

HOUSE BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; RENAMING GROSS RECEIPTS TAXES TO SALES
TAXES AND THE COMPENSATING TAX TO THE USE TAX; BASING THE RATE
OF SALES TAXES ON A FORMULA USING ESTIMATES OF BASELINE
REVENUES AND REVENUE PROJECTIONS; ADDING LOCAL OPTION
INCREMENTS TO THE USE TAX RATE; DISTRIBUTING A SHARE OF THE USE
TAX TO MUNICIPALITIES AND COUNTIES; CREATING THE LOCAL
GOVERNMENT TAX STABILIZATION FUND; DE-EARMARKING CERTAIN
MUNICIPAL AND COUNTY LOCAL OPTION TAXES; PROVIDING THAT A
PERSON WITHOUT PHYSICAL PRESENCE IN THE STATE THAT HAS LESS
THAN ONE HUNDRED THOUSAND DOLLARS (\$100,000) IN GROSS RECEIPTS
IS NOT ENGAGING IN BUSINESS PURSUANT TO THE SALES AND USE TAX
ACT; CREATING A BUSINESS SERVICES TAX CREDIT TO REDUCE THE
EFFECTS OF PYRAMIDING ON BUSINESSES; UPDATING THE LOW-INCOME
COMPREHENSIVE TAX REBATE; CHANGING A DEDUCTION FROM GROSS
RECEIPTS FOR THE SALE OF FOOD TO BENEFICIARIES OF THE FEDERAL

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1 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM; CHANGING THE
2 DISTRIBUTIONS OF THE LIQUOR EXCISE TAX AND THE MOTOR VEHICLE
3 EXCISE TAX; PROVIDING THAT CHANGES OR REPEALS OF CERTAIN LOCAL
4 OPTION GROSS RECEIPTS TAXES SHALL NOT IMPAIR OUTSTANDING
5 REVENUE BONDS; PROVIDING A MORATORIUM ON NEW INCREMENTS OF
6 LOCAL OPTION GROSS RECEIPTS TAXES; PROVIDING THAT PREVIOUSLY
7 DEDICATED REVENUE ATTRIBUTABLE TO A LOCAL OPTION GROSS RECEIPTS
8 TAX SHALL CONTINUE TO BE DEDICATED FOR THE SAME PURPOSES;
9 AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978;
10 MAKING AN APPROPRIATION.

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

15 "3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF
16 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

17 A. In addition to any other law and constitutional
18 home rule powers authorizing a municipality to issue revenue
19 bonds, a municipality may issue revenue bonds pursuant to
20 Chapter 3, Article 31 NMSA 1978 for the purposes specified in
21 this section. ~~[The term "pledged revenues", as used in Chapter~~
22 ~~3, Article 31 NMSA 1978, means the revenues, net income or net~~
23 ~~revenues authorized to be pledged to the payment of particular~~
24 ~~revenue bonds as specifically provided in Subsections A through~~
25 ~~J of this section.~~

1 A.] B. Utility revenue bonds may be issued for
2 acquiring, extending, enlarging, bettering, repairing or
3 otherwise improving a municipal utility or for any combination
4 of the foregoing purposes. The municipality may pledge
5 irrevocably any or all of the net revenues from the operation
6 of the municipal utility or of any one or more of other such
7 municipal utilities for payment of the interest on and
8 principal of the revenue bonds. [~~These bonds are sometimes~~
9 ~~referred to in Chapter 3, Article 31 NMSA 1978 as "utility~~
10 ~~revenue bonds" or "utility bonds".~~

11 B.] C. Joint utility revenue bonds may be issued
12 for acquiring, extending, enlarging, bettering, repairing or
13 otherwise improving joint water facilities, sewer facilities,
14 gas facilities or electric facilities or for any combination of
15 the foregoing purposes. The municipality may pledge
16 irrevocably any or all of the net revenues from the operation
17 of these municipal utilities for the payment of the interest on
18 and principal of the bonds. [~~These bonds are sometimes~~
19 ~~referred to in Chapter 3, Article 31 NMSA 1978 as "joint~~
20 ~~utility revenue bonds" or "joint utility bonds".~~

21 ~~C. For the purposes of this subsection, "gross~~
22 ~~receipts tax revenue bonds" means gross receipts tax revenue~~
23 ~~bonds or sales tax revenue bonds. Gross receipts]~~

24 D. Sales tax revenue bonds may be issued for any
25 ~~[one or more of the following purposes:~~

1 ~~(1) constructing, purchasing, furnishing,~~
2 ~~equipping, rehabilitating, making additions to or making~~
3 ~~improvements to one or more public buildings or purchasing or~~
4 ~~improving any ground relating thereto, including but not~~
5 ~~necessarily limited to acquiring and improving parking lots, or~~
6 ~~any combination of the foregoing;~~

7 ~~(2) acquiring or improving municipal or public~~
8 ~~parking lots, structures or facilities or any combination of~~
9 ~~the foregoing;~~

10 ~~(3) purchasing, acquiring or rehabilitating~~
11 ~~firefighting equipment or any combination of the foregoing;~~

12 ~~(4) acquiring, extending, enlarging,~~
13 ~~bettering, repairing, otherwise improving or maintaining storm~~
14 ~~sewers and other drainage improvements, sanitary sewers, sewage~~
15 ~~treatment plants or water utilities, including but not~~
16 ~~necessarily limited to the acquisition of rights of way and~~
17 ~~water and water rights, or any combination of the foregoing;~~

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

25 ~~(6) purchasing, acquiring, constructing,~~

1 ~~making additions to, enlarging, bettering, extending or~~
2 ~~equipping airport facilities or any combination of the~~
3 ~~foregoing, including without limitation the acquisition of~~
4 ~~land, easements or rights of way therefor;~~

5 ~~(7) purchasing or otherwise acquiring or~~
6 ~~clearing land or for purchasing, otherwise acquiring and~~
7 ~~beautifying land for open space;~~

8 ~~(8) acquiring, constructing, purchasing,~~
9 ~~equipping, furnishing, making additions to, renovating,~~
10 ~~rehabilitating, beautifying or otherwise improving public~~
11 ~~parks, public recreational buildings or other public~~
12 ~~recreational facilities or any combination of the foregoing;~~

13 ~~(9) acquiring, constructing, extending,~~
14 ~~enlarging, bettering, repairing, otherwise improving or~~
15 ~~maintaining solid waste disposal equipment, equipment for~~
16 ~~operation and maintenance of sanitary landfills, sanitary~~
17 ~~landfills, solid waste facilities or any combination of the~~
18 ~~foregoing; and~~

19 ~~(10) acquiring, constructing, extending,~~
20 ~~bettering, repairing or otherwise improving a public transit~~
21 ~~system or regional transit systems or facilities. The]~~
22 municipal purpose. A municipality may pledge irrevocably any
23 or all of the ~~[gross receipts]~~ sales tax revenue received by
24 the municipality pursuant to Section ~~[7-1-6.4 or]~~ 7-1-6.12 NMSA
25 1978 to the payment of the interest on and principal of the

1 ~~[gross receipts]~~ sales tax revenue bonds ~~[for any of the~~
2 ~~purposes authorized in this section or for specific purposes]~~
3 or for any area of municipal government services ~~[including but~~
4 ~~not limited to those specified in Subsection C of Section~~
5 ~~7-19D-9 NMSA 1978, or for public purposes authorized by~~
6 ~~municipalities having constitutional home rule charters]~~. A
7 law that imposes or authorizes the imposition of a municipal
8 ~~[gross receipts]~~ sales tax or that affects the municipal ~~[gross~~
9 ~~receipts]~~ sales tax, or a law supplemental thereto 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 ~~[gross receipts]~~ sales
14 tax unless the outstanding revenue bonds have been discharged
15 in full or provision has been fully made therefor. Revenues in
16 excess of the annual principal and interest due on ~~[gross~~
17 ~~receipts]~~ sales tax revenue bonds secured by a pledge of ~~[gross~~
18 ~~receipts]~~ sales tax revenue may be accumulated in a debt
19 service reserve account. The governing body of the
20 municipality may appoint a commercial bank trust department to
21 act as trustee of the ~~[gross receipts]~~ sales tax revenue and to
22 administer the payment of principal of and interest on the
23 bonds.

24 ~~[D. As used in this section, the term "public~~
25 ~~building" includes but is not limited to fire stations, police~~

1 ~~buildings, municipal jails, regional jails or juvenile~~
2 ~~detention facilities, libraries, museums, auditoriums,~~
3 ~~convention halls, hospitals, buildings for administrative~~
4 ~~offices, city halls and garages for housing, repairing and~~
5 ~~maintaining city vehicles and equipment. As used in Chapter 3,~~
6 ~~Article 31 NMSA 1978, the term "gross receipts tax revenue~~
7 ~~bonds" means the bonds authorized in Subsection C of this~~
8 ~~section, and the term "gross receipts tax revenue" means the~~
9 ~~amount of money distributed to the municipality as authorized~~
10 ~~by Section 7-1-6.4 NMSA 1978 or the amount of money transferred~~
11 ~~to the municipality as authorized by Section 7-1-6.12 NMSA 1978~~
12 ~~for any municipal gross receipts tax imposed pursuant to the~~
13 ~~Municipal Local Option Gross Receipts Taxes Act. As used in~~
14 ~~Chapter 3, Article 31 NMSA 1978, the term "bond" means any~~
15 ~~obligation of a municipality issued under Chapter 3, Article 31~~
16 ~~NMSA 1978, whether designated as a bond, note, loan, warrant,~~
17 ~~debenture, lease-purchase agreement or other instrument~~
18 ~~evidencing an obligation of a municipality to make payments.]~~

19 E. Gasoline tax revenue bonds may be issued for
20 laying off, opening, constructing, reconstructing, resurfacing,
21 maintaining, acquiring rights of way, repairing and otherwise
22 improving municipal buildings, alleys, streets, public roads
23 and bridges or any combination of the foregoing purposes. The
24 municipality may pledge irrevocably any or all of the gasoline
25 tax revenue received by the municipality to the payment of the

1 interest on and principal of the gasoline tax revenue bonds.
2 ~~[As used in Chapter 3, Article 31 NMSA 1978, "gasoline tax~~
3 ~~revenue bonds" means the bonds authorized in this subsection,~~
4 ~~and "gasoline tax revenue" means all or portions of the amounts~~
5 ~~of tax revenues distributed to municipalities pursuant to~~
6 ~~Sections 7-1-6.9 and 7-1-6.27 NMSA 1978, as from time to time~~
7 ~~amended and supplemented.]~~

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

1 that may constitute a part of the particular revenue-producing
2 project. A general determination by the governing body that
3 any facilities or equipment is reasonably related to and
4 constitutes a part of a specified revenue-producing project
5 shall be conclusive if set forth in the proceedings authorizing
6 the project revenue bonds. ~~[As used in Chapter 3, Article 31~~
7 ~~NMSA 1978:~~

8 ~~(1) "project revenue bonds" means the bonds~~
9 ~~authorized in this subsection; and~~

10 ~~(2) "project revenues" means the net revenues~~
11 ~~of revenue-producing projects that may be pledged to project~~
12 ~~revenue bonds pursuant to this subsection.]~~

13 G. Fire district revenue bonds may be issued for
14 acquiring, extending, enlarging, bettering, repairing,
15 improving, constructing, purchasing, furnishing, equipping and
16 rehabilitating any fire district project, including, where
17 applicable, purchasing, otherwise acquiring or improving the
18 ground therefor, or for any combination of the foregoing
19 purposes. The municipality may pledge irrevocably any or all
20 of the revenues received by the fire district from the fire
21 protection fund as provided in the Fire Protection Fund Law and
22 any or all of the revenues provided for the operation of the
23 fire district project for which the particular bonds are issued
24 to the payment of the interest on and principal of the bonds.
25 The revenues of any fire district project shall not be pledged

1 to the bonds issued for a fire district project that clearly is
2 unrelated in its purpose; but nothing in this section prevents
3 the pledge to such bonds of any revenues received from
4 existing, future or disconnected facilities and equipment that
5 are related to and that may constitute a part of the particular
6 fire district project. A general determination by the
7 governing body of the municipality that any facilities or
8 equipment is reasonably related to and constitutes a part of a
9 specified fire district project shall be conclusive if set
10 forth in the proceedings authorizing the fire district bonds.

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

19 ~~[I. Economic development gross receipts tax revenue~~
20 ~~bonds may be issued for the purpose of furthering economic~~
21 ~~development projects as defined in the Local Economic~~
22 ~~Development Act. The municipality may pledge irrevocably any~~
23 ~~or all of the revenue received from the municipal~~
24 ~~infrastructure gross receipts tax to the payment of the~~
25 ~~interest on and principal of the economic development gross~~

1 ~~receipts tax revenue bonds for any of the purposes authorized~~
2 ~~in this subsection. A law that imposes or authorizes the~~
3 ~~imposition of a municipal infrastructure gross receipts tax or~~
4 ~~that affects the municipal infrastructure gross receipts tax,~~
5 ~~or a law supplemental to or otherwise pertaining to the tax,~~
6 ~~shall not be repealed or amended or otherwise directly or~~
7 ~~indirectly modified in such a manner as to impair adversely any~~
8 ~~outstanding revenue bonds that may be secured by a pledge of~~
9 ~~the municipal infrastructure gross receipts tax unless the~~
10 ~~outstanding revenue bonds have been discharged in full or~~
11 ~~provision has been fully made for their discharge. As used in~~
12 ~~Chapter 3, Article 31 NMSA 1978, "economic development gross~~
13 ~~receipts tax revenue bonds" means the bonds authorized in this~~
14 ~~subsection, and "municipal infrastructure gross receipts tax~~
15 ~~revenue" means any or all of the revenue from the municipal~~
16 ~~infrastructure gross receipts tax transferred to the~~
17 ~~municipality pursuant to Section 7-1-6.12 NMSA 1978.~~

18 ~~J. Municipal higher education facilities gross~~
19 ~~receipts tax revenue bonds may be issued for the purpose of~~
20 ~~acquisition, construction, renovation or improvement of~~
21 ~~facilities of a four-year post-secondary public educational~~
22 ~~institution located in the municipality and acquisition of or~~
23 ~~improvements to land for those facilities. The municipality~~
24 ~~may pledge irrevocably any or all of the revenue received from~~
25 ~~the municipal higher education facilities gross receipts tax to~~

1 ~~the payment of the interest on and principal of the municipal~~
2 ~~higher education facilities gross receipts tax revenue bonds.~~
3 ~~A law that imposes or authorizes the imposition of a municipal~~
4 ~~higher education facilities gross receipts tax or that affects~~
5 ~~the municipal higher education facilities gross receipts tax,~~
6 ~~or a law supplemental to or otherwise pertaining to the tax,~~
7 ~~shall not be repealed or amended or otherwise directly or~~
8 ~~indirectly modified in such a manner as to impair adversely any~~
9 ~~outstanding revenue bonds that may be secured by a pledge of~~
10 ~~the municipal higher education facilities gross receipts tax~~
11 ~~unless the outstanding revenue bonds have been discharged in~~
12 ~~full or provision has been fully made for their discharge. As~~
13 ~~used in Chapter 3, Article 31 NMSA 1978, "municipal higher~~
14 ~~education facilities gross receipts tax revenue bonds" means~~
15 ~~the bonds authorized in this subsection and "municipal higher~~
16 ~~education facilities gross receipts tax revenue" means any or~~
17 ~~all of the revenue from the municipal higher education~~
18 ~~facilities gross receipts tax transferred to the municipality~~
19 ~~pursuant to Section 7-1-6.12 NMSA 1978.~~

20 ~~K.]~~ I. Except for the purpose of refunding previous
21 revenue bond issues, no municipality may sell revenue bonds
22 payable from pledged revenues after the expiration of two years
23 from the date of the ordinance authorizing the issuance of the
24 bonds or, for bonds to be issued and sold to the New Mexico
25 finance authority as authorized in Subsection C of Section

1 3-31-4 NMSA 1978, after the expiration of two years from the
2 date of the resolution authorizing the issuance of the bonds.
3 However, any period of time during which a particular revenue
4 bond issue is in litigation shall not be counted in determining
5 the expiration date of that issue."

