10 "62-6-4.5. BILLING--FRANCHISE FEES--~~[GROSS RECEIPTS]~~  
11 SALES TAXES--

12 A. A franchise fee charge shall be stated as a  
13 separate line entry on a bill sent by a public utility or a  
14 distribution cooperative utility to a customer and shall only  
15 be recovered from a customer located within the jurisdiction  
16 of the government authority imposing the franchise fee.

17 B. Any [~~gross receipts~~] sales taxes collected on  
18 electric services received by a retail customer in the state  
19 shall be stated as a separate line entry on a bill for  
20 electric service sent to the customer by a public utility or  
21 distribution cooperative utility."

22 SECTION 359. Section 62-15-28 NMSA 1978 (being Laws  
23 1939, Chapter 47, Section 28, as amended) is amended to read:

24 "62-15-28. TAXATION--Cooperative and foreign  
25 corporations transacting business in this state pursuant to  
.223540.1



underscored material = new  
[bracketed material] = delete

1 the provisions of the Rural Electric Cooperative Act shall pay  
2 annually, on or before July 1, to the state corporation  
3 commission a tax of ten dollars (\$10.00) for each one hundred  
4 persons or fraction thereof to whom electricity is supplied  
5 within this state, which tax shall be in lieu of all other  
6 taxes except those provided in the [~~Gross Receipts and~~  
7 ~~Compensating~~] Sales and Use Tax Act; provided, however, that  
8 in the event a contract has been entered into by a rural  
9 electric cooperative and a power consumer prior to February 1,  
10 1961 and such contract does not contain an escalator clause  
11 providing for an increase for added tax liability on the  
12 cooperative, then the sale to such power consumer shall be  
13 exempt until the expiration, extension or renewal of the  
14 contract."

15 SECTION 360. Section 62-17-6 NMSA 1978 (being Laws 2005,  
16 Chapter 341, Section 6, as amended) is amended to read:

17 "62-17-6. COST RECOVERY.--

18 A. A public utility that undertakes cost-effective  
19 energy efficiency and load management programs shall have the  
20 option of recovering its prudent and reasonable costs along  
21 with commission-approved incentives for demand-side resources  
22 and load management programs implemented after the effective  
23 date of the Efficient Use of Energy Act through an approved  
24 tariff rider or in base rates, or by a combination of the two.  
25 Program costs and incentives may be deferred for future

.223540.1

underscoring material = new  
[bracketed material] = delete

1 recovery through creation of a regulatory asset. Funding for  
2 program costs shall be as follows:

3 (1) for investor-owned electric utilities, no  
4 less than three percent and no more than five percent of  
5 customer bills, excluding [~~gross receipts~~] sales taxes and  
6 franchise and right-of-way access fees, or seventy-five  
7 thousand dollars (\$75,000) per customer per calendar year,  
8 whichever is less, for customer classes with the opportunity  
9 to participate; and

10 (2) for gas utilities, no more than five  
11 percent of total annual revenues or seventy-five thousand  
12 dollars (\$75,000) per customer per calendar year.

13 B. Provided that the public utility's total  
14 portfolio of programs remains cost-effective, no less than  
15 five percent of the amount received by the public utility for  
16 program costs shall be specifically directed to energy-  
17 efficiency programs for low-income customers.

18 C. Unless otherwise ordered by the commission, a  
19 tariff rider approved by the commission shall:

20 (1) require language on customer bills  
21 explaining program benefits; and

22 (2) be applied on a monthly basis.

23 D. A tariff rider proposed by a public utility to  
24 fund approved energy efficiency and load management programs  
25 shall go into effect thirty days after filing, unless

.223540.1

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

1 suspended by the commission for a period not to exceed one  
2 hundred eighty days. If the tariff rider is not approved or  
3 suspended within thirty days after filing, it shall be deemed  
4 approved as a matter of law. If the commission has not acted  
5 to approve or disapprove the tariff rider by the end of an  
6 ordered suspension period, it shall be deemed approved as a  
7 matter of law. The commission shall approve utility  
8 reconciliations of the tariff rider annually."

9 SECTION 361. Section 63-9D-5.1 NMSA 1978 (being Laws  
10 2017, Chapter 122, Section 10) is amended to read:

11 "63-9D-5.1. PREPAID WIRELESS ENHANCED 911 SURCHARGE--  
12 COLLECTION AND ADMINISTRATION OF SURCHARGE--LIABILITY OF  
13 SELLERS--EXCLUSIVITY OF SURCHARGE.--

14 A. As used in this section:

15 (1) "consumer" means a person who purchases  
16 prepaid wireless communication service in a retail  
17 transaction;

18 (2) "prepaid wireless communication service"  
19 means a wireless communication service that allows a caller to  
20 dial 911 to access the 911 system, which service must be paid  
21 for in advance and is sold in predetermined units or dollars  
22 of which the number declines with use in a known amount;

23 (3) "prepaid wireless enhanced 911 surcharge"  
24 means the charge that is required to be collected by a seller  
25 from a consumer in the amount established under Subsection B

.223540.1

1 of this section;

2 (4) "provider" means a person that provides  
3 prepaid wireless communication service pursuant to a license  
4 issued by the federal communications commission;

5 (5) "retail transaction" means the purchase  
6 of prepaid wireless communication service from a seller for  
7 any purpose other than resale;

8 (6) "seller" means a person who sells prepaid  
9 wireless communication service to another person; and

10 (7) "wireless communication service" means  
11 commercial mobile radio service as defined by Section 20.3 of  
12 Title 47 of the Code of Federal Regulations, as amended.

13 B. A prepaid wireless enhanced 911 surcharge of  
14 one and thirty-eight hundredths percent is imposed on the  
15 gross value of each retail transaction. The prepaid wireless  
16 enhanced 911 surcharge shall be collected by the seller from  
17 the consumer with respect to each retail transaction occurring  
18 in this state. The amount of the prepaid wireless enhanced  
19 911 surcharge shall be either separately stated on an invoice,  
20 receipt or other similar document that is provided to the  
21 consumer by the seller, or otherwise disclosed to the  
22 consumer.

23 C. For purposes of Subsection B of this section, a  
24 retail transaction that is effected in person by a consumer at  
25 a business location of the seller shall be treated as

.223540.1

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

1 occurring in this state if that business location is in this  
2 state, and any other retail transaction shall be treated as  
3 occurring in this state if the retail transaction is treated  
4 as occurring in this state for purposes of the [~~Gross Receipts~~  
5 ~~and Compensating~~] Sales and Use Tax Act.

6 D. The prepaid wireless enhanced 911 surcharge is  
7 the liability of the consumer and not of the seller or of any  
8 provider, except that the seller shall be liable to remit all  
9 prepaid wireless enhanced 911 surcharges that the seller  
10 collects from consumers as provided in this section, including  
11 all such surcharges that the seller is deemed to collect where  
12 the amount of the surcharge has not been separately stated on  
13 an invoice, receipt or other similar document provided to the  
14 consumer by the seller.

15 E. The amount of the prepaid wireless enhanced 911  
16 surcharge that is collected by a seller from a consumer, if  
17 such amount is separately stated on an invoice, receipt or  
18 other similar document provided to the consumer by the seller,  
19 shall not be included in the base for measuring any tax, fee,  
20 surcharge or other charge that is imposed by this state, any  
21 political subdivision of this state or any intergovernmental  
22 agency.

23 F. When prepaid wireless communication service is  
24 sold with one or more other products or services for a single,  
25 non-itemized price, the percentage specified in Subsection B  
.223540.1

underscored material = new  
[bracketed material] = delete

1 of this section shall apply to the entire non-itemized price  
2 unless the seller elects to apply such percentage to:

3 (1) if the amount of the prepaid wireless  
4 communication service is disclosed to the consumer as a dollar  
5 amount, such dollar amount; or

6 (2) if the seller can identify the portion of  
7 the price that is attributable to the prepaid wireless  
8 communication service by reasonable and verifiable standards  
9 from its books and records that are kept in the regular course  
10 of business for other purposes, including non-tax purposes,  
11 such portion.