6 SECTION 2. A new section of Chapter 3, Article 31 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] DEFINITIONS.--As used in Chapter 3,
9 Article 31 NMSA 1978:

10 A. "bond" means any obligation of a municipality
11 issued under Chapter 3, Article 31 NMSA 1978, whether
12 designated as a bond, note, loan, warrant, debenture, lease-
13 purchase agreement or other instrument evidencing an obligation
14 of a municipality to make payments;

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

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

20 D. "joint utility revenue bonds" or "joint utility
21 bonds" means the bonds authorized by Subsection C of Section
22 3-31-1 NMSA 1978;

23 E. "pledged revenues" means the revenues, net
24 income or net revenues authorized to be pledged to the payment
25 of revenue bonds as specifically provided in Chapter 3, Article

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31 NMSA 1978;

F. "project revenue bonds" means the bonds authorized by Subsection F of Section 3-31-1 NMSA 1978;

G. "sales tax revenue" means the amount of money transferred to the municipality as authorized by Section 7-1-6.12 NMSA 1978 for any municipal sales tax imposed pursuant to the Municipal Local Option Sales Tax Act;

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

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

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

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

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

B. "municipal share" means [~~one and thirty-five one-hundredths percent of~~] the rate determined pursuant to Subsection A of Section 50 of this 2017 act multiplied by the taxable gross receipts as defined in the [Gross Receipts and Compensating] Sales and Use Tax Act reported annually for each

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1 municipality to the taxation and revenue department during a
2 twelve-month period ending June 30;

3 C. "total municipal share" means the sum of all
4 municipal shares;

5 D. "statewide per capita average" means the
6 quotient of the total municipal share divided by the total
7 population in all municipalities;

8 E. "municipal per capita average" means the
9 quotient of the municipal share divided by the municipality's
10 population;

11 F. "population" means the most recent official
12 census or estimate determined by the United States census
13 bureau ~~[of the census]~~, or, if neither is available,
14 "population" means an estimate as determined by the local
15 government division of the department of finance and
16 administration;

17 G. "local tax effort" means the amount produced by
18 ~~[a one-fourth of one percent municipal gross receipts tax]~~ the
19 rate determined pursuant to Subsection B of Section 50 of this
20 2017 act in the previous fiscal year;

21 H. "qualifying municipality" means a municipality
22 with a population of less than ten thousand that has enacted on
23 or before the last day of the preceding fiscal year an
24 ordinance or ordinances imposing a municipal ~~[gross receipts]~~
25 sales tax ~~[pursuant to Section 7-19D-9 NMSA 1978]~~ at ~~[a rate of~~
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1 ~~one-fourth of one percent or more]~~ the rate determined pursuant
2 to Subsection B of Section 50 of this 2017 act;

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

6 (1) for which no election has been called in
7 the manner and within the time provided by Section 7-19D-9 NMSA
8 1978; or

9 (2) that has been approved by a majority of
10 the registered voters voting on the question pursuant to
11 Section 7-19D-9 NMSA 1978; and

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

14 SECTION 4. Section 3-65-8 NMSA 1978 (being Laws 2001,
15 Chapter 231, Section 8) is amended to read:

16 "3-65-8. AUTHORIZATION OF PROJECT.--

17 A. Pursuant to the provisions of Section 6-21-6
18 NMSA 1978, the legislature authorizes the authority to make a
19 loan from the public project revolving fund to a municipality
20 to acquire land for and to design, purchase, construct,
21 remodel, renovate, rehabilitate, improve, equip or furnish a
22 minor league baseball stadium on terms and conditions
23 established by the authority.

24 B. Prior to receiving the loan, the governing body
25 shall approve the loan and related documents by an ordinance to

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

17 C. The legislature or a municipality shall not
18 repeal, amend or otherwise modify any law or ordinance that
19 adversely affects or impairs the stadium surcharge or any loan
20 from the authority secured by a pledge of the stadium surcharge
21 and [~~gross receipts~~] sales tax revenues, unless the loan has
22 been paid in full or provisions have been made for full
23 payment."

24 SECTION 5. Section 3-66-8 NMSA 1978 (being Laws 2005,
25 Chapter 351, Section 10) is amended to read:

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1 "3-66-8. ISSUANCE OF BONDS.--

2 A. A municipality may issue revenue bonds, in
3 accordance with the procedures set forth in Sections 3-31-3
4 through 3-31-7 NMSA 1978, to acquire land for and to design,
5 purchase, construct, remodel, renovate, rehabilitate, improve,
6 equip or furnish a municipal event center.

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

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

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

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1 bonds secured by a pledge of the event center revenues, event
2 center surcharge receipts or [~~gross receipts~~] sales tax
3 revenues, unless the bonds have been paid in full or provisions
4 have been made for full payment."

5 SECTION 6. Section 4-48B-12 NMSA 1978 (being Laws 1981,
6 Chapter 83, Section 12, as amended) is amended to read:

7 "4-48B-12. TAX LEVIES AUTHORIZED.--

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

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

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1 Section 7-37-7.1 NMSA 1978 do not apply to the portion of the
2 rate necessary to produce the revenues required; provided that
3 the portion of the rate does not exceed one dollar fifty cents
4 (\$1.50); and

5 (2) in other counties, the mill levy shall not
6 exceed four dollars twenty-five cents (\$4.25), or any lower
7 maximum amount required by operation of the rate limitation
8 provisions of Section 7-37-7.1 NMSA 1978 upon a mill levy
9 imposed pursuant to this paragraph, on each one thousand
10 dollars (\$1,000) of net taxable value of property allocated to
11 the county.

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

21 C. In the event that the mill levy provided for in
22 Paragraph (1) of Subsection A of this section is not authorized
23 by the electorate or the resulting mill levy proceeds are not
24 remitted to the entity operating the hospital within a
25 reasonable time period, any lease for operation of the hospital

1 between a county and a state educational institution named in
2 Article 12, Section 11 of the constitution of New Mexico may,
3 at the option of the state educational institution, be
4 terminated immediately. Except as provided in Subsection D of
5 this section, in the event that the mill levy provided for in
6 Paragraph (1) of Subsection A of this section is authorized, an
7 amount not less than the amount that would be produced by a
8 mill levy at the rate of four dollars (\$4.00), or any lower
9 amount that would be required by operation of the rate
10 limitation provisions of Section 7-37-7.1 NMSA 1978 upon this
11 rate, on each one thousand dollars (\$1,000) of net taxable
12 value of property allocated to the county shall be provided
13 from the proceeds of the mill levy to the state educational
14 institution operating the hospital for hospital purposes unless
15 the institution determines that the amount is not necessary.

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

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1 also not to exceed the amount that would be produced by
2 imposition of ~~[the county health care gross receipts tax]~~ the
3 rate determined pursuant to Subsection C of Section 52 of this
4 2017 act.

5 E. The distribution of the mill levy authorized at
6 the rates specified in Subsection A of this section shall be
7 made to county and contracting hospitals as authorized in the
8 Hospital Funding Act."

9 SECTION 7. Section 4-61-2 NMSA 1978 (being Laws 1982,
10 Chapter 44, Section 2, as amended) is amended to read:

11 "4-61-2. DEFINITIONS.--As used in the Small Counties
12 Assistance Act:

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

24 B. "ceiling valuation" means,

25 ~~[(1) for the 2002 property tax year, one~~

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1 ~~billion four hundred million dollars (\$1,400,000,000); and~~
2 ~~(2)]~~ for each [subsequent] property tax year,
3 an amount equal to the product obtained by multiplying one
4 billion four hundred million dollars (\$1,400,000,000) by the
5 adjustment factor for the year;

6 C. "demographer" means the bureau of business and
7 economic research at the university of New Mexico;

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

20 E. "population" means the official population shown
21 by the most recent federal decennial census or, if there is a
22 change in boundaries after the date of the census, "population"
23 for each affected unit shall be the most current estimated
24 population for that unit provided in writing by the
25 demographer; provided that after five years from the first day

1 of the calendar year of the most recent federal decennial
2 census, that census shall not be used, and "population" for the
3 period from that date until the date when the next following
4 official final decennial census population data are available
5 shall be the most current estimated population provided in
6 writing by the demographer;

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

8 (1) for the property tax year in which any
9 distribution under the Small Counties Assistance Act is made to
10 the county, imposed a property tax rate for general county
11 purposes pursuant to Paragraph (1) of Subsection B of Section
12 7-37-7 NMSA 1978 as limited by Section 7-37-7.1 NMSA 1978 of at
13 least eight dollars eighty-five cents (\$8.85) per one thousand
14 dollars (\$1,000) of net taxable value;

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

25 (3) on July 1 of the year in which any

1 distribution under the Small Counties Assistance Act is made to
2 the county, a population of not more than forty-eight thousand;

3 (4) imposed county ~~[gross receipts]~~ sales tax
4 increments ~~[authorized pursuant to Section 7-20E-9 NMSA 1978~~
5 ~~totaling at least three-eighths percent]~~ at a rate of at least
6 the rate determined pursuant to Subsection D of Section 50 of
7 this 2017 act and has those increments in effect on July 1 of
8 the year in which a distribution is made; provided that this
9 paragraph does not apply to a county if the county's valuation
10 for property taxation purposes does not exceed the product of
11 two hundred thirty million dollars (\$230,000,000) multiplied by
12 the adjustment factor for the year; and

13 (5) a total valuation for the property tax
14 year preceding the year in which a distribution pursuant to the
15 Small Counties Assistance Act for that county is to be made
16 that is no greater than the ceiling valuation for that property
17 tax year;

18 G. "tax rate factor" means ~~[a fraction, the~~
19 ~~numerator of which is the average rate imposed in Section 7-9-7~~
20 ~~NMSA 1978 for the fiscal year one year prior to the fiscal year~~
21 ~~in which the distribution is to be made and the denominator of~~
22 ~~which is five]~~ one and twenty-five thousandths percent; and

23 H. "total valuation" means the sum for a
24 jurisdiction for a property tax year of the net taxable value
25 determined pursuant to the Property Tax Code, the assessed

1 value determined pursuant to the Oil and Gas Ad Valorem
2 Production Tax Act, the assessed value determined pursuant to
3 the Oil and Gas Production Equipment Ad Valorem Tax Act and the
4 taxable value determined pursuant to the Copper Production Ad
5 Valorem Tax Act."

6 SECTION 8. Section 4-61-3 NMSA 1978 (being Laws 1982,
7 Chapter 44, Section 3, as amended) is amended to read:

8 "4-61-3. SMALL COUNTIES ASSISTANCE FUND--
9 DISTRIBUTION.--

10 A. The "small counties assistance fund" is created
11 within the state treasury.

12 B. On or before September 1, 2003 and on or before
13 September 1 of each subsequent year, the demographer shall
14 certify in writing to the department of finance and
15 administration the population of the state and of each county
16 as of June 30 of the year.

17 C. On or before September 15, 2003 and on or before
18 September 15 of each subsequent year, the secretary of finance
19 and administration shall certify to the state treasurer with
20 respect to each qualifying county:

21 (1) its population as certified by the
22 demographer;

23 (2) its total valuation for the preceding
24 property tax year; and

25 (3) the distribution amount calculated for it.

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1 D. The distribution amount for each qualifying
2 county shall be determined for 2003 and each subsequent year in
3 accordance with the following table; provided that the bracket
4 amounts in the first two columns of the table shall be adjusted
5 annually after 2003 by the adjustment factor. The bracket
6 amounts in the last column shall be adjusted annually after
7 2005 by the inflation factor, and, in 2011 [~~and subsequent~~
8 ~~years~~] through 2018 shall also be adjusted by the tax rate
9 factor. The department of finance and administration may round
10 the results of the adjustments made pursuant to this subsection
11 to the nearest one thousand dollars (\$1,000).

12 If the county's total valuation for the preceding property
13 tax year is:

14	at least:	but less	and the county	then the distribution
15		than:	population is:	amount is:
16	\$ 0	\$100,000,000	under 1,000	\$515,000
17	\$ 0	\$100,000,000	at least 1,000	
18			but under 4,000	\$370,000
19	\$ 0	\$100,000,000	at least 4,000	\$285,000
20	\$100,000,000	\$230,000,000	under 12,000	\$200,000
21	\$100,000,000	\$230,000,000	at least 12,000	\$145,000
22	\$230,000,000	\$1,400,000,000	under 48,000	\$85,000.

23 E. If the balance in the small counties assistance
24 fund as of the preceding August 31 exceeds the sum of the
25 distributions to be made to qualifying counties pursuant to

1 the provisions of Subsection D of this section, the department
2 of finance and administration shall increase the distribution
3 amount for each county receiving a distribution amount
4 pursuant to the provisions of Subsection D of this section by:

5 (1) fifty thousand dollars (\$50,000) if the
6 county has imposed and has in effect on July 1 of the year in
7 which the distribution is to be made, a county [~~correctional~~
8 ~~facility gross receipts~~] sales tax at a rate of at least [~~one-~~
9 ~~eighth percent~~] the rate determined pursuant to Subsection E
10 of Section 50 of this 2017 act and the revenue from those
11 increments is dedicated as follows:

12 (a) for the purpose of operating,
13 maintaining, constructing, purchasing, furnishing, equipping,
14 rehabilitating, expanding or improving a judicial-correctional
15 or a county correctional facility or the grounds of a
16 judicial-correctional or county correctional facility,
17 including acquiring and improving parking lots, landscaping or
18 any combination of the foregoing;

19 (b) for the purpose of transporting or
20 extraditing prisoners; or

21 (c) to payment of principal and
22 interest on revenue bonds or refunding bonds issued for the
23 purposes described in Subparagraphs (a) and (b) of this
24 paragraph;

25 (2) twenty thousand dollars (\$20,000) if the

1 county has imposed and has in effect on July 1 of the year in
2 which the distribution is to be made, a county [~~gross~~
3 ~~receipts~~] sales tax increment of [~~one-sixteenth percent~~] the
4 rate determined pursuant to Subsection E of Section 50 of this
5 2017 act; or

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

9 F. If the balance in the small counties assistance
10 fund as of the preceding August 31 is less than the sum of the
11 distributions determined pursuant to Subsection D of this
12 section plus the distribution increases authorized pursuant to
13 Subsection E of this section, the distribution increases
14 pursuant to Subsection E of this section shall be
15 proportionately reduced.

16 G. If the balance in the small counties assistance
17 fund as of the preceding August 31 is less than the sum of the
18 distributions to be made to qualifying counties, the
19 department of finance and administration shall reduce each
20 qualifying county's calculated distribution by a percentage
21 computed by dividing the amount by which the fund is
22 insufficient by the sum of all the calculated distributions
23 and shall certify the reduced amounts as the qualifying
24 counties' distributions.

25 H. Any interest accruing from the temporary

1 investment of the small counties assistance fund shall be
2 credited to the general fund.

3 I. On or before September 30, 2003 and on or
4 before September 30 of each subsequent year, the state
5 treasurer shall distribute to each county for whom a
6 distribution has been certified for that year the amount
7 certified for that county for that year. If the balance in
8 the fund as of the preceding August 31 exceeds the sum of
9 certified amounts distributed, the difference shall revert to
10 the general fund.

11 J. If any date specified in Subsection B, C or I
12 of this section falls on a Saturday, Sunday or legal holiday,
13 any action required to be performed as provided in those
14 subsections is timely if performed on the next day that is not
15 a Saturday, Sunday or legal holiday."

16 SECTION 9. Section 4-62-1 NMSA 1978 (being Laws 1992,
17 Chapter 95, Section 1, as amended) is amended to read:

18 "4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF
19 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

20 A. In addition to any other law authorizing a
21 county to issue revenue bonds, a county may issue revenue
22 bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the
23 purposes specified in this section. ~~[The term "pledged~~
24 ~~revenues", as used in Chapter 4, Article 62 NMSA 1978, means~~
25 ~~the revenues, net income or net revenues authorized to be~~

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pledged to the payment of particular revenue bonds as specifically provided in Subsections B through M of this section.]