12 G. However, if a minimal amount of prepaid  
13 wireless communication service is sold with a prepaid wireless  
14 device for a single, non-itemized price, the seller may elect  
15 not to apply the percentage specified in Subsection B of this  
16 section to such transaction. For purposes of this subsection,  
17 an amount of service denominated as ten minutes or less, or  
18 five dollars (\$5.00) or less, is minimal.

19 H. Prepaid wireless enhanced 911 surcharges  
20 collected by sellers shall be remitted to the department at  
21 the times and in the manner provided with respect to the  
22 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act. The  
23 department shall establish registration and payment procedures  
24 that substantially coincide with the registration and payment  
25 procedures that apply to the [~~Gross Receipts and Compensating~~]

.223540.1

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

1     Sales and Use Tax Act. A seller shall be permitted to deduct  
2     and retain three percent of prepaid wireless enhanced 911  
3     surcharges that are collected by the seller from the consumer.

4             I. The audit and appeal procedures applicable to  
5     the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act  
6     shall apply to prepaid wireless enhanced 911 surcharges.

7             J. The department shall establish procedures by  
8     which a seller of prepaid wireless communication services may  
9     document that a sale is not a retail transaction, which  
10    procedures shall substantially coincide with the procedures  
11    for documenting sale for resale transactions for the [~~Gross~~  
12    ~~Receipts and Compensating~~] Sales and Use Tax Act.

13            K. No provider or seller of prepaid wireless  
14    communication services shall be liable for damages to any  
15    person resulting from or incurred in connection with the  
16    provision of, or failure to provide, 911 or enhanced 911  
17    service, or for identifying, or failing to identify, the  
18    telephone number, address, location or name associated with  
19    any person or device that is accessing or attempting to access  
20    911 or enhanced 911 service.

21            L. No provider or seller of prepaid wireless  
22    communication services shall be liable for damages to any  
23    person resulting from or incurred in connection with the  
24    provision of any assistance to any investigative or law  
25    enforcement officer of the United States, this or any other

.223540.1

1 state, or any political subdivision of this or any other  
2 state, in connection with any investigation or other law  
3 enforcement activity by such law enforcement officer.

4 M. In addition to the protection from liability  
5 provided by Subsections K and L of this section, each provider  
6 and seller shall be entitled to the further protection from  
7 liability as provided pursuant to Section 63-9D-10 NMSA 1978.

8 N. The prepaid wireless enhanced 911 surcharge  
9 applies to retail transactions occurring on or after July 1,  
10 2017."

11 **SECTION 362.** Section 63-9F-11 NMSA 1978 (being Laws  
12 1993, Chapter 54, Section 11, as amended) is amended to read:

13 "63-9F-11. IMPOSITION OF SURCHARGE.--

14 A. A telecommunications relay service surcharge of  
15 thirty-three hundredths percent is imposed on the gross amount  
16 paid:

17 (1) by customers, except customers whose  
18 telephone service rates are reduced as authorized by the Low  
19 Income Telephone Service Assistance Act, for intrastate  
20 telecommunications services provided in this state;

21 (2) by customers for the intrastate portion  
22 of interconnected voice over internet protocol service;

23 (3) by customers for intrastate mobile  
24 telecommunications services that originate and terminate in  
25 the same state, regardless of where the mobile

.223540.1



1 telecommunications services originate, terminate or pass  
2 through, provided by home service providers to customers whose  
3 place of primary use is in New Mexico; and

4 (4) by a prepaid consumer in a retail  
5 transaction.

6 B. The telecommunications relay service surcharge  
7 shall be included on the monthly bill of each customer of a  
8 local exchange company or other telecommunications company  
9 providing intrastate telecommunications services,  
10 interconnected voice over internet protocol services or  
11 intrastate mobile telecommunications services and paid at the  
12 time of payment of the monthly bill. Receipts from selling  
13 those services to any other telecommunications company or  
14 provider for resale are not subject to the surcharge. The  
15 customer is liable for the payment of the surcharge to the  
16 provider of intrastate mobile telecommunications services, the  
17 provider of interconnected voice over internet protocol  
18 services or the local exchange company or other  
19 telecommunications company providing intrastate  
20 telecommunications services to the customer.

21 C. For the purposes of the surcharge imposed on a  
22 retail transaction pursuant to Paragraph (4) of Subsection A  
23 of this section:

24 (1) the surcharge shall be collected by the  
25 seller from the prepaid consumer with respect to each retail

.223540.1

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

1 transaction occurring in this state. The amount of the  
2 surcharge shall be either separately stated on an invoice,  
3 receipt or other similar document that is provided to the  
4 prepaid consumer by the seller or otherwise disclosed to the  
5 prepaid consumer;

6 (2) for the purposes of Paragraph (1) of this  
7 subsection, a retail transaction that is effected in person by  
8 a prepaid consumer at a business location of the seller shall  
9 be treated as occurring in this state if that business  
10 location is in this state, and any other retail transaction is  
11 treated as occurring in this state if the retail transaction  
12 is treated as occurring in this state for purposes of the  
13 ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act;

14 (3) the surcharge is the liability of the  
15 prepaid consumer and not of the seller or any provider, except  
16 that the seller shall be liable to remit all surcharges  
17 collected from the prepaid consumer as provided in this  
18 subsection, including all such surcharges that the seller is  
19 deemed to collect where the amount of the surcharge has not  
20 been separately stated on an invoice, receipt or other similar  
21 document provided to the prepaid consumer by the seller;

22 (4) the amount of the surcharge that is  
23 collected by a seller from a prepaid consumer, if such amount  
24 is separately stated on an invoice, receipt or other similar  
25 document provided to the prepaid consumer by the seller, shall

.223540.1

1 not be included in the base for measuring any tax, fee,  
2 surcharge or other charge that is imposed by this state, any  
3 political subdivision of this state or any intergovernmental  
4 agency;

5 (5) when prepaid wireless communications  
6 service is sold with one or more other products or services  
7 for a single, non-itemized price, the percentage specified in  
8 Subsection A of this section shall apply to the entire non-  
9 itemized price unless the seller elects to apply such  
10 percentage to:

11 (a) if the amount of the prepaid  
12 wireless communications service is disclosed to the prepaid  
13 consumer as a dollar amount, such dollar amount; or

14 (b) if the seller can identify the  
15 portion of the price that is attributable to the prepaid  
16 wireless communications service by reasonable and verifiable  
17 standards from its books and records that are kept in the  
18 regular course of business for other purposes, including  
19 non-tax purposes, such portion;

20 (6) if a minimal amount of prepaid wireless  
21 communications service is sold with a prepaid wireless device  
22 for a single, non-itemized price, the seller may elect not to  
23 apply the percentage specified in Subsection A of this section  
24 to such transaction. For the purposes of this paragraph, an  
25 amount of service denominated as ten minutes or less, or five

underscored material = new  
[bracketed material] = delete

1 dollars (\$5.00) or less, is minimal;

2 (7) surcharges collected by sellers shall be  
3 remitted to the taxation and revenue department at the times  
4 and in the manner provided with respect to the [~~Gross Receipts~~  
5 ~~and Compensating~~] Sales and Use Tax Act. The department shall  
6 establish registration and payment procedures that  
7 substantially coincide with the registration and payment  
8 procedures that apply to the [~~Gross Receipts and Compensating~~]  
9 Sales and Use Tax Act. A seller shall be permitted to deduct  
10 and retain three percent of surcharges that are collected by  
11 the seller from the prepaid consumer;

12 (8) the audit and appeal procedures  
13 applicable to the [~~Gross Receipts and Compensating~~] Sales and  
14 Use Tax Act shall apply to the surcharge;

15 (9) the taxation and revenue department shall  
16 establish procedures by which a seller of prepaid wireless  
17 communications services may document that a sale is not a  
18 retail transaction, which procedures shall substantially  
19 coincide with the procedures for documenting sale for resale  
20 transactions for the [~~Gross Receipts and Compensating~~] Sales  
21 and Use Tax Act; and