B. [~~Gross receipts~~] Sales tax revenue bonds may be issued for [~~one or more of the following purposes:~~

(1) ~~constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or improving ground relating thereto, including but not necessarily limited to acquiring and improving parking lots, or any combination of the foregoing;~~

(2) ~~acquiring or improving county or public parking lots, structures or facilities or any combination of the foregoing;~~

(3) ~~purchasing, acquiring or rehabilitating firefighting equipment or any combination of the foregoing;~~

(4) ~~acquiring, extending, enlarging, bettering, repairing or otherwise improving or maintaining storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants, water utilities or other water, wastewater or related facilities, including but not limited to the acquisition of rights of way and water and water rights, or any combination of the foregoing;~~

(5) ~~reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys,~~

1 ~~streets, roads or bridges or any combination of the foregoing~~
2 ~~or laying off, opening, constructing or otherwise acquiring~~
3 ~~new alleys, streets, roads or bridges or any combination of~~
4 ~~the foregoing; provided that any of the foregoing improvements~~
5 ~~may include the acquisition of rights of way;~~

6 ~~(6) purchasing, acquiring, constructing,~~
7 ~~making additions to, enlarging, bettering, extending or~~
8 ~~equipping airport facilities or any combination of the~~
9 ~~foregoing, including without limitation the acquisition of~~
10 ~~land, easements or rights of way;~~

11 ~~(7) purchasing or otherwise acquiring or~~
12 ~~clearing land or purchasing, otherwise acquiring and~~
13 ~~beautifying land for open space;~~

14 ~~(8) acquiring, constructing, purchasing,~~
15 ~~equipping, furnishing, making additions to, renovating,~~
16 ~~rehabilitating, beautifying or otherwise improving public~~
17 ~~parks, public recreational buildings or other public~~
18 ~~recreational facilities or any combination of the foregoing;~~

19 ~~(9) acquiring, constructing, extending,~~
20 ~~enlarging, bettering, repairing or otherwise improving or~~
21 ~~maintaining solid waste disposal equipment, equipment for~~
22 ~~operation and maintenance of sanitary landfills, sanitary~~
23 ~~landfills, solid waste facilities or any combination of the~~
24 ~~foregoing; or~~

25 ~~(10) acquiring, constructing, extending,~~

1 ~~bettering, repairing or otherwise improving public transit~~
2 ~~systems or any regional transit systems or facilities]~~ any
3 county purpose. A county may pledge irrevocably any or all of
4 the revenue [~~from the first one-eighth increment, the third~~
5 ~~one-eighth increment and the one-sixteenth increment of the~~
6 ~~county gross receipts tax and any increment of the county~~
7 ~~infrastructure gross receipts tax and county capital outlay~~
8 ~~gross receipts tax]~~ received by the county pursuant to Section
9 7-1-6.13 NMSA 1978 for payment of principal and interest due
10 in connection with, and other expenses related to, [~~gross~~
11 ~~receipts]~~ sales tax revenue bonds [~~for any of the purposes~~
12 ~~authorized in this section or specific purposes]~~ or for any
13 area of county government services. If the revenue [~~from the~~
14 ~~first one-eighth increment, the third one-eighth increment or~~
15 ~~the one-sixteenth increment of the county gross receipts tax~~
16 ~~or any increment of the county infrastructure gross receipts~~
17 ~~tax or county capital outlay gross receipts tax]~~ is pledged
18 for payment of principal and interest as authorized by this
19 subsection, the pledge shall require the revenues received
20 [~~from that increment of the county gross receipts tax or any~~
21 ~~increment of the county infrastructure gross receipts tax or~~
22 ~~county capital outlay gross receipts tax]~~ to be deposited into
23 a special bond fund for payment of the principal, interest and
24 expenses. At the end of each fiscal year, money remaining in
25 the special bond fund after the annual obligations for the

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

10 ~~[C. Fire protection revenue bonds may be issued~~
11 ~~for acquiring, extending, enlarging, bettering, repairing,~~
12 ~~improving, constructing, purchasing, furnishing, equipping or~~
13 ~~rehabilitating any independent fire district project or~~
14 ~~facilities, including where applicable purchasing, otherwise~~
15 ~~acquiring or improving the ground for the project, or any~~
16 ~~combination of such purposes. A county may pledge irrevocably~~
17 ~~any or all of the county fire protection excise tax revenue~~
18 ~~for payment of principal and interest due in connection with,~~
19 ~~and other expenses related to, fire protection revenue bonds.~~
20 ~~These bonds may be referred to in Chapter 4, Article 62 NMSA~~
21 ~~1978 as "fire protection revenue bonds".~~

22 ~~D. Environmental revenue bonds may be issued for~~
23 ~~the acquisition and construction of solid waste facilities,~~
24 ~~water facilities, wastewater facilities, sewer systems and~~
25 ~~related facilities. A county may pledge irrevocably any or~~

1 ~~all of the county environmental services gross receipts tax~~
2 ~~revenue for payment of principal and interest due in~~
3 ~~connection with, and other expenses related to, environmental~~
4 ~~revenue bonds. These bonds may be referred to in Chapter 4,~~
5 ~~Article 62 NMSA 1978 as "environmental revenue bonds".~~

6 E.] C. Gasoline tax revenue bonds may be issued
7 for the acquisition of rights of way for and the construction,
8 reconstruction, resurfacing, maintenance, repair or other
9 improvement of county roads and bridges. A county may pledge
10 irrevocably any or all of the county gasoline tax revenue for
11 payment of principal and interest due in connection with, and
12 other expenses related to, county gasoline tax revenue bonds.
13 [~~These bonds may be referred to in Chapter 4, Article 62 NMSA~~
14 ~~1978 as "gasoline tax revenue bonds".~~

15 F.] D. Utility revenue bonds or joint utility
16 revenue bonds may be issued for acquiring, extending,
17 enlarging, bettering, repairing or otherwise improving water
18 facilities, sewer facilities, gas facilities or electric
19 facilities or for any combination of the foregoing purposes.
20 A county may pledge irrevocably any or all of the net revenues
21 from the operation of the utility or joint utility for which
22 the particular utility or joint utility bonds are issued to
23 the payment of principal and interest due in connection with,
24 and other expenses related to, utility or joint utility
25 revenue bonds. [~~These bonds may be referred to in Chapter 4,~~

1 ~~Article 62 NMSA 1978 as "utility revenue bonds" or "joint~~
2 ~~utility revenue bonds".~~

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

1 the proceedings authorizing the project revenue bonds. [As
2 ~~used in Chapter 4, Article 62 NMSA 1978:~~

3 ~~(1) "project revenue bonds" means the bonds~~
4 ~~authorized in this subsection; and~~

5 ~~(2) "project revenues" means the net~~
6 ~~revenues of revenue-producing projects that may be pledged to~~
7 ~~project revenue bonds pursuant to this subsection.~~

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

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

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

14 ~~[J. Hospital emergency gross receipts tax revenue~~
15 ~~bonds may be issued for acquiring, equipping, remodeling or~~
16 ~~improving a county hospital or county health facility. A~~
17 ~~county may pledge irrevocably to the payment of the interest~~
18 ~~on and principal of the hospital emergency gross receipts tax~~
19 ~~revenue bonds any or all of the revenues received by the~~
20 ~~county from a county hospital emergency gross receipts tax~~
21 ~~imposed pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated~~
22 ~~to payment of bonds or a loan for acquiring, equipping,~~
23 ~~remodeling or improving a county hospital or county health~~
24 ~~facility.~~

25 ~~K. Economic development gross receipts tax revenue~~

1 ~~bonds may be issued for the purpose of furthering economic~~
2 ~~development projects as defined in the Local Economic~~
3 ~~Development Act. A county may pledge irrevocably any or all~~
4 ~~of the county infrastructure gross receipts tax to the payment~~
5 ~~of the interest on and principal of the economic development~~
6 ~~gross receipts tax revenue bonds for the purpose authorized in~~
7 ~~this subsection.~~

8 ~~L. County education gross receipts tax revenue~~
9 ~~bonds may be issued for public school or off-campus~~
10 ~~instruction program capital projects as authorized in Section~~
11 ~~7-20E-20 NMSA 1978. A county may pledge irrevocably any or~~
12 ~~all of the county education gross receipts tax revenue to the~~
13 ~~payment of interest on and principal of the county education~~
14 ~~gross receipts tax revenue bonds for the purpose authorized in~~
15 ~~this section.~~

16 ~~M.]~~ H. PILT revenue bonds may be issued by a
17 county to repay all or part of the principal and interest of
18 an outstanding loan owed by the county to the New Mexico
19 finance authority. A county may pledge irrevocably all or
20 part of PILT revenue to the payment of principal of and
21 interest on new loans or preexisting loans provided by the New
22 Mexico finance authority to finance a public project as
23 "public project" is defined in Subsection E of Section 6-21-3
24 NMSA 1978.

25 ~~[N.]~~ I. Except for the purpose of refunding

1 previous revenue bond issues, no county may sell revenue bonds
2 payable from pledged revenue after the expiration of two years
3 from the date of the ordinance authorizing the issuance of the
4 bonds or, for bonds to be issued and sold to the New Mexico
5 finance authority as authorized in Subsection C of Section
6 4-62-4 NMSA 1978, after the expiration of two years from the
7 date of the resolution authorizing the issuance of the bonds.
8 However, any period of time during which a particular revenue
9 bond issue is in litigation shall not be counted in
10 determining the expiration date of that issue.

11 ~~[G.]~~ J. No bonds may be issued by a county, other
12 than an H class county, a class B county as defined in Section
13 4-36-8 NMSA 1978 or a class A county as described in Section
14 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,
15 repair or construct a utility unless the utility is regulated
16 by the public regulation commission pursuant to the Public
17 Utility Act and the issuance of the bonds is approved by the
18 commission. For purposes of Chapter 4, Article 62 NMSA 1978,
19 a "utility" includes ~~[but is not limited to]~~ a water,
20 wastewater, sewer, gas or electric utility or joint utility
21 serving the public. H class counties shall obtain public
22 regulation commission approvals required by Section 3-23-3
23 NMSA 1978.

24 ~~[P.]~~ K. Any law that imposes or authorizes the
25 imposition of a county ~~[gross receipts tax, a county~~

1 ~~environmental services gross receipts tax, a county fire~~
2 ~~protection excise tax, a county infrastructure gross receipts~~
3 ~~tax, the county education gross receipts tax, a county capital~~
4 ~~outlay gross receipts tax, the gasoline tax or the county~~
5 ~~hospital emergency gross receipts tax, or that affects any of~~
6 ~~those taxes]~~ sales tax or that affects that tax shall not be
7 repealed or amended in such a manner as to impair outstanding
8 revenue bonds that are issued pursuant to Chapter 4, Article
9 62 NMSA 1978 and that may be secured by a pledge of [~~those~~
10 ~~taxes]~~ that tax unless the outstanding revenue bonds have been
11 discharged in full or provision has been fully made therefor.

12 [Q. ~~As used in this section:~~

13 (1) ~~"county infrastructure gross receipts~~
14 ~~tax revenue" means the revenue from the county infrastructure~~
15 ~~gross receipts tax transferred to the county pursuant to~~
16 ~~Section 7-1-6.13 NMSA 1978;~~

17 (2) ~~"county capital outlay gross receipts~~
18 ~~tax revenue" means the revenue from the county capital outlay~~
19 ~~gross receipts tax transferred to the county pursuant to~~
20 ~~Section 7-1-6.13 NMSA 1978;~~

21 (3) ~~"county education gross receipts tax~~
22 ~~revenue" means the revenue from the county education gross~~
23 ~~receipts tax transferred to the county pursuant to Section~~
24 ~~7-1-6.13 NMSA 1978;~~

25 (4) ~~"county environmental services gross~~

1 ~~receipts tax revenue" means the revenue from the county~~
2 ~~environmental services gross receipts tax transferred to the~~
3 ~~county pursuant to Section 7-1-6.13 NMSA 1978;~~

4 ~~(5) "county fire protection excise tax~~
5 ~~revenue" means the revenue from the county fire protection~~
6 ~~excise tax transferred to the county pursuant to Section~~
7 ~~7-1-6.13 NMSA 1978;~~

8 ~~(6) "county gross receipts tax revenue"~~
9 ~~means the revenue attributable to the first one-eighth~~
10 ~~increment, the third one-eighth increment and the one-~~
11 ~~sixteenth increment of the county gross receipts tax~~
12 ~~transferred to the county pursuant to Section 7-1-6.13 NMSA~~
13 ~~1978 and any distribution related to the first one-eighth~~
14 ~~increment made pursuant to Section 7-1-6.16 NMSA 1978;~~

15 ~~(7) "gasoline tax revenue" means the revenue~~
16 ~~from that portion of the gasoline tax distributed to the~~
17 ~~county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;~~

18 ~~(8) "PILT revenue" means revenue received by~~
19 ~~the county from the federal government as payments in lieu of~~
20 ~~taxes; and~~

21 ~~(9) "public building" includes but is not~~
22 ~~limited to fire stations, police buildings, county or regional~~
23 ~~jails, county or regional juvenile detention facilities,~~
24 ~~libraries, museums, auditoriums, convention halls, hospitals,~~
25 ~~buildings for administrative offices, courthouses and garages~~

1 ~~for housing, repairing and maintaining county vehicles and~~
2 ~~equipment.~~

3 ~~R. As used in Chapter 4, Article 62 NMSA 1978,~~
4 ~~the term "bond" means any obligation of a county issued under~~
5 ~~Chapter 4, Article 62 NMSA 1978, whether designated as a bond,~~
6 ~~note, loan, warrant, debenture, lease-purchase agreement or~~
7 ~~other instrument evidencing an obligation of a county to make~~
8 ~~payments.] "~~

9 SECTION 10. A new section of Chapter 4, Article 62 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] DEFINITIONS.--As used in Chapter 4,
12 Article 62 NMSA 1978:

13 A. "bond" means any obligation of a county issued
14 under Chapter 4, Article 62 NMSA 1978, whether designated as a
15 bond, note, loan, warrant, debenture, lease-purchase agreement
16 or other instrument evidencing an obligation of a county to
17 make payments;

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

20 C. "PILT revenue" means revenue received by the
21 county from the federal government as payments in lieu of
22 taxes;

23 D. "pledged revenue" means the revenue, net income
24 or net revenue authorized to be pledged to the payment of
25 particular revenue bond as specifically provided in Section

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1 4-62-1 NMSA 1978;

2 E. "project revenues" means the net revenues of
3 revenue-producing projects that may be pledged to project
4 revenue bonds;

5 F. "sales tax revenue" means the revenue
6 attributable to the county sales tax transferred to the county
7 pursuant to Section 7-1-6.13 NMSA 1978 and any distribution
8 made pursuant to Section 7-1-6.16 NMSA 1978;

9 G. "sales tax revenue bonds" means the bonds
10 authorized by Subsection B of Section 4-62-1 NMSA 1978; and

11 H. "utility revenue bonds" or "joint utility
12 revenue bonds" means the bonds authorized by Subsection D of
13 Section 4-62-1 NMSA 1978."