22 (10) notwithstanding Paragraph (1) of this  
23 subsection, if a 911 surcharge is imposed on prepaid wireless  
24 communications service pursuant to the Enhanced 911 Act, the  
25 taxation and revenue department shall promulgate rules to

.223540.1

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

1 permit sellers to combine the surcharge imposed pursuant to  
2 this section and the surcharge imposed pursuant to the  
3 Enhanced 911 Act into a single surcharge on the invoice,  
4 receipt or other similar document that is provided to the  
5 prepaid consumer. The department shall ensure that  
6 appropriate surcharge revenues are directed proportionately to  
7 the respective 911 and telecommunications relay service funds.

8 D. A telecommunications company providing  
9 intrastate telecommunications services, a home service  
10 provider providing intrastate mobile telecommunications  
11 services and a seller of interconnected voice over internet  
12 protocol services shall, on sales subject to the  
13 telecommunications relay service surcharge, assess and collect  
14 the surcharge and remit the surcharge collected monthly to the  
15 taxation and revenue department on or before the twenty-fifth  
16 day of the month following collection. The department shall  
17 administer and enforce the collection of the surcharge in  
18 accordance with the Tax Administration Act.

19 E. The taxation and revenue department shall  
20 transfer to the telecommunications access fund the amount of  
21 the telecommunications relay service surcharge collected less  
22 any amount deducted in accordance with Subsection F of this  
23 section. Transfer of the net receipts from the surcharge to  
24 the telecommunications access fund shall be made within the  
25 month following the month in which the surcharge is collected.

.223540.1

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

1           F. The taxation and revenue department may deduct  
2 an amount not to exceed three percent of the  
3 telecommunications relay service surcharge collected as a  
4 charge for the administrative costs of collection and shall  
5 remit that amount to the state treasurer for deposit in the  
6 general fund each month.

7           G. The commission shall report to the revenue  
8 stabilization and tax policy committee annually by September  
9 30 the following information with respect to the prior fiscal  
10 year:

11                   (1) the amount and source of revenue received  
12 by the telecommunications access fund;

13                   (2) the amount and category of expenditures  
14 from the fund; and

15                   (3) the balance of the fund on that June 30."

16           **SECTION 363.** Section 63-9H-6 NMSA 1978 (being Laws 1999,  
17 Chapter 295, Section 6, as amended by Laws 2021, Chapter 118,  
18 Section 2 and by Laws 2021, Chapter 120, Section 9) is amended  
19 to read:

20                   "63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND--  
21 ESTABLISHMENT.--

22                   A. The commission shall implement and maintain a  
23 "state rural universal service fund" to maintain and support  
24 universal service that is provided by eligible  
25 telecommunications carriers, including commercial mobile radio

.223540.1

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

1 services carriers, as are determined by the commission. As  
2 used in this section, "universal service" means basic local  
3 exchange service, comparable retail alternative services at  
4 affordable rates, service pursuant to a low-income telephone  
5 assistance plan and broadband internet access service to  
6 unserved and underserved areas as determined by the  
7 commission.

8 B. The fund shall be financed by a surcharge on  
9 intrastate retail public telecommunications services to be  
10 determined by the commission, excluding services provided  
11 pursuant to a low-income telephone assistance plan billed to  
12 end-user customers by a telecommunications carrier, and  
13 excluding all amounts from surcharges, [~~gross receipts~~] sales  
14 taxes, excise taxes, franchise fees and similar charges. For  
15 the purpose of funding the fund, the commission has the  
16 authority to apply the surcharge on intrastate retail public  
17 telecommunications services provided by telecommunications  
18 carriers, including commercial mobile radio services and voice  
19 over internet protocol services, at a competitively and  
20 technologically neutral rate or rates to be determined by the  
21 commission. The commission may establish the surcharge as a  
22 percentage of intrastate retail public telecommunications  
23 services revenue or as a fixed amount applicable to each  
24 communication connection. For purposes of this section, a  
25 "communication connection" means a voice-enabled telephone

.223540.1

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

1 access line, wireless voice connection, unique voice over  
2 internet protocol service connection or other uniquely  
3 identifiable functional equivalent as determined by the  
4 commission. Such surcharges shall be competitively and  
5 technologically neutral. Money deposited in the fund is not  
6 public money, and the administration of the fund is not  
7 subject to the provisions of law regulating public funds. The  
8 commission shall not apply this surcharge to a private  
9 telecommunications network; to the state, a county, a  
10 municipality or other governmental entity; to a public school  
11 district; to a public institution of higher education; to an  
12 Indian nation, tribe or pueblo; or to Native American  
13 customers who reside on tribal or pueblo land.

14 C. The fund shall be competitively and  
15 technologically neutral, equitable and nondiscriminatory in  
16 its collection and distribution of funds, portable between  
17 eligible telecommunications carriers and additionally shall  
18 provide a specific, predictable and sufficient support  
19 mechanism as determined by the commission that ensures  
20 universal service in the state.

21 D. The commission shall:

22 (1) establish eligibility criteria for  
23 participation in the fund consistent with federal law that  
24 ensure the availability of universal service at affordable  
25 rates. The eligibility criteria shall not restrict or limit

.223540.1



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

1 an eligible telecommunications carrier from receiving federal  
2 universal service support;

3 (2) provide for the collection of the  
4 surcharge on a competitively neutral basis and for the  
5 administration and disbursement of money from the fund;

6 (3) determine those services and areas  
7 requiring support from the fund;

8 (4) provide for the separate administration  
9 and disbursement of federal universal service funds consistent  
10 with federal law; and

11 (5) establish affordability benchmark rates  
12 for local residential and business services that shall be  
13 utilized in determining the level of support from the fund.  
14 The process for determining subsequent adjustments to the  
15 benchmark shall be established through a rulemaking.

16 E. All incumbent telecommunications carriers and  
17 competitive carriers already designated as eligible  
18 telecommunications carriers for the fund shall be eligible for  
19 participation in the fund. All other carriers that choose to  
20 become eligible to receive support from the fund may petition  
21 the commission to be designated as an eligible  
22 telecommunications carrier for the fund. The commission may  
23 grant eligible carrier status to a competitive carrier in a  
24 rural area upon a finding that granting the application is in  
25 the public interest. In making a public interest finding, the

.223540.1

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

1 commission may consider at least the following items:

2 (1) the impact of designation of an  
3 additional eligible carrier on the size of the fund;

4 (2) the unique advantages and disadvantages  
5 of the competitor's service offering; and

6 (3) any commitments made regarding the  
7 quality of telephone service.

8 F. The commission shall adopt rules, including a  
9 provision for variances, for the implementation and  
10 administration of the fund in accordance with the provisions  
11 of this section. The rules shall enumerate the appropriate  
12 uses of fund support and any restrictions on the use of fund  
13 support by eligible telecommunications carriers. The rules  
14 shall require that an eligible telecommunications carrier  
15 receiving support from the fund pursuant to Subsection K, L or  
16 M of this section must expend no less than sixty percent of  
17 the support it receives to deploy and maintain broadband  
18 internet access services in rural areas of the state. The  
19 rules also shall provide for annual reporting by eligible  
20 telecommunications carriers verifying that the reporting  
21 carrier continues to meet the requirements for designation as  
22 an eligible telecommunications carrier for purposes of the  
23 fund and is in compliance with the commission's rules,  
24 including the provisions regarding use of support from the  
25 fund.

.223540.1

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

1           G. The commission shall, upon implementation of  
2 the fund, select a neutral third-party administrator to  
3 collect, administer and disburse money from the fund under the  
4 supervision and control of the commission pursuant to  
5 established criteria and rules promulgated by the commission.  
6 The administrator may be reasonably compensated for the  
7 specified services from the surcharge proceeds to be received  
8 by the fund pursuant to Subsection B of this section. For  
9 purposes of this subsection, the commission shall not be a  
10 neutral third-party administrator.