14 SECTION 11. Section 5-10-3 NMSA 1978 (being Laws 1993,
15 Chapter 297, Section 3, as amended) is amended to read:

16 "5-10-3. DEFINITIONS.--As used in the Local Economic
17 Development Act:

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

21 B. "cultural facility" means a facility that is
22 owned by the state, a county, a municipality or a qualifying
23 entity that serves the public through preserving, educating
24 and promoting the arts and culture of a particular locale,
25 including theaters, museums, libraries, galleries, cultural

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1 compounds, educational organizations, performing arts venues
2 and organizations, fine arts organizations, studios and media
3 laboratories and live-work housing facilities;

4 C. "department" means the economic development
5 department;

6 D. "economic development project" or "project"
7 means the provision of direct or indirect assistance to a
8 qualifying entity by a local or regional government and
9 includes the purchase, lease, grant, construction,
10 reconstruction, improvement or other acquisition or conveyance
11 of land, buildings or other infrastructure; public works
12 improvements essential to the location or expansion of a
13 qualifying entity; payments for professional services
14 contracts necessary for local or regional governments to
15 implement a plan or project; the provision of direct loans or
16 grants for land, buildings or infrastructure; technical
17 assistance to cultural facilities; loan guarantees securing
18 the cost of land, buildings or infrastructure in an amount not
19 to exceed the revenue that may be derived from ~~[the municipal~~
20 ~~infrastructure gross receipts tax or the county infrastructure~~
21 ~~gross receipts tax]~~ an increment of a local option sales tax
22 imposed by a municipality or county that is dedicated for
23 furthering or implementing economic development plans and
24 projects as defined in the Local Economic Development Act or
25 projects as defined in the Statewide Economic Development

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1 Finance Act; grants for public works infrastructure
2 improvements essential to the location or expansion of a
3 qualifying entity; grants or subsidies to cultural facilities;
4 purchase of land for a publicly held industrial park or a
5 publicly owned cultural facility; and the construction of a
6 building for use by a qualifying entity;

7 E. "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 F. "local government" means a municipality or
11 county;

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

14 H. "person" means an individual, corporation,
15 association, partnership or other legal entity;

16 I. "qualifying entity" means a corporation,
17 limited liability company, partnership, joint venture,
18 syndicate, association or other person that is one or a
19 combination of two or more of the following:

20 (1) an industry for the manufacturing,
21 processing or assembling of agricultural or manufactured
22 products;

23 (2) a commercial enterprise for storing,
24 warehousing, distributing or selling products of agriculture,
25 mining or industry, but, other than as provided in Paragraph

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1 (5), (6) or (9) of this subsection, not including any
2 enterprise for sale of goods or commodities at retail or for
3 distribution to the public of electricity, gas, water or
4 telephone or other services commonly classified as public
5 utilities;

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

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

16 (5) a telecommunications sales enterprise
17 that makes the majority of its sales to persons outside
18 New Mexico;

19 (6) a facility for the direct sales by
20 growers of agricultural products, commonly known as farmers'
21 markets;

22 (7) a business that is the developer of a
23 metropolitan redevelopment project;

24 (8) a cultural facility; and

25 (9) a retail business;

1 J. "regional government" means any combination of
2 municipalities and counties that enter into a joint powers
3 agreement to provide for economic development projects
4 pursuant to a plan adopted by all parties to the joint powers
5 agreement; and

6 K. "retail business" means a business that is
7 primarily engaged in the sale of goods or commodities at
8 retail and that is located in a municipality with a
9 population, according to the most recent federal decennial
10 census, of:

11 (1) ten thousand or less; or

12 (2) more than ten thousand but less than
13 thirty-five thousand if:

14 (a) the economic development project is
15 not funded or financed with state government revenues; and

16 (b) the business created through the
17 project will not directly compete with an existing business
18 that is: 1) in the municipality; and 2) engaged in the sale
19 of the same or similar goods or commodities at retail."

20 SECTION 12. Section 5-10-4 NMSA 1978 (being Laws 1993,
21 Chapter 297, Section 4, as amended) is amended to read:

22 "5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON
23 PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

24 A. No local or regional government shall provide
25 public support for economic development projects as permitted

1 pursuant to Article 9, Section 14 of the constitution of
2 New Mexico except as provided in the Local Economic
3 Development Act or as otherwise permitted by law.

4 B. The total amount of public money expended and
5 the value of credit pledged in the fiscal year in which that
6 money is expended by a local government for economic
7 development projects pursuant to Article 9, Section 14 of the
8 constitution of New Mexico and the Local Economic Development
9 Act shall not exceed ten percent of the annual general fund
10 expenditures of the local government in that fiscal year. The
11 limits of this subsection shall not apply to:

12 (1) the value of any land or building
13 contributed to any project pursuant to a project participation
14 agreement;

15 (2) revenue generated through the imposition
16 of ~~[the municipal infrastructure gross receipts tax pursuant~~
17 ~~to the Municipal Local Option Gross Receipts Taxes Act]~~ a
18 municipal sales tax increment for furthering or implementing
19 economic development plans and projects as defined in the
20 Local Economic Development Act or projects as defined in the
21 Statewide Economic Development Finance Act; provided that no
22 more than the greater of fifty thousand dollars (\$50,000) or
23 ten percent of the revenue collected shall be used for
24 promotion and administration of or professional services
25 contracts related to the implementation of any such economic

1 development plan adopted by the governing body;

2 (3) revenue generated through the imposition
3 of a county [~~infrastructure gross receipts tax pursuant to the~~
4 ~~County Local Option Gross Receipts Taxes Act~~] sales tax
5 increment for furthering or implementing economic development
6 plans and projects as defined in the Local Economic
7 Development Act or projects as defined in the Statewide
8 Economic Development Finance Act; provided that no more than
9 the greater of fifty thousand dollars (\$50,000) or ten percent
10 of the revenue collected shall be used for promotion and
11 administration of or professional services contracts related
12 to the implementation of any such economic development plan
13 adopted by the governing body;

14 (4) the proceeds of a revenue bond issue to
15 which municipal [~~infrastructure gross receipts~~] sales tax
16 revenue that is dedicated for furthering or implementing
17 economic development plans and projects as defined in the
18 Local Economic Development Act or projects as defined in the
19 Statewide Economic Development Finance Act is pledged;

20 (5) the proceeds of a revenue bond issue to
21 which county [~~infrastructure gross receipts~~] sales tax revenue
22 is pledged that is dedicated for furthering or implementing
23 economic development plans and projects as defined in the
24 Local Economic Development Act or projects as defined in the
25 Statewide Economic Development Finance Act; or

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

3 C. A regional or local government that generates
4 revenue for economic development projects to which the limits
5 of Subsection B of this section do not apply shall create an
6 economic development fund into which such revenues shall be
7 deposited. The economic development fund and income from the
8 economic development fund shall be deposited as provided by
9 law. Money in the economic development fund may be expended
10 only as provided in the Local Economic Development Act or the
11 Statewide Economic Development Finance Act.

12 ~~[D. In order to expend money from an economic~~
13 ~~development fund for arts and cultural district purposes,~~
14 ~~cultural facilities or retail businesses, the governing body~~
15 ~~of a municipality or county that has imposed a municipal or~~
16 ~~county local option infrastructure gross receipts tax for~~
17 ~~furthering or implementing economic development plans and~~
18 ~~projects, as defined in the Local Economic Development Act, or~~
19 ~~projects, as defined in the Statewide Economic Development~~
20 ~~Finance Act, by referendum of the majority of the voters~~
21 ~~voting on the question approving the ordinance imposing the~~
22 ~~municipal or county infrastructure gross receipts tax before~~
23 ~~July 1, 2013 shall be required to adopt a resolution. The~~
24 ~~resolution shall call for an election to approve arts and~~
25 ~~cultural districts as a qualifying purpose and cultural~~

1 ~~facilities or retail businesses as a qualifying entity before~~
2 ~~any revenue generated by the municipal or county local option~~
3 ~~gross receipts tax for furthering or implementing economic~~
4 ~~development plans and projects, as defined in the Local~~
5 ~~Economic Development Act, or projects, as defined in the~~
6 ~~Statewide Economic Development Finance Act, can be expended~~
7 ~~from the economic development fund for arts and cultural~~
8 ~~district purposes, cultural facilities or retail businesses.~~

9 E. ~~The governing body shall adopt a resolution~~
10 ~~calling for an election within seventy-five days of the date~~
11 ~~the ordinance is adopted on the question of approving arts and~~
12 ~~cultural districts as a qualifying purpose and cultural~~
13 ~~facilities or retail businesses as a qualifying entity~~
14 ~~eligible to utilize revenue generated by the Municipal Local~~
15 ~~Option Gross Receipts Taxes Act or the County Local Option~~
16 ~~Gross Receipts Taxes Act for furthering or implementing~~
17 ~~economic development plans and projects as defined in the~~
18 ~~Local Economic Development Act or projects as defined in the~~
19 ~~Statewide Economic Development Finance Act.~~

20 F. ~~The question shall be submitted to the voters~~
21 ~~of the municipality or county as a separate question at a~~
22 ~~regular municipal or county election or at a special election~~
23 ~~called for that purpose by the governing body. A special~~
24 ~~municipal election shall be called, conducted and canvassed as~~
25 ~~provided in the Municipal Election Code. A special county~~

1 ~~election shall be called, conducted and canvassed in~~
2 ~~substantially the same manner as provided by law for general~~
3 ~~elections.~~

4 ~~G. If a majority of the voters voting on the~~
5 ~~question approves the ordinance adding arts and cultural~~
6 ~~districts and cultural facilities or retail businesses as an~~
7 ~~approved use of the local option municipal or county economic~~
8 ~~development infrastructure gross receipts tax fund, the~~
9 ~~ordinance shall become effective on July 1 or January 1,~~
10 ~~whichever date occurs first after the expiration of three~~
11 ~~months from the date of the adopted ordinance. The ordinance~~
12 ~~shall include the effective date.]"~~

13 SECTION 13. Section 5-15-3 NMSA 1978 (being Laws 2006,
14 Chapter 75, Section 3) is amended to read:

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

17 A. "base [~~gross receipts~~] sales taxes" means:

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

1 calendar year preceding the effective date of the modification
2 of the tax increment development plan and designated by the
3 governing body to be available as part of the gross receipts
4 or sales tax increment; and

5 (2) any amount of gross receipts or sales
6 taxes that would have been collected in such year if any
7 applicable additional gross receipts or sales taxes imposed
8 after that year had been imposed in that year;

9 B. "base property taxes" means:

10 (1) the portion of property taxes produced
11 by the total of all property tax levied at the rate fixed each
12 year by each governing body levying a property tax on the
13 assessed value of taxable property within the tax increment
14 development area last certified for the year ending
15 immediately prior to the year in which a tax increment
16 development plan is approved for the tax increment development
17 area, or, when an area is added to an existing tax increment
18 development area, "base property taxes" means that portion of
19 property taxes produced by the total of all property tax
20 levied at the rate fixed each year by each governing body
21 levying a property tax upon the assessed value of taxable
22 property within the tax increment development area on the date
23 of the modification of the tax increment development plan and
24 designated by the governing body to be available as part of
25 the property tax increment; and

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

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

10 D. "district" means a tax increment development
11 district;

12 E. "district board" means a board formed in
13 accordance with the provisions of the Tax Increment for
14 Development Act to govern a [~~tax increment development~~]
15 district;

16 F. "enhanced services" means public services
17 provided by a municipality or county within the district at a
18 higher level or to a greater degree than otherwise available
19 to the land located in the district from the municipality or
20 county, including such services as public safety, fire
21 protection, street or sidewalk cleaning or landscape
22 maintenance in public areas; provided that "enhanced services"
23 does not include the basic operation and maintenance related
24 to infrastructure improvements financed by the district
25 pursuant to the Tax Increment for Development Act;

1 G. "governing body" means the city council or city
2 commission of a city, the board of trustees or council of a
3 town or village or the board of county commissioners of a
4 county;

5 ~~[H. "gross receipts tax increment" means the gross~~
6 ~~receipts taxes collected within a tax increment development~~
7 ~~district in excess of the base gross receipts taxes collected~~
8 ~~for the duration of the existence of a tax increment~~
9 ~~development district and distributed to the district in the~~
10 ~~same manner as distributions are made under the provisions of~~
11 ~~the Tax Administration Act;~~

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 or sales taxes imposed by
20 municipalities ~~[pursuant to the Municipal Local Option Gross~~
21 ~~Receipts Taxes Act]~~ and designated by the governing body of
22 the municipality to be available as part of the ~~[gross~~
23 ~~receipts]~~ sales tax increment;

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

1 [M-] K. "owner" means a person owning real
2 property within the boundaries of a district;

3 [N-] L. "person" means an individual, corporation,
4 association, partnership, limited liability company or other
5 legal entity;

6 [Θ-] M. "project" means a tax increment
7 development project;

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

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

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

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

1 discharge;

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

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

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

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

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

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

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

25 (9) electrical generation, transmission and

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1 distribution facilities;

2 (10) natural gas distribution facilities;

3 (11) lighting systems;

4 (12) cable or other telecommunications lines
5 and related equipment;

6 (13) traffic control systems and devices,
7 including signals, controls, markings and signage;

8 (14) school sites and facilities with the
9 consent of the governing board of the public school district
10 for which the facility is to be acquired, constructed or
11 renovated;

12 (15) library and other public educational or
13 cultural facilities;

14 (16) equipment, vehicles, furnishings and
15 other personal property related to the items listed in this
16 subsection;

17 (17) inspection, construction management,
18 planning and program management and other professional
19 services costs incidental to the project;

20 (18) workforce housing; and

21 (19) any other improvement that the
22 governing body determines to be for the use or benefit of the
23 public;

24 [S.] Q. "resident qualified elector" means a
25 person who resides within the boundaries of a [tax-increment

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1 ~~development]~~ district or proposed [~~tax increment development]~~
2 district and who is qualified to vote in the general elections
3 held in the state pursuant to Section 1-1-4 NMSA 1978;

4 R. "sales tax increment" means the sales taxes
5 collected within a district in excess of the base sales taxes
6 collected for the duration of the existence of a district and
7 distributed to the district in the same manner as
8 distributions are made under the provisions of the Tax
9 Administration Act;

10 S. "sales tax increment bonds" means bonds issued
11 by a district in accordance with the Tax Increment for
12 Development Act, the pledged revenue for which is a sales tax
13 increment;

14 T. "state [~~gross receipts~~] sales tax" means [~~the~~]
15 gross receipts or state sales tax imposed pursuant to the
16 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act [~~but~~
17 ~~does not include that portion distributed to municipalities~~
18 ~~pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978 or to~~
19 ~~counties pursuant to Section 7-1-6.47 NMSA 1978]~~;

20 U. "sustainable development" means land
21 development that achieves sustainable economic and social
22 goals in ways that can be supported for the long term by
23 conserving resources, protecting the environment and ensuring
24 human health and welfare using mixed-use, pedestrian-oriented,
25 multimodal land use planning;

1 V. "tax increment development area" means the land
2 included within the boundaries of a [~~tax increment~~
3 ~~development~~] district;

4 W. "tax increment development district" means a
5 district formed for the purposes of carrying out [~~tax~~
6 ~~increment development~~] projects;

7 X. "tax increment development plan" means a plan
8 for the undertaking of a [~~tax increment development~~] project;

9 Y. "tax increment development project" means
10 activities undertaken within a tax increment development area
11 to enhance the sustainability of the local, regional or
12 statewide economy; to support the creation of jobs, schools
13 and workforce housing; and to generate tax revenue for the
14 provision of public improvements and may include:

15 (1) acquisition of land within a designated
16 tax increment development area or a portion of that tax
17 increment development area;

18 (2) demolition and removal of buildings and
19 improvements and installation, construction or reconstruction
20 of streets, utilities, parks, playgrounds and improvements
21 necessary to carry out the objectives of the Tax Increment for
22 Development Act;

23 (3) installation, construction or
24 reconstruction of streets, water utilities, sewer utilities,
25 parks, playgrounds and other public improvements necessary to

1 carry out the objectives of the Tax Increment for Development
2 Act;

3 (4) disposition of property acquired or held
4 by a [~~tax increment development~~] district as part of the
5 undertaking of a [~~tax increment development~~] project at the
6 fair market value of such property for uses in accordance with
7 the Tax Increment for Development Act;

8 (5) payments for professional services
9 contracts necessary to implement a tax increment development
10 plan or project;

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

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

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

22 AA. "workforce housing" means decent, safe and
23 sanitary dwellings, apartments, single-family dwellings or
24 other living accommodations that are affordable for persons or
25 families earning less than eighty percent of the median income

1 within the county in which the [~~tax increment development~~]
2 project is located; provided that an owner-occupied housing
3 unit is affordable to a household if the expected sales price
4 is reasonably anticipated to result in monthly housing costs
5 that do not exceed thirty-three percent of the household's
6 gross monthly income; provided that:

7 (1) determination of mortgage amounts and
8 payments are to be based on down payment rates and interest
9 rates generally available to lower- and moderate-income
10 households; and

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

16 SECTION 14. Section 5-15-15 NMSA 1978 (being Laws 2006,
17 Chapter 75, Section 15, as amended) is amended to read:

18 "5-15-15. TAX INCREMENT FINANCING--~~[GROSS RECEIPTS]~~
19 SALES TAX INCREMENT.--

20 A. Notwithstanding any law to the contrary, but in
21 accordance with the provisions of the Tax Increment for
22 Development Act, a tax increment development plan, as
23 originally approved or as later modified, may contain a
24 provision that a portion of certain ~~[gross receipts]~~ sales tax
25 increments collected within the tax increment development area

1 after the effective date of approval of the tax increment
2 development plan may be dedicated for the purpose of securing
3 [~~gross receipts~~] sales tax increment bonds pursuant to the Tax
4 Increment for Development Act.