11           H. The fund established by the commission shall  
12 ensure the availability of universal service as determined by  
13 the commission at affordable rates in rural areas of the  
14 state; provided, however, that nothing in this section shall  
15 be construed as granting any authority to the commission to  
16 impose the surcharge on or otherwise regulate broadband  
17 internet access services.

18           I. The commission shall ensure that intrastate  
19 switched access charges are equal to interstate switched  
20 access charges established by the federal communications  
21 commission as of January 1, 2006. Nothing in this section  
22 shall preclude the commission from considering further  
23 adjustments to intrastate switched access charges based on  
24 changes to interstate switched access charges.

25           J. To ensure that providers of intrastate retail

.223540.1

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

1 communications service contribute to the fund and to further  
2 ensure that the surcharge determined pursuant to Subsection B  
3 of this section to be paid by the end-user customer will be  
4 held to a minimum, the commission shall adopt rules, or take  
5 other appropriate action, to require all such providers to  
6 participate in a plan to ensure accurate reporting.

7 K. The commission shall authorize payments from  
8 the fund to incumbent local exchange carriers, in combination  
9 with revenue-neutral rate rebalancing up to the affordability  
10 benchmark rates. Beginning in 2018, the commission shall make  
11 access reduction support payments in the amount made from the  
12 fund in base year 2014, adjusted each year thereafter by:

13 (1) the annual percentage change in the  
14 number of access lines served by the incumbent local exchange  
15 carriers receiving such support for the prior calendar year,  
16 as compared to base year 2014; and

17 (2) changes in the affordability benchmark  
18 rates that have occurred since 2014.

19 L. The commission shall determine the methodology  
20 to be used to authorize payments to all other carriers that  
21 apply for and receive eligible carrier status; provided that:

22 (1) an eligible incumbent telecommunications  
23 carrier that is not eligible for funding pursuant to rate  
24 rebalancing in Subsection K of this section and that has been  
25 previously authorized pursuant to Subsection M of this section

.223540.1

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

1 for need-based support may apply for ongoing fund support;

2 (2) the commission shall award an applicant  
3 ongoing fund support at no less than the average access line  
4 amount of funding support for comparable carriers; provided  
5 that an eligible telecommunications carrier receiving fund  
6 support pursuant to this subsection shall not offer basic  
7 local exchange residential and business services at rate  
8 levels lower than the rates for such services charged by any  
9 of the comparable carriers used for the determination of the  
10 level of support;

11 (3) the commission shall act upon a request  
12 for ongoing fund support within one hundred twenty days of the  
13 filing of the request; and

14 (4) nothing in this section shall limit the  
15 commission's authority to adopt rules pursuant to Subsection F  
16 of this section regarding appropriate uses of fund support and  
17 any restrictions on the use of the fund support by eligible  
18 telecommunications carriers.

19 M. The commission may also authorize payments from  
20 the fund to incumbent rural telecommunications carriers or to  
21 telecommunications carriers providing comparable retail  
22 alternative services that have been designated as eligible  
23 telecommunications carriers serving in rural areas of the  
24 state upon a finding, based on factors that may include a  
25 carrier's regulated revenues, expenses or investment, by the

.223540.1

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

1 commission that such payments are needed to ensure the  
2 widespread availability and affordability of universal  
3 service. The commission shall decide cases filed pursuant to  
4 this subsection with reasonable promptness, with or without a  
5 hearing, but no later than six months following the filing of  
6 an application seeking payments from the fund, unless the  
7 commission finds that a longer time will be required, in which  
8 case the commission may extend the period for an additional  
9 three months.

10 N. The commission shall adopt rules that establish  
11 and implement a broadband program to provide funding to  
12 eligible telecommunications carriers for the construction and  
13 maintenance of broadband infrastructure. Each year, a minimum  
14 of eight million dollars (\$8,000,000) of the fund shall be  
15 dedicated to the broadband program.

16 O. Rules adopted pursuant to Subsection N of this  
17 section shall require that the commission:

18 (1) consider applications for funding on a  
19 technology-neutral basis;

20 (2) submit applications for funding to the  
21 connect New Mexico council for prioritization and alignment  
22 with the statewide broadband plan to ensure digital equity and  
23 digital inclusion; and

24 (3) require that the awards of support be  
25 consistent with federal universal service support programs.

.223540.1

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

1           P. The total obligations of the fund determined by  
2 the commission pursuant to this section, plus administrative  
3 expenses and a prudent fund balance, shall not exceed a cap of  
4 thirty million dollars (\$30,000,000) per year. The commission  
5 shall evaluate the amount of the cap in an appropriate  
6 proceeding to be completed by June 30, 2019 and consider  
7 whether, based on the then-current status of the fund, the cap  
8 should be modified, maintained or eliminated.

9           Q. By October 1 of each year, the commission shall  
10 make a report to the legislature regarding the status of the  
11 fund, including:

12                   (1) relevant data relating to implementation  
13 of the broadband program and the progress toward digital  
14 equity and digital inclusion in rural areas of the state;

15                   (2) recommendations for changes to the  
16 structure, size and purposes of the fund and whether the cap  
17 on the fund provided for in Subsection P of this section  
18 should be modified, maintained or eliminated; and

19                   (3) the service areas that received funding  
20 awards from the broadband program and the amounts of those  
21 awards."

22           SECTION 364. Section 66-3-401 NMSA 1978 (being Laws  
23 1978, Chapter 35, Section 80, as amended) is amended to read:

24           "66-3-401. OPERATION OF VEHICLES UNDER DEALER PLATES.--

25           A. Any vehicle that is required to be registered

.223540.1

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

1 pursuant to the Motor Vehicle Code and that is included in the  
2 inventory of a dealer may be operated or moved upon the  
3 highways for any purpose, provided that the vehicle display in  
4 the manner prescribed in Section 66-3-18 NMSA 1978 a unique  
5 plate issued to the dealer as provided in Section 66-3-402  
6 NMSA 1978. This subsection shall not be construed as limiting  
7 the use of temporary registration permits issued to dealers  
8 pursuant to Section 66-3-6 NMSA 1978. Each dealer plate shall  
9 be issued for a specific vehicle in a dealer's inventory. If  
10 a dealer wishes to use the plate on a different vehicle, the  
11 dealer must reregister that plate to the different vehicle.

12 B. The provisions of this section do not apply to  
13 work or service vehicles used by a dealer. For the purposes  
14 of this subsection, "work or service vehicle" includes any  
15 vehicle used substantially as a:

- 16 (1) parts or delivery vehicle;
- 17 (2) vehicle used to tow another vehicle;
- 18 (3) courtesy shuttle; or
- 19 (4) vehicle loaned to customers for their  
20 convenience.

21 C. Each vehicle included in a dealer's inventory  
22 required to be registered pursuant to the provisions of  
23 Subsection A of this section must conform to the registration  
24 provisions of the Motor Vehicle Code, but is not required to  
25 be titled pursuant to the provisions of that code. When a

.223540.1



underscoring material = new  
[bracketed material] = delete

1 vehicle is no longer included in a dealer's inventory, and is  
2 not sold or leased to an unrelated entity, the dealer must  
3 title the vehicle and pay the motor vehicle excise tax that  
4 would have been due when the vehicle was first registered by  
5 the dealer.

6 D. In lieu of the use of dealer plates pursuant to  
7 this section, a dealer may register and title a vehicle  
8 included in a dealer's inventory in the name of the dealer  
9 upon payment of the registration fee applicable to that  
10 vehicle, but without payment of the motor vehicle excise tax,  
11 provided the vehicle is subsequently sold or leased in the  
12 ordinary course of business in a transaction subject to the  
13 motor vehicle excise tax or the leased vehicle [~~gross~~  
14 ~~receipts~~] sales tax."

15 SECTION 365. REPEAL.--Laws 2019, Chapter 10, Section 1  
16 and Laws 2021, Chapter 65, Section 13 are repealed.

17 SECTION 366. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is January 1, 2024.