5 B. As to a district formed by a municipality, a
6 portion of any of the following [~~gross receipts~~] sales tax
7 increments may be paid by the state directly into a special
8 fund of the district to pay the principal of, the interest on
9 and any premium due in connection with the bonds of, loans or
10 advances to, or any indebtedness incurred by, whether funded,
11 refunded, assumed or otherwise, the authority for financing or
12 refinancing, in whole or in part, a [~~tax increment~~
13 ~~development~~] project within the tax increment development
14 area:

15 (1) municipal [~~gross receipts~~] sales tax
16 authorized pursuant to the Municipal Local Option [~~Gross~~
17 ~~Receipts Taxes~~] Sales Tax Act;

18 [~~(2) municipal environmental services gross~~
19 ~~receipts tax authorized pursuant to the Municipal Local Option~~
20 ~~Gross Receipts Taxes Act;~~

21 [~~(3) municipal infrastructure gross receipts~~
22 ~~tax authorized pursuant to the Municipal Local Option Gross~~
23 ~~Receipts Taxes Act;~~

24 [~~(4) municipal capital outlay gross receipts~~
25 ~~tax authorized pursuant to the Municipal Local Option Gross~~

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1 ~~Receipts Taxes Act;~~

2 ~~(5) municipal regional transit gross~~
3 ~~receipts tax authorized pursuant to the Municipal Local Option~~
4 ~~Gross Receipts Taxes Act;~~

5 ~~(6) an amount distributed to municipalities~~
6 ~~pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978] and~~

7 ~~[~~(7)~~]~~ (2) the state [~~gross receipts~~] sales
8 tax.

9 C. As to a district formed by a county, all or a
10 portion of any of the following [~~gross receipts~~] sales tax
11 increments may be paid by the state directly into a special
12 fund of the district to pay the principal of, the interest on
13 and any premium due in connection with the bonds of, loans or
14 advances to or any indebtedness incurred by, whether funded,
15 refunded, assumed or otherwise, the district for financing or
16 refinancing, in whole or in part, a [~~tax increment~~
17 ~~development~~] project within the tax increment development
18 area:

19 (1) county [~~gross receipts~~] sales tax
20 authorized pursuant to the County Local Option [~~Gross Receipts~~
21 ~~Taxes~~] Sales Tax Act; and

22 ~~(2) county environmental services gross~~
23 ~~receipts tax authorized pursuant to the County Local Option~~
24 ~~Gross Receipts Taxes Act;~~

25 ~~(3) county infrastructure gross receipts tax~~

1 ~~authorized pursuant to the County Local Option Gross Receipts~~
2 ~~Taxes Act;~~

3 ~~(4) county capital outlay gross receipts tax~~
4 ~~authorized pursuant to the County Local Option Gross Receipts~~
5 ~~Taxes Act;~~

6 ~~(5) county regional transit gross receipts~~
7 ~~tax authorized pursuant to the County Local Option Gross~~
8 ~~Receipts Taxes Act;~~

9 ~~(6) the amount distributed to counties~~
10 ~~pursuant to Section 7-1-6.47 NMSA 1978; and~~

11 ~~(7)]~~ (2) the state ~~[gross receipts]~~ sales
12 tax.

13 ~~[D. The gross receipts tax increment generated by~~
14 ~~the imposition of municipal or county local option gross~~
15 ~~receipts taxes specified by statute for particular purposes~~
16 ~~may nonetheless be dedicated for the purposes of the Tax~~
17 ~~Increment for Development Act if intent to do so is set forth~~
18 ~~in the tax increment development plan approved by the~~
19 ~~governing body, if the purpose for which the increment is~~
20 ~~intended to be used is consistent with the purposes set forth~~
21 ~~in the statute authorizing the municipal or county local~~
22 ~~option gross receipts tax.~~

23 ~~E.]~~ D. An imposition of a ~~[gross receipts]~~ sales
24 tax increment attributable to the imposition of a [gross
25 receipts] sales tax by a taxing entity may be dedicated for

1 the purpose of securing ~~[gross receipts]~~ sales tax increment
2 bonds with the agreement of the taxing entity, evidenced by a
3 resolution adopted by a majority vote of that taxing entity.
4 A taxing entity shall not agree to dedicate for the purposes
5 of securing ~~[gross receipts]~~ sales tax increment bonds more
6 than seventy-five percent of its ~~[gross receipts]~~ sales tax
7 increment attributable to the imposition of ~~[gross receipts]~~
8 sales taxes by the taxing entity. A resolution of the taxing
9 entity to dedicate a ~~[gross receipts]~~ sales tax increment or
10 to increase the dedication of a ~~[gross receipts]~~ sales tax
11 increment shall become effective only on January 1 or July 1
12 of the calendar year.

13 [F.] E. An imposition of a ~~[gross receipts]~~ sales
14 tax increment attributable to the imposition of the state
15 ~~[gross receipts]~~ sales tax within a district ~~[less the~~
16 ~~distributions made pursuant to Section 7-1-6.4 NMSA 1978]~~ may
17 be dedicated for the purpose of securing ~~[gross receipts]~~
18 sales tax increment bonds with the agreement of the state
19 board of finance, evidenced by a resolution adopted by a
20 majority vote of the state board of finance. The state board
21 of finance shall not agree to dedicate more than seventy-five
22 percent of the ~~[gross receipts]~~ sales tax increment
23 attributable to the imposition of the state ~~[gross receipts]~~
24 sales tax within the district. The resolution of the state
25 board of finance shall become effective only on January 1 or

1 July 1 of the calendar year and shall find that:

2 (1) the state board of finance has reviewed
3 the request for the use of the state [~~gross receipts~~] sales
4 tax;

5 (2) based upon review by the state board of
6 finance of the applicable tax increment development plan, the
7 dedication by the state board of finance of a portion of the
8 [~~gross receipts~~] sales tax increment attributable to the
9 imposition of the state [~~gross receipts~~] sales tax within the
10 district for use in meeting the required goals of the tax
11 increment plan is reasonable and in the best interest of the
12 state; and

13 (3) the use of the state [~~gross receipts~~]
14 sales tax is likely to stimulate the creation of jobs,
15 economic opportunities and general revenue for the state
16 through the addition of new businesses to the state and the
17 expansion of existing businesses within the state.

18 [~~G.~~] F. The governing body of the jurisdiction in
19 which a [~~tax increment development~~] district has been
20 established shall timely notify the assessor of the county in
21 which the district has been established, the taxation and
22 revenue department and the local government division of the
23 department of finance and administration when:

24 (1) a tax increment development plan has
25 been approved that contains a provision for the allocation of

1 a ~~[gross receipts]~~ sales tax increment;

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

4 (3) the purposes of the district have
5 otherwise been achieved."

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

8 "5-16-3. DEFINITIONS.--As used in the Regional
9 Spaceport District Act:

10 A. "authority" means the spaceport authority
11 created pursuant to the Spaceport Development Act;

12 B. "board" means the board of directors of a
13 district;

14 ~~[C. "bond" means a revenue bond issued by the~~
15 ~~authority on behalf of a district;~~

16 ~~D.]~~ C. "combination" means two or more
17 governmental units that exercise joint authority;

18 ~~[E.]~~ D. "district" means a regional spaceport
19 district that is a political subdivision of the state created
20 pursuant to the Regional Spaceport District Act;

21 ~~[F.]~~ E. "governmental unit" means the state, a
22 county or a municipality of the state or an Indian nation,
23 tribe or pueblo located within the boundaries of the state;

24 ~~[G.]~~ F. "project" means any land, building or
25 other improvements acquired as part of a spaceport or

1 associated with a spaceport or to aid commerce in connection
2 with a spaceport and all real and personal property deemed
3 necessary in connection with the spaceport;

4 [H.] G. "revenues" means municipal [~~regional~~
5 ~~spaceport gross receipts tax revenues~~] and county [~~regional~~
6 ~~spaceport gross receipts~~] sales tax revenues dedicated to a
7 district for the financing, planning, designing, engineering
8 and construction of a regional spaceport pursuant to the
9 Regional Spaceport District Act; and

10 [I.] H. "spaceport" means any facility in New
11 Mexico at which space vehicles may be launched or landed,
12 including all facilities and support infrastructure related to
13 launch, landing or payload processing."

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

16 "5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.--Each
17 governmental unit that is a county or municipality and is a
18 member of a combination shall have enacted a municipal
19 [~~regional spaceport gross receipts tax~~] or [a] county
20 [~~regional spaceport gross receipts~~] sales tax prior to
21 December 31, 2008 that is dedicated to a district for the
22 financing, planning, designing, engineering and construction
23 of a regional spaceport pursuant to the Regional Spaceport
24 District Act. At least seventy-five percent of the dedicated
25 municipal [~~regional spaceport gross receipts tax~~] or county

1 ~~[regional spaceport gross receipts]~~ sales tax revenues
2 received by each governmental unit must be used by the
3 district for the financing, planning, designing, engineering
4 and construction of a regional spaceport. No more than
5 twenty-five percent of the dedicated municipal ~~[regional~~
6 ~~spaceport gross receipts tax]~~ or county ~~[regional spaceport~~
7 ~~gross receipts]~~ sales tax revenues may be used by the
8 governmental unit enacting the tax for spaceport-related
9 projects as approved by resolution of the governmental unit."

10 SECTION 17. Section 6-6A-3 NMSA 1978 (being Laws 1985,
11 Chapter 214, Section 3) is amended to read:

12 "6-6A-3. LEASEHOLD COMMUNITY ASSISTANCE FUND--
13 CREATION--~~[DISPOSITION]~~ DISPOSITION.--

14 A. There is created in the state treasury the
15 "leasehold community assistance fund". The purpose of the
16 fund is to provide leasehold communities with assistance in
17 meeting their operating budgets.

18 B. The leasehold community assistance fund shall
19 be administered by the local government division of the
20 department of finance and administration. The division shall
21 determine the funds the leasehold community is eligible to
22 receive from the fund by calculating the amount of money a
23 municipality of similar size receives under all appropriate
24 state laws. Such sources shall include ~~[but not be limited~~
25 ~~to]~~:

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- (1) property tax levies;
- (2) the law enforcement protection fund;
- (3) the small cities assistance fund;
- (4) the fire protection fund;
- (5) [~~gross receipts~~] sales tax distribution;
- (6) gasoline tax distributions;
- (7) cigarette tax distributions; and
- (8) motor vehicle fees distributions.

C. Prior to receiving any assistance from the leasehold community assistance fund, the governing body of the community shall agree to be bound by such rules and regulations promulgated by the local government division of the department of finance and administration. That division has the power and duty in relation to leasehold communities to:

- (1) require each leasehold community to furnish and file with the division, on or before June 1 of each year, a proposed budget for the next fiscal year;
- (2) examine each proposed budget and, on or before July 1 of each year, approve and certify to each leasehold community an operating budget for use pending approval of a final budget;
- (3) hold public hearings on proposed budgets;
- (4) make corrections, revisions and

1 amendments to the proposed budgets as may be necessary to meet
2 the requirements of law;

3 (5) certify a final budget for each
4 leasehold community to the appropriate governing body prior to
5 the first Monday in September of each year. The budgets, when
6 approved, are binding upon all tax officials of the state;

7 (6) require periodic financial reports of
8 leasehold communities. The reports shall contain the
9 pertinent details regarding applications for federal money or
10 federal grants-in-aid or regarding federal money or federal
11 grants-in-aid received, including [~~but not limited to~~] details
12 of programs, matching funds, personnel requirements, salary
13 provisions and program numbers, as indicated in the catalog of
14 federal domestic assistance, of the federal funds applied for
15 and of those received;

16 (7) with written approval of the secretary
17 of finance and administration and the attorney general,
18 increase the total budget of any leasehold community in the
19 event the leasehold community undertakes an activity, service,
20 project or construction program [~~which~~] that was not
21 contemplated at the time the final budget was adopted and
22 approved and which activity, service, project or construction
23 program will produce sufficient revenue to cover the increase
24 in the budget or the leasehold community has surplus funds on
25 hand not necessary to meet the expenditures provided for in

1 the budget with which to cover the increase in the budget;

2 (8) supervise the disbursement of funds to
3 the end that expenditures will not be made in excess of
4 budgeted items or for items not budgeted and that there will
5 not be illegal expenditures;

6 (9) prescribe the form for all budgets,
7 books, records and accounts for leasehold communities; and

8 (10) with the approval of the secretary of
9 finance and administration, make rules and regulations
10 relating to budgets, records, reports, handling and
11 disbursement of public funds or in any manner relating to the
12 financial affairs of the leasehold communities."

13 SECTION 18. Section 6-14-2 NMSA 1978 (being Laws 1970,
14 Chapter 10, Section 2, as amended) is amended to read:

15 "6-14-2. DEFINITIONS.--As used in the Public Securities
16 Act:

17 A. "net effective interest rate" means the
18 interest rate of public securities, compounded semiannually,
19 necessary to discount the scheduled debt service payments of
20 principal and interest to the date of the public securities
21 and to the price paid to the public body for the public
22 securities, excluding any interest accrued to the date of
23 delivery and based upon a year with the same number of days as
24 the number of days for which interest is computed on the
25 public securities;

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1 B. "public body" means this state or any
2 department, board, agency or instrumentality of the state, any
3 county, city, town, village, school district, other district,
4 educational institution or any other governmental agency or
5 political subdivision of the state; and

6 C. "public securities" means any bonds, notes,
7 warrants or other obligations now or hereafter authorized to
8 be issued by any public body pursuant to the provisions of any
9 general or special law enacted by the legislature, but does
10 not include bonds, notes, warrants or other obligations issued
11 pursuant to:

- 12 (1) the Industrial Revenue Bond Act;
- 13 (2) the County Improvement District Act;
- 14 (3) Sections 3-33-1 through 3-33-43 NMSA
15 1978;
- 16 (4) the Pollution Control Revenue Bond Act;
- 17 (5) the County Pollution Control Revenue
18 Bond Act;
- 19 (6) the County Industrial Revenue Bond Act;
- 20 (7) the Metropolitan Redevelopment Code;
- 21 ~~[(8) the Supplemental Municipal Gross~~
22 ~~Receipts Tax Act;~~
- 23 ~~(9)]~~ (8) the Hospital Equipment Loan Act; or
- 24 ~~[(10)]~~ (9) the New Mexico Finance Authority
25 Act."

1 SECTION 19. Section 6-22-2 NMSA 1978 (being Laws 1992,
2 Chapter 105, Section 2) is amended to read:

3 "6-22-2. DEFINITIONS.--As used in the State Aid
4 Intercept Act:

5 A. "default" means the actual nonpayment of
6 principal or interest on a local revenue bond when payment is
7 scheduled by the indenture relating to the local revenue bond;

8 B. "local government" means a municipality or
9 county;

10 C. "local revenue bond" means a bond issued after
11 July 1, 1992 pursuant to Sections 3-33-1 through 3-33-43 NMSA
12 1978 or Chapter 4, Article 62 NMSA 1978;

13 D. "qualified local revenue bond" means a local
14 revenue bond for which a state distributions intercept
15 authorization has been granted pursuant to this section;

16 E. "secretary" means the secretary of finance and
17 administration; and

18 F. "state distributions" means any or all of the
19 funds distributed to local governments pursuant to Section
20 [~~7-1-6.4~~] 7-1-6.9 [~~and Subsection B of Section 7-1-6.11~~] NMSA
21 1978."

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

24 "6-25-7. PROJECT REVENUE BONDS.--

25 A. The authority may issue project revenue bonds

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

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1 connection with the authorization, sale and issuance of the
2 bonds. All project revenue bonds issued pursuant to the
3 Statewide Economic Development Finance Act shall be
4 negotiable.

5 B. The principal of and interest on project
6 revenue bonds issued pursuant to the Statewide Economic
7 Development Finance Act shall be secured by a pledge of the
8 revenues of the project being financed with the proceeds of
9 the bonds, may be secured by a mortgage of all or a part of
10 the project being financed or other collateral pledged by an
11 eligible entity and may be secured by the lease of such
12 project, which collateral and lease may be assigned, in whole
13 or in part, by the department to the authority or to third
14 parties to carry out the purposes of the Statewide Economic
15 Development Finance Act. The resolution of the authority
16 pursuant to which the project revenue bonds are authorized to
17 be issued or any such mortgage may contain any agreement and
18 provisions customarily contained in instruments securing
19 bonds, including provisions respecting the fixing and
20 collection of all revenues from any project to which the
21 resolution or mortgage pertains, the terms to be incorporated
22 in the lease of the project, the maintenance and insurance of
23 the project, the creation and maintenance of special funds
24 from the revenues of the project and the rights and remedies
25 available in event of default to the bondholders or to the

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

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

25 D. Project revenue bonds issued to finance a

1 project may also be secured by pledging a portion of the
2 qualifying municipal or county [~~infrastructure gross receipts~~]
3 sales tax revenues by the municipality or county in which the
4 project is located, as permitted by the Local Economic
5 Development Act.

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

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

19 SECTION 21. Section 7-1-2 NMSA 1978 (being Laws 1965,
20 Chapter 248, Section 2, as amended) is amended to read:

21 "7-1-2. APPLICABILITY.--The Tax Administration Act
22 applies to and governs:

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

- (1) Income Tax Act;
- (2) Withholding Tax Act;
- (3) Venture Capital Investment Act;
- (4) [~~Gross Receipts and Compensating~~] Sales
and Use Tax Act, [~~and any state gross receipts tax~~] the
Interstate Telecommunications Sales Tax Act and the Leased
Vehicle Sales Tax Act;
- (5) Liquor Excise Tax Act;
- (6) Local Liquor Excise Tax Act;
- (7) any municipal local option [~~gross~~
~~receipts~~] sales tax;
- (8) any county local option [~~gross receipts~~]
sales tax;
- (9) Special Fuels Supplier Tax Act;
- (10) Gasoline Tax Act;
- (11) petroleum products loading fee, which
fee shall be considered a tax for the purpose of the Tax
Administration Act;
- (12) Alternative Fuel Tax Act;
- (13) Cigarette Tax Act;
- (14) Estate Tax Act;
- (15) Railroad Car Company Tax Act;
- (16) [~~Investment Credit Act~~] rural job tax
credit, [~~Laboratory Partnership with Small Business Tax Credit~~
~~Act~~] Technology Jobs and Research and Development Tax Credit

1 Act, Film Production Tax Credit Act and Affordable Housing Tax
2 Credit Act [~~and high-wage jobs tax credit~~];

3 (17) Corporate Income and Franchise Tax Act;

4 (18) Uniform Division of Income for Tax
5 Purposes Act;

6 (19) Multistate Tax Compact;

7 (20) Tobacco Products Tax Act; and

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

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

15 (1) Resources Excise Tax Act;

16 (2) Severance Tax Act;

17 (3) any severance surtax;

18 (4) Oil and Gas Severance Tax Act;

19 (5) Oil and Gas Conservation Tax Act;

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

21 (7) Oil and Gas Ad Valorem Production Tax

22 Act;

23 (8) Natural Gas Processors Tax Act;

24 (9) Oil and Gas Production Equipment Ad

25 Valorem Tax Act;

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- 1 (10) Copper Production Ad Valorem Tax Act;
- 2 (11) any advance payment required to be made
- 3 by any act specified in this subsection, which advance payment
- 4 shall be considered a tax for the purposes of the Tax
- 5 Administration Act;
- 6 (12) Enhanced Oil Recovery Act;
- 7 (13) Natural Gas and Crude Oil Production
- 8 Incentive Act; and
- 9 (14) intergovernmental production tax credit
- 10 and intergovernmental production equipment tax credit;
- 11 C. the administration and enforcement of the
- 12 following taxes, surcharges, fees or acts as they now exist or
- 13 may hereafter be amended:
- 14 (1) Weight Distance Tax Act;
- 15 (2) the workers' compensation fee authorized
- 16 by Section 52-5-19 NMSA 1978, which fee shall be considered a
- 17 tax for purposes of the Tax Administration Act;
- 18 (3) Uniform Unclaimed Property Act (1995);
- 19 (4) 911 emergency surcharge and the network
- 20 and database surcharge, which surcharges shall be considered
- 21 taxes for purposes of the Tax Administration Act;
- 22 (5) the solid waste assessment fee
- 23 authorized by the Solid Waste Act, which fee shall be
- 24 considered a tax for purposes of the Tax Administration Act;
- 25 (6) the water conservation fee imposed by

1 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
2 for the purposes of the Tax Administration Act; and

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

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

10 SECTION 22. Section 7-1-3 NMSA 1978 (being Laws 1965,
11 Chapter 248, Section 3, as amended) is amended to read:

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

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

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

1 C. "electronic payment" means a payment made by
2 automated clearinghouse deposit, any funds wire transfer
3 system or a credit card, debit card or electronic cash
4 transaction through the internet;

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

11 E. "financial institution" means any state or
12 federally chartered, federally insured depository institution;

13 F. "hearing officer" means a person who has been
14 designated by the chief hearing officer to serve as a hearing
15 officer and who is:

- 16 (1) the chief hearing officer;
17 (2) an employee of the administrative
18 hearings office; or
19 (3) a contractor of the administrative
20 hearings office;

21 G. "Internal Revenue Code" means the Internal
22 Revenue Code of 1986, as that code may be amended or its
23 sections renumbered;

24 H. "levy" means the lawful power, hereby invested
25 in the secretary, to take into possession or to require the

1 present or future surrender to the secretary or the
2 secretary's delegate of any property or rights to property
3 belonging to a delinquent taxpayer;

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

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

1 K. "net receipts" means the total amount of money
2 paid by taxpayers to the department in a month pursuant to a
3 tax or tax act less any refunds disbursed in that month with
4 respect to that tax or tax act;

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

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

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

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

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

1 perform any act in respect of which a violation occurs;

2 Q. "property" means property or rights to
3 property;

4 R. "property or rights to property" means any
5 tangible property, real or personal, or any intangible
6 property of a taxpayer;

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

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

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1 information" does not include statistical data or other
2 information that cannot be associated with or directly or
3 indirectly identify a particular taxpayer;

4 U. "secretary" means the secretary of taxation and
5 revenue and, except for purposes of Subsection B of Section
6 7-1-4 NMSA 1978, also includes the deputy secretary or a
7 division director or deputy division director delegated by the
8 secretary;

9 V. "secretary or the secretary's delegate" means
10 the secretary or any employee of the department exercising
11 authority lawfully delegated to that employee by the
12 secretary;

13 W. "security" means money, property or rights to
14 property or a surety bond;

15 X. "state" means any state of the United States,
16 the District of Columbia, the commonwealth of Puerto Rico and
17 any territory or possession of the United States;

18 Y. "tax" means the total amount of each tax
19 imposed and required to be paid, withheld and paid or
20 collected and paid under provision of any law made subject to
21 administration and enforcement according to the provisions of
22 the Tax Administration Act and, unless the context otherwise
23 requires, includes the amount of any interest or civil penalty
24 relating thereto; "tax" also means any amount of any abatement
25 of tax made or any credit, rebate or refund paid or credited

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1 by the department under any law subject to administration and
2 enforcement under the provisions of the Tax Administration Act
3 to any person contrary to law and includes, unless the context
4 requires otherwise, the amount of any interest or civil
5 penalty relating thereto;

6 Z. "tax return preparer" means a person who
7 prepares for others for compensation or who employs one or
8 more persons to prepare for others for compensation any return
9 of income tax, a substantial portion of any return of income
10 tax, any claim for refund with respect to income tax or a
11 substantial portion of any claim for refund with respect to
12 income tax; provided that a person shall not be a "tax return
13 preparer" merely because such person:

14 (1) furnishes typing, reproducing or other
15 mechanical assistance;

16 (2) is an employee who prepares an income
17 tax return or claim for refund with respect to an income tax
18 return of the employer, or of an officer or employee of the
19 employer, by whom the person is regularly and continuously
20 employed; or

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

24 AA. "taxpayer" means a person liable for payment
25 of any tax; a person responsible for withholding and payment

1 or for collection and payment of any tax; a person to whom an
2 assessment has been made, if the assessment remains unabated
3 or the amount thereof has not been paid; or a person who
4 entered into a special agreement to assume the liability of
5 ~~[gross receipts]~~ sales tax or governmental ~~[gross receipts]~~
6 sales tax of another person and the special agreement was
7 approved by the secretary pursuant to the Tax Administration
8 Act."

9 SECTION 23. Section 7-1-6.2 NMSA 1978 (being Laws 1983,
10 Chapter 211, Section 7, as amended) is amended to read:

11 "7-1-6.2. DISTRIBUTION--SMALL CITIES ASSISTANCE FUND.--
12 A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
13 made to the small cities assistance fund in an amount equal to
14 fifteen percent of the net receipts attributable to that
15 portion of the ~~[compensating]~~ use tax pursuant to Paragraph
16 (1) of Subsection E of Section 7-9-7 NMSA 1978."

17 SECTION 24. 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 that portion of the ~~[compensating]~~ use tax pursuant to
25 Paragraph (1) of Subsection E of Section 7-9-7 NMSA 1978."

1 SECTION 25. Section 7-1-6.7 NMSA 1978 (being Laws 1994,
2 Chapter 5, Section 2, as amended) is amended to read:

3 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

4 A. A distribution pursuant to Section 7-1-6.1 NMSA
5 1978 shall be made to the state aviation fund in an amount
6 equal to four and seventy-nine hundredths percent of the
7 taxable gross receipts attributable to the sale of fuel
8 specially prepared and sold for use in turboprop or jet-type
9 engines as determined by the department.

10 B. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 shall be made to the state aviation fund in an amount
12 equal to twenty-six hundredths percent of gasoline taxes,
13 exclusive of penalties and interest, collected pursuant to the
14 Gasoline Tax Act.

15 C. From July 1, 2013 through June 30, 2021, a
16 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
17 made to the state aviation fund in an amount equal to ~~[forty-~~
18 ~~six thousandths percent of]~~ the rate determined pursuant to
19 Subsection F of Section 50 of this 2017 act multiplied by the
20 net receipts attributable to the ~~[gross receipts]~~ state sales
21 tax distributable to the general fund.

22 D. A distribution pursuant to Section 7-1-6.1 NMSA
23 1978 shall be made to the state aviation fund from the net
24 receipts attributable to the ~~[gross receipts]~~ state sales tax
25 distributable to the general fund in an amount equal to

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1 [~~(1)~~ eighty thousand dollars (\$80,000)
2 ~~monthly from July 1, 2007 through June 30, 2008;~~
3 ~~(2) one hundred sixty-seven thousand dollars~~
4 ~~(\$167,000) monthly from July 1, 2008 through June 30, 2009;~~
5 and
6 ~~(3)]~~ two hundred fifty thousand dollars
7 (\$250,000) [~~monthly after July 1, 2009~~]."

8 SECTION 26. Section 7-1-6.12 NMSA 1978 (being Laws
9 1983, Chapter 211, Section 17, as amended) is amended to read:

10 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL
11 OPTION [~~GROSS RECEIPTS~~] SALES TAXES.--

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

25 B. A transfer pursuant to this section may be

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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 SECTION 27. Section 7-1-6.13 NMSA 1978 (being Laws
6 1983, Chapter 211, Section 18, as amended) is amended to read:

7 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
8 [~~GROSS RECEIPTS~~] SALES TAXES.--

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

22 B. A transfer pursuant to this section may be
23 adjusted for a distribution made to a tax increment
24 development district with respect to a portion of a [~~gross~~
25 ~~receipts~~] sales tax increment dedicated by a county pursuant

1 to the Tax Increment for Development Act."

2 SECTION 28. Section 7-1-6.15 NMSA 1978 (being Laws
3 1983, Chapter 211, Section 20, as amended by Laws 2015,
4 Chapter 89, Section 1 and by Laws 2015, Chapter 100, Section
5 1) is amended to read:

6 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
7 MUNICIPALITIES OR COUNTIES.--

8 A. The provisions of this section apply to:

9 (1) any distribution to a municipality
10 pursuant to Section [~~7-1-6.4~~] 7-1-6.36 [~~or 7-1-6.46~~] NMSA
11 1978;

12 (2) any transfer to a municipality with
13 respect to any local option [~~gross receipts~~] sales tax imposed
14 by that municipality;

15 (3) any transfer to a county with respect to
16 any local option [~~gross receipts~~] sales tax imposed by that
17 county;

18 (4) any distribution to a county pursuant to
19 Section 7-1-6.16 [~~or 7-1-6.47~~] NMSA 1978;

20 (5) any distribution to a municipality or a
21 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA
22 1978;

23 (6) any transfer to a county with respect to
24 any tax imposed in accordance with the Local Liquor Excise Tax
25 Act;

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1 (7) any distribution to a county from the
2 county government road fund pursuant to Section 7-1-6.26 NMSA
3 1978; and

4 (8) any distribution to a municipality of
5 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978 [~~and~~

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

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

22 (1) all negative amounts relating to any
23 period prior to the three calendar years preceding the year of
24 the current month, net of any positive amounts in that same
25 time period for the same taxpayers to which the negative

1 amounts pertain, shall be excluded from the total relating to
2 prior periods. Except as provided in Paragraph (2) of this
3 subsection, the net receipts to be distributed or transferred
4 to the municipality or county shall be adjusted to equal the
5 amount for the current month plus the revised total for prior
6 periods; and

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

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

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

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1 (1) that the department has made such an
2 adjustment, that the department has determined that a
3 specified amount is recoverable from the municipality or
4 county and that the department intends to recover that amount
5 from future distributions or transfers to the municipality or
6 county;

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

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

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

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

23 (1) the department may collect the
24 recoverable amount by:

25 (a) decreasing distributions or

1 transfers to the municipality or county in accordance with a
2 repayment agreement entered into with the municipality or
3 county; or

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

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

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

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

22 (3) if, after application of a refund claim,
23 audit adjustment, correction of a mistake by the department or
24 other adjustment of a prior period, but prior to any recovery
25 of the department pursuant to this section, the total net

1 receipts of a municipality or county for the twelve-month
2 period beginning with the current month are reduced or are
3 projected to be reduced to less than fifty percent of the
4 average distribution or transfer of net receipts, the
5 secretary may waive recovery of any portion of the recoverable
6 amount, subject to approval by the state board of finance.

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

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

21 H. The secretary is authorized to decrease a
22 distribution or transfer to a municipality or county upon
23 being directed to do so by the secretary of finance and
24 administration pursuant to the State Aid Intercept Act or to
25 redirect a distribution or transfer to the New Mexico finance

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

25 (1) prior to an adjustment of a distribution

1 or transfer of net receipts creating a recoverable amount owed
2 to the department takes precedence over any collection of any
3 recoverable amount pursuant to Paragraph (2) of Subsection B
4 of this section, which may be made only from the net amount of
5 the distribution or transfer remaining after application of
6 the decrease or redirection pursuant to this subsection; and

7 (2) after an adjustment of a distribution or
8 transfer of net receipts creating a recoverable amount owed to
9 the department shall be subordinate to any collection of any
10 recoverable amount pursuant to Paragraph (2) of Subsection B
11 of this section.

12 I. Upon the direction of the secretary of finance
13 and administration pursuant to Section 9-6-5.2 NMSA 1978, the
14 secretary shall temporarily withhold the balance of a
15 distribution to a municipality or county, net of any decrease
16 or redirected amount pursuant to Subsection H of this section
17 and any recoverable amount pursuant to Paragraph (2) of
18 Subsection B of this section, that has failed to submit an
19 audit report required by the Audit Act or a financial report
20 required by Subsection F of Section 6-6-2 NMSA 1978. The
21 amount to be withheld, the source of the withheld distribution
22 and the number of months that the distribution is to be
23 withheld shall be as directed by the secretary of finance and
24 administration. A distribution withheld pursuant to this
25 subsection shall remain in the tax administration suspense

1 fund until distributed to the municipality or county and shall
2 not be distributed to the general fund. An amount withheld
3 pursuant to this subsection shall be distributed to the
4 municipality or county upon direction of the secretary of
5 finance and administration.

6 J. As used in this section:

7 (1) "amounts relating to the current month"
8 means any amounts included in the net receipts of the current
9 month that represent payment of tax due for the current month,
10 correction of amounts processed in the current month that
11 relate to the current month or that otherwise relate to
12 obligations due for the current month;

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

21 (3) "average distribution or transfer
22 amount" means the following amounts; provided that a
23 distribution or transfer that is negative shall not be used in
24 calculating the amounts:

25 (a) the annual average of the total

1 amount distributed or transferred to a municipality or county
2 in each of the three twelve-month periods preceding the
3 current month;

4 (b) if a distribution or transfer to a
5 municipality or county has been made for less than three
6 years, the total amount distributed or transferred in the year
7 preceding the current month; or

8 (c) if a municipality or county has not
9 received distributions or transfers of net receipts for twelve
10 or more months, the monthly average of net receipts
11 distributed or transferred to the municipality or county
12 preceding the current month multiplied by twelve;

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

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

24 **SECTION 29.** Section 7-1-6.16 NMSA 1978 (being Laws
25 1983, Chapter 213, Section 27, as amended) is amended to read:

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1 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

2 A. ~~[Beginning on September 15, 1989 and]~~ On
3 September 15 of each year ~~[thereafter]~~, the department shall
4 distribute to any county that has imposed or continued in
5 effect during the ~~[state's]~~ preceding fiscal year a county
6 ~~[gross receipts]~~ sales tax pursuant to Section 7-20E-9 NMSA
7 1978 an amount equal to:

8 (1) the product of a fraction, the numerator
9 of which is the county's population and the denominator of
10 which is the state's population, multiplied by the annual sum
11 for the county; less

12 (2) the net receipts received by the
13 department during the report year, including any increase or
14 decrease made pursuant to Section 7-1-6.15 NMSA 1978,
15 attributable to the county ~~[gross receipts]~~ sales tax at ~~[a~~
16 ~~rate of one-eighth percent]~~ the rate determined pursuant to
17 Subsection G of Section 50 of this 2017 act; provided that for
18 any month in the report year, if no county ~~[gross receipts]~~
19 sales tax was in effect in the county in the previous month,
20 the net receipts, for the purposes of this section, for that
21 county for that month shall be zero.

22 B. If the amount determined by the calculation in
23 Subsection A of this section is zero or a negative number for
24 a county, no distribution shall be made to that county.

25 C. As used in this section:

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1 (1) "annual sum" means for each county the
2 sum of the monthly amounts for those months in the report year
3 that follow a month in which the county had in effect a county
4 ~~[gross receipts]~~ sales tax;

5 (2) "monthly amount" means an amount equal
6 to ~~[the product of:~~

7 ~~(a)]~~ two and forty-four hundredths
8 percent of the net receipts received by the department in the
9 month attributable to the state ~~[gross receipts tax plus five~~
10 ~~percent of the total amount of deductions claimed pursuant to~~
11 ~~Section 7-9-92 NMSA 1978 for the month plus five percent of~~
12 ~~the total amount of deductions claimed pursuant to Section~~
13 ~~7-9-93 NMSA 1978 for the month; and~~

14 ~~(b) a fraction, the numerator of which~~
15 ~~is one-eighth percent and the denominator of which is the tax~~
16 ~~rate imposed by Section 7-9-4 NMSA 1978 in effect on the last~~
17 ~~day of the previous month]~~ sales tax;

18 (3) "population" means the most recent
19 official census or estimate determined by the United States
20 census bureau for the unit or, if neither is available, the
21 most current estimated population for the unit provided in
22 writing by the bureau of business and economic research at the
23 university of New Mexico; and

24 (4) "report year" means the twelve-month
25 period ending on the July 31 immediately preceding the date

1 upon which a distribution pursuant to this section is required
2 to be made."

3 SECTION 30. Section 7-1-6.36 NMSA 1978 (being Laws
4 1992, Chapter 50, Section 13 and also Laws 1992, Chapter 67,
5 Section 12) is amended to read:

6 "7-1-6.36. DISTRIBUTION--INTERSTATE TELECOMMUNICATIONS
7 [~~GROSS RECEIPTS~~] SALES TAX.--A distribution pursuant to
8 Section 7-1-6.1 NMSA 1978 shall be made to each municipality
9 in an amount, subject to any increase or decrease made
10 pursuant to Section 7-1-6.15 NMSA 1978, equal to [~~the product~~
11 ~~of the quotient of one and thirty-five hundredths percent~~
12 ~~divided by the tax rate imposed by the Interstate~~
13 ~~Telecommunications Gross Receipts Tax Act times~~] thirty-one
14 and seventy-seven hundredths percent of the net receipts for
15 the month attributable to the interstate telecommunications
16 [~~gross receipts~~] sales tax from business locations:

- 17 A. within that municipality;
18 B. on land owned by the state, commonly known as
19 the "state fairgrounds", within the exterior boundaries of
20 that municipality;
21 C. outside the boundaries of any municipality on
22 land owned by that municipality; and
23 D. on an Indian reservation or pueblo grant in an
24 area that is contiguous to that municipality and in which the
25 municipality performs services pursuant to a contract between

1 the municipality and the Indian tribe or Indian pueblo if:

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

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

9 SECTION 31. Section 7-1-6.38 NMSA 1978 (being Laws
10 1994, Chapter 145, Section 1, as amended) is amended to read:

11 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL [~~GROSS RECEIPTS~~]
12 SALES TAX.--

13 A. A distribution pursuant to Section 7-1-6.1 NMSA
14 1978 shall be made to the public project revolving fund
15 administered by the New Mexico finance authority in an amount
16 equal to seventy-five percent of the net receipts attributable
17 to the governmental [~~gross receipts~~] sales tax.

18 B. A distribution pursuant to Section 7-1-6.1 NMSA
19 1978 shall be made to the energy, minerals and natural
20 resources department in an amount equal to twenty-four percent
21 of the net receipts attributable to the governmental [~~gross~~
22 ~~receipts~~] sales tax. Forty-one and two-thirds percent of the
23 distribution is appropriated to the energy, minerals and
24 natural resources department to implement the provisions of
25 the New Mexico Youth Conservation Corps Act and fifty-eight

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1 and one-third percent of the distribution is appropriated to
2 the energy, minerals and natural resources department for
3 state ~~[park and recreation area]~~ parks capital improvements,
4 including the costs of planning, engineering, design,
5 construction, renovation, repair, equipment and furnishings.

6 C. A distribution pursuant to Section 7-1-6.1 NMSA
7 1978 shall be made to the ~~[office of]~~ cultural affairs
8 department in an amount equal to one percent of the net
9 receipts attributable to the governmental ~~[gross receipts]~~
10 sales tax for capital improvements at state museums and
11 monuments administered by the ~~[office of]~~ cultural affairs
12 department.

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

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

6 SECTION 32. Section 7-1-6.40 NMSA 1978 (being Laws
7 1997, Chapter 182, Section 1, as amended) is amended to read:

8 "7-1-6.40. DISTRIBUTION OF LIQUOR EXCISE TAX--LOCAL DWI
9 GRANT FUND--CERTAIN MUNICIPALITIES--LOTTERY TUITION FUND--
10 MAGISTRATE DRUG COURTS--COUNTY-SUPPORTED MEDICAID FUND.--

11 A. A distribution pursuant to Section 7-1-6.1
12 NMSA 1978 shall be made to the local DWI grant fund in an
13 amount equal to ~~[the following percentages]~~ sixty percent of
14 the net receipts attributable to the liquor excise tax

15 ~~[(1) prior to July 1, 2015, forty-one and~~
16 ~~one-half percent;~~

17 ~~(2) from July 1, 2015 through June 30, 2018,~~
18 ~~forty-six percent; and~~

19 ~~(3) on and after July 1, 2018, forty-one and~~
20 ~~one-half percent].~~

21 B. A distribution pursuant to Section 7-1-6.1
22 NMSA 1978 of twenty thousand seven hundred fifty dollars
23 (\$20,750) monthly from the net receipts attributable to the
24 liquor excise tax shall be made to a municipality that is
25 located in a class A county and that has a population

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1 according to the most recent federal decennial census of more
2 than thirty thousand but less than sixty thousand. The
3 distribution pursuant to this subsection shall be used by the
4 municipality only for the provision of alcohol treatment and
5 rehabilitation services for street inebriates.

6 C. ~~[From July 1, 2015 through June 30, 2017]~~ A
7 distribution pursuant to Section 7-1-6.1 NMSA 1978 ~~[of thirty-~~
8 ~~nine percent of the net receipts attributable to the liquor~~
9 ~~excise tax]~~ shall be made to the ~~[lottery tuition]~~ magistrate
10 drug court fund in an amount equal to ten percent of the net
11 receipts attributable to the liquor excise tax.

12 D. A distribution pursuant to Section 7-1-6.1 NMSA
13 1978 shall be made to the county-supported medicaid fund, for
14 the purpose of matching federal funds for the state medicaid
15 program, of the net receipts attributable to the liquor excise
16 tax remaining after the distributions pursuant to Subsections
17 A through C of this section are made."

18 SECTION 33. Section 7-1-6.53 NMSA 1978 (being Laws
19 2005, Chapter 176, Section 11) is amended to read:

20 "7-1-6.53. DISTRIBUTION--ENERGY EFFICIENCY AND
21 RENEWABLE ENERGY BONDING FUND--~~[GROSS RECEIPTS]~~ STATE SALES
22 TAX.--A distribution pursuant to Section 7-1-6.1 NMSA 1978
23 shall be made to the energy efficiency and renewable energy
24 bonding fund from the net receipts attributable to the ~~[gross~~
25 ~~receipts]~~ state sales tax imposed by the ~~[Gross Receipts and~~

1 ~~Compensating~~ Sales and Use Tax Act in an amount necessary to
2 make the required bond debt service payments pursuant to the
3 Energy Efficiency and Renewable Energy Bonding Act as
4 determined by the New Mexico finance authority. The
5 distribution shall be made:

6 ~~[A. after the required distribution pursuant to~~
7 ~~Section 7-1-6.4 NMSA 1978;~~

8 ~~B.]~~ A. contemporaneously with other distributions
9 of net receipts attributable to the ~~[gross receipts]~~ state
10 sales tax for payment of debt service on outstanding bonds or
11 to a fund dedicated for that purpose; and

12 ~~[C.]~~ B. prior to any other distribution of net
13 receipts attributable to the ~~[gross receipts]~~ state sales
14 tax."

15 **SECTION 34.** Section 7-1-6.54 NMSA 1978 (being Laws
16 2006, Chapter 75, Section 29) is amended to read:

17 "7-1-6.54. DISTRIBUTIONS--TAX INCREMENT DEVELOPMENT
18 DISTRICTS.--A distribution to a tax increment development
19 district shall be made by the department in accordance with a
20 notice that is filed pursuant to the Tax Increment for
21 Development Act with respect to a taxing entity's dedication
22 of a portion of a ~~[gross receipts]~~ sales tax increment to the
23 tax increment development district."

24 **SECTION 35.** Section 7-1-6.57 NMSA 1978 (being Laws
25 2007, Chapter 361, Section 1) is amended to read:

1 "7-1-6.57. DISTRIBUTION ADJUSTMENT--TAX ADMINISTRATION
2 SUSPENSE FUND--CREDIT FOR RECEIPTS OF HOSPITALS.--
3 Distributions from the tax administration suspense fund to the
4 general fund of net receipts attributable to the [~~gross~~
5 ~~receipts~~] state sales tax shall be adjusted for the full cost
6 of credits issued pursuant to the [~~Gross Receipts and~~
7 ~~Compensating~~] Sales and Use Tax Act for receipts of hospitals
8 licensed by the department of health."

9 SECTION 36. Section 7-1-8.8 NMSA 1978 (being Laws 2009,
10 Chapter 243, Section 10, as amended) is amended to read:

11 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER
12 STATE AGENCIES.--An employee of the department may reveal to:

13 A. a committee of the legislature for a valid
14 legislative purpose, return information concerning any tax or
15 fee imposed pursuant to the Cigarette Tax Act;

16 B. the attorney general, return information
17 acquired pursuant to the Cigarette Tax Act for purposes of
18 Section 6-4-13 NMSA 1978 and the master settlement agreement
19 defined in Section 6-4-12 NMSA 1978;

20 C. the commissioner of public lands, return
21 information for use in auditing that pertains to rentals,
22 royalties, fees and other payments due the state under land
23 sale, land lease or other land use contracts;

24 D. the secretary of human services or the
25 secretary's delegate:

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1 (1) under a written agreement with the
2 department, the last known address with date of all names
3 certified to the department as being absent parents of
4 children receiving public financial assistance, but only for
5 the purpose of enforcing the support liability of the absent
6 parents by the child support enforcement division or any
7 successor organizational unit; and

8 (2) the following; provided that a person
9 who receives the confidential information on behalf of the
10 human services department shall not reveal the information and
11 shall be subject to the penalties in Section 7-1-76 NMSA 1978
12 if the person fails to maintain the confidentiality required:

13 (a) information needed for reports
14 required to be made to the federal government concerning the
15 use of federal funds for low-income working families; and

16 (b) the names and addresses of
17 low-income taxpayers for the limited purpose of outreach to
18 those taxpayers; provided that the human services department
19 shall pay the department for expenses incurred by the taxation
20 and revenue department to derive the information requested by
21 the human services department if the information requested is
22 not readily available in reports for which the taxation and
23 revenue department's information systems are programmed;

24 E. the department of information technology, by
25 electronic media, a database updated quarterly that contains

1 the names, addresses, county of address and taxpayer
2 identification numbers of New Mexico personal income tax
3 filers, but only for the purpose of producing the random jury
4 list for the selection of petit or grand jurors for the state
5 courts pursuant to Section 38-5-3 NMSA 1978;

6 F. the state courts, the random jury lists
7 produced by the department of information technology [~~under~~]
8 pursuant to Subsection E of this section;

9 G. the director of the New Mexico department of
10 agriculture or the director's authorized representative, upon
11 request of the director or representative, the names and
12 addresses of all gasoline or special fuel distributors,
13 wholesalers and retailers;

14 H. the public regulation commission, return
15 information with respect to the Corporate Income and Franchise
16 Tax Act required to enable the commission to carry out its
17 duties;

18 I. [~~the state racing commission, return~~
19 ~~information with respect to the state municipal and county~~
20 ~~gross receipts taxes paid by racetracks;~~

21 ~~J.~~] the gaming control board, tax returns of
22 license applicants and their affiliates as provided in
23 Subsection E of Section 60-2E-14 NMSA 1978;

24 [~~K.~~] J. the director of the workers' compensation
25 administration or to the director's representatives authorized

1 for this purpose, return information to facilitate the
2 identification of taxpayers that are delinquent or
3 noncompliant in payment of fees required by Section 52-1-9.1
4 or 52-5-19 NMSA 1978;

5 ~~[H.]~~ K. the secretary of workforce solutions or
6 the secretary's delegate, return information for use in
7 enforcement of unemployment insurance collections pursuant to
8 the terms of a written reciprocal agreement entered into by
9 the taxation and revenue department with the secretary of
10 workforce solutions for exchange of information; and

11 ~~[M.]~~ L. the New Mexico finance authority,
12 information with respect to the amount of ~~[municipal and~~
13 ~~county gross receipts]~~ local option sales taxes collected by
14 municipalities and counties pursuant to any local option
15 ~~[municipal or county gross receipts]~~ sales taxes imposed, and
16 information with respect to the amount of governmental ~~[gross~~
17 ~~receipts]~~ sales taxes paid by every agency, institution,
18 instrumentality or political subdivision of the state pursuant
19 to Section 7-9-4.3 NMSA 1978."

20 SECTION 37. Section 7-1-8.9 NMSA 1978 (being Laws 2009,
21 Chapter 243, Section 11, as amended by Laws 2015, Chapter 89,
22 Section 2 and by Laws 2015, Chapter 100, Section 2) is amended
23 to read:

24 "7-1-8.9. INFORMATION THAT MAY BE REVEALED TO LOCAL
25 GOVERNMENTS AND THEIR AGENCIES.--

1 A. An employee of the department may reveal to:

2 (1) the officials or employees of a
3 municipality of this state authorized in a written request by
4 the municipality for a period specified in the request within
5 the twelve months preceding the request; provided that the
6 municipality receiving the information has entered into a
7 written agreement with the department that the information
8 shall be used for tax purposes only and specifying that the
9 municipality is subject to the confidentiality provisions of
10 Section 7-1-8 NMSA 1978 and the penalty provisions of Section
11 7-1-76 NMSA 1978:

12 (a) the names, taxpayer identification
13 numbers and addresses of registered [~~gross receipts~~] taxpayers
14 reporting gross receipts for that municipality under the
15 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act or a
16 local option [~~gross receipts~~] sales tax imposed by that
17 municipality. The department may also reveal the information
18 described in this subparagraph quarterly or upon such other
19 periodic basis as the secretary and the municipality may agree
20 in writing;

21 (b) a range of taxable gross receipts
22 of registered gross receipts paid by taxpayers from business
23 locations attributable to that municipality under the [~~Gross~~
24 ~~Receipts and Compensating~~] Sales and Use Tax Act or a local
25 option [~~gross receipts~~] sales tax imposed by that

1 municipality; provided that authorization from the federal
2 internal revenue service to reveal such information has been
3 received. The department may also reveal the information
4 described in this subparagraph quarterly or upon such other
5 periodic basis as the secretary and the municipality may agree
6 in writing; and

7 (c) information indicating whether
8 persons shown on a list of businesses located within that
9 municipality furnished by the municipality have reported gross
10 receipts to the department but have not reported gross
11 receipts for that municipality under the [~~Gross Receipts and~~
12 ~~Compensating~~] Sales and Use Tax Act or a local option [~~gross~~
13 ~~receipts~~] sales tax imposed by that municipality;

14 (2) the officials or employees of a county
15 of this state authorized in a written request by the county
16 for a period specified in the request within the twelve months
17 preceding the request; provided that the county receiving the
18 information has entered into a written agreement with the
19 department that the information shall be used for tax purposes
20 only and specifying that the county is subject to the
21 confidentiality provisions of Section 7-1-8 NMSA 1978 and the
22 penalty provisions of Section 7-1-76 NMSA 1978:

23 (a) the names, taxpayer identification
24 numbers and addresses of registered [~~gross receipts~~] taxpayers
25 reporting gross receipts either for that county in the case of

1 a local option [~~gross receipts~~] sales tax imposed on a
2 countywide basis or only for the areas of that county outside
3 of any incorporated municipalities within that county in the
4 case of a [county] local option [~~gross receipts~~] sales tax
5 imposed only in areas of the county outside of any
6 incorporated municipalities. The department may also reveal
7 the information described in this subparagraph quarterly or
8 upon such other periodic basis as the secretary and the county
9 may agree in writing;

10 (b) a range of taxable gross receipts
11 of registered gross receipts paid by taxpayers from business
12 locations attributable either to that county in the case of a
13 local option [~~gross receipts~~] sales tax imposed on a
14 countywide basis or only to the areas of that county outside
15 of any incorporated municipalities within that county in the
16 case of a [county] local option [~~gross receipts~~] sales tax
17 imposed only in areas of the county outside of any
18 incorporated municipalities; provided that authorization from
19 the federal internal revenue service to reveal such
20 information has been received. The department may also reveal
21 the information described in this subparagraph quarterly or
22 upon such other periodic basis as the secretary and the county
23 may agree in writing;

24 (c) in the case of a local option
25 [~~gross receipts~~] sales tax imposed by a county on a countywide

1 basis, information indicating whether persons shown on a list
2 of businesses located within the county furnished by the
3 county have reported gross receipts to the department but have
4 not reported gross receipts for that county under the [~~Gross~~
5 ~~Receipts and Compensating~~] Sales and Use Tax Act or a local
6 option [~~gross receipts~~] sales tax imposed by that county on a
7 countywide basis; and

8 (d) in the case of a local option
9 [~~gross receipts~~] sales tax imposed by a county only on persons
10 engaging in business in that area of the county outside of
11 incorporated municipalities, information indicating whether
12 persons on a list of businesses located in that county outside
13 of the incorporated municipalities but within that county
14 furnished by the county have reported gross receipts to the
15 department but have not reported gross receipts for that
16 county outside of the incorporated municipalities within that
17 county under the [~~Gross Receipts and Compensating~~] Sales and
18 Use Tax Act or a local option [~~gross receipts~~] sales tax
19 imposed by the county only on persons engaging in business in
20 that county outside of the incorporated municipalities; and

21 (3) officials or employees of a municipality
22 or county of this state, authorized in a written request of
23 the municipality or county, for purposes of inspection, the
24 records of the department pertaining to an increase or
25 decrease to a distribution or transfer made pursuant to

1 Section 7-1-6.15 NMSA 1978 for the purpose of reviewing the
2 basis for the increase or decrease; provided that the
3 municipality or county receiving the information has entered
4 into a written agreement with the department that the
5 information shall be used for tax purposes only and specifying
6 that the municipality or county is subject to the
7 confidentiality provisions of Section 7-1-8 NMSA 1978 and the
8 penalty provisions of Section 7-1-76 NMSA 1978. The
9 authorized officials or employees may only reveal the
10 information provided in this paragraph to another authorized
11 official or employee, to an employee of the department, or to
12 a district court, an appellate court or a federal court in a
13 proceeding relating to a disputed distribution and in which
14 both the state and the municipality or county are parties.

15 B. The department may require that a municipal or
16 county official or employee satisfactorily complete
17 appropriate training on protecting confidential information
18 prior to receiving the information pursuant to Subsection A of
19 this section.

20 C. An employee of the department may reveal to a
21 water and sanitation district of a county that has in effect
22 an ordinance that, prior to July 1, 2018, imposed a water and
23 sanitation gross receipts tax for a period specified by that
24 district within the twelve months preceding the request for
25 the information by that water and sanitation district:

1 (1) the names, taxpayer identification
2 numbers and addresses of registered gross receipts taxpayers
3 reporting gross receipts for that water and sanitation
4 district; the department may also release the information
5 described in this paragraph quarterly or upon any other
6 periodic basis to which the secretary and the district agree;
7 and

8 (2) information indicating whether the
9 persons shown on a list of businesses within the water and
10 sanitation district have reported gross receipts to the
11 department but have not reported gross receipts for that water
12 and sanitation district."

13 SECTION 38. Section 7-1-10 NMSA 1978 (being Laws 1965,
14 Chapter 248, Section 15, as amended) is amended to read:

15 "7-1-10. RECORDS REQUIRED BY STATUTE--TAXPAYER
16 RECORDS--ACCOUNTING METHODS--REPORTING METHODS--INFORMATION
17 RETURNS.--

18 A. Every person required by the provisions of any
19 statute administered by the department to keep records and
20 documents and every taxpayer shall maintain books of account
21 or other records in a manner that will permit the accurate
22 computation of state taxes or provide information required by
23 the statute under which the person is required to keep
24 records.

25 B. Methods of accounting shall be consistent for

1 the same business. A taxpayer engaged in more than one
2 business may use a different method of accounting for each
3 business.

4 C. Prior to changing the method of accounting in
5 keeping books and records for tax purposes, a taxpayer shall
6 first secure the consent of the secretary or the secretary's
7 delegate. If consent is not secured, the department upon
8 audit may require the taxpayer to compute the amount of tax
9 due on the basis of the accounting method earlier used.

10 D. Prior to changing the method of reporting
11 taxes, other than for changes required by law, a taxpayer
12 shall first secure the consent of the secretary or the
13 secretary's delegate. Consent shall be granted or withheld
14 pursuant to the provisions of Section 7-4-19 NMSA 1978. If
15 consent is not secured, the secretary or the secretary's
16 delegate upon audit may require the taxpayer to compute the
17 amount of tax due on the basis of the reporting method earlier
18 used.

19 E. Upon the written application of a taxpayer and
20 at the sole discretion of the secretary or the secretary's
21 delegate, the secretary or the secretary's delegate may enter
22 into an agreement with a taxpayer allowing the taxpayer to
23 report values, gross receipts, deductions or the value of
24 property on an estimated basis for [~~gross receipts and~~
25 ~~compensating~~] sales and use tax, oil and gas severance tax,

1 oil and gas conservation tax, oil and gas emergency school tax
2 and oil and gas ad valorem production tax purposes for a
3 limited period of time not to exceed four years. As used in
4 this section, "estimated basis" means a methodology that is
5 reasonably expected to approximate the tax that will be due
6 over the period of the agreement using summary rather than
7 detail data or alternate valuation applications or methods,
8 provided that:

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

12 (2) the agreement ~~[must]~~ shall:

13 (a) specify the receipts, deductions or
14 values to be reported on an estimated basis and the
15 methodology to be followed by the taxpayer in making the
16 estimates;

17 (b) state the term of the agreement and
18 the procedures for terminating the agreement prior to its
19 expiration;

20 (c) be signed by the taxpayer or the
21 taxpayer's representative and the secretary or the secretary's
22 delegate; and

23 (d) contain a declaration by the
24 taxpayer or the taxpayer's representative that all statements
25 of fact made by the taxpayer or the taxpayer's representative

1 in the taxpayer's application and the agreement are true and
2 correct as to every material matter.

3 F. The secretary may, by regulation, require any
4 person doing business in the state to submit to the department
5 information reports that are considered reasonable and
6 necessary for the administration of any provision of law to
7 which the Tax Administration Act applies."

8 SECTION 39. Section 7-1-13.1 NMSA 1978 (being Laws
9 1988, Chapter 99, Section 3, as amended) is amended to read:

10 "7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

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

18 (1) Group 1: all taxes due under the
19 Withholding Tax Act, the [~~Gross Receipts and Compensating~~]
20 Sales and Use Tax Act, local option [~~gross receipts~~] sales tax
21 acts, the Interstate Telecommunications [~~Gross Receipts~~] Sales
22 Tax Act and the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act;

23 (2) Group 2: all taxes due under the Oil
24 and Gas Severance Tax Act, the Oil and Gas Conservation Tax
25 Act, the Oil and Gas Emergency School Tax Act and the Oil and

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1 Gas Ad Valorem Production Tax Act;

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

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

7 B. For taxpayers who have more than one
8 identification number issued by the department, the average
9 tax payment shall be computed by combining the amounts paid
10 under the several identification numbers.

11 ~~[B.]~~ C. Taxpayers who are required to make payment
12 in accordance with the provisions of this section shall make
13 payment by one or more of the following means on or before the
14 due date so that funds are immediately available to the state
15 on or before the due date:

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

19 (2) currency of the United States;

20 (3) check drawn on and payable at any New
21 Mexico financial institution; provided that the check is
22 received by the department at the place and time required by
23 the department at least one banking day prior to the due date;
24 or

25 (4) check drawn on and payable at any

1 domestic non-New Mexico financial institution; provided that
2 the check is received by the department at the time and place
3 required by the department at least two banking days prior to
4 the due date.

5 ~~[G-]~~ D. If the taxes required to be paid under
6 this section are not paid in accordance with Subsection ~~[B]~~ C
7 of this section, the payment is not timely and is subject to
8 the provisions of Sections 7-1-67 and 7-1-69 NMSA 1978.

9 ~~[D-]~~ E. For the purposes of this section, "average
10 tax payment" means the total amount of taxes paid with respect
11 to a group of taxes listed under Subsection A of this section
12 during a calendar year divided by the number of months in that
13 calendar year containing a due date on which the taxpayer was
14 required to pay one or more taxes in the group."

15 **SECTION 40.** Section 7-1-15 NMSA 1978 (being Laws 1969,
16 Chapter 31, Section 1, as amended) is amended to read:

17 "7-1-15. SECRETARY MAY SET TAX REPORTING AND PAYMENT
18 INTERVALS.--The secretary may, pursuant to regulation, allow
19 taxpayers with an anticipated tax liability of less than two
20 hundred dollars (\$200) a month to report and pay taxes at
21 intervals ~~[which]~~ that the secretary may specify. However,
22 unless specifically permitted by law, an interval shall not
23 exceed six months. The secretary may also allow direct
24 marketers who have entered into an agreement with the
25 department to collect and remit ~~[compensating]~~ use tax to

1 report and pay on a quarterly or [~~semi-annual~~] semiannual
2 basis."

3 SECTION 41. Section 7-1-15.2 NMSA 1978 (being Laws
4 1998, Chapter 105, Section 1) is amended to read:

5 "7-1-15.2. AGREEMENTS--COLLECTION OF [~~COMPENSATING~~] USE
6 TAX.--The department may enter into agreements with direct
7 marketers for purposes of enforcing collection of the
8 [~~compensating~~] use tax."

9 SECTION 42. Section 7-1-21.1 NMSA 1978 (being Laws
10 2013, Chapter 87, Section 1) is amended to read:

11 "7-1-21.1. SPECIAL AGREEMENTS--ALTERNATIVE [~~GROSS~~
12 ~~RECEIPTS~~] SALES TAXPAYER.--

13 A. To allow the payment of [~~gross receipts~~] sales
14 tax by a person who is not the liable taxpayer, the secretary
15 may approve a request by a person to assume the liability for
16 [~~gross receipts~~] sales tax or governmental [~~gross receipts~~]
17 sales tax owed by another; provided that the person requesting
18 approval agrees to assume the rights and responsibilities as
19 taxpayer pursuant to the Tax Administration Act for:

20 (1) an agreement to collect and pay over
21 taxes for persons in a business relationship, which is an
22 agreement that may be entered into by persons who wish to
23 remit [~~gross receipts~~] sales tax on behalf of another person
24 with whom the taxpayer has a business relationship; and

25 (2) an agreement to collect and pay over

1 taxes for a direct sales company:

2 (a) which agreement may be entered into
3 by a direct sales company that has distributors of tangible
4 personal property in New Mexico; and

5 (b) in which the direct sales company
6 agrees to pay the [~~gross receipts~~] sales tax liability of the
7 distributor at the same time the company remits its own [~~gross~~
8 ~~receipts~~] sales tax [and

9 ~~(3) a manufacturer's agreement to pay gross~~
10 ~~receipts tax or governmental gross receipts tax on behalf of a~~
11 ~~utility company, which agreement:~~

12 ~~(a) allows a person engaged in~~
13 ~~manufacturing in New Mexico to pay gross receipts tax or~~
14 ~~governmental gross receipts tax on behalf of a utility company~~
15 ~~on receipts from sales of utilities that are: 1) not consumed~~
16 ~~in the manufacturing process; or 2) not otherwise deductible;~~
17 and

18 ~~(b) is only applicable to transactions~~
19 ~~between a manufacturer and a utility company that are~~
20 ~~associated with the gross receipts tax deduction pursuant to~~
21 ~~Subsection B of Section 7-9-46 NMSA 1978].~~

22 B. To enter into the agreements authorized in this
23 section, a person shall complete a form prescribed by the
24 secretary and provide any additional information or
25 documentation required by department rules or instructions

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1 that will assist in the approval of agreements listed in
2 Subsection A of this section.

3 C. Once approved, an agreement shall be effective
4 only for the period of time specified in each agreement. Any
5 person entering into an agreement to pay tax on behalf of
6 another person shall fulfill all of the requirements set out
7 in the agreement. Failure to fulfill all of the requirements
8 set out in the agreement may result in the revocation of the
9 agreement by the department. An approved agreement may only
10 be revoked prior to expiration by written notification to all
11 persons who are party to the agreement and shall be applied
12 beginning on the first day of a month that occurs at least one
13 month following the date on which the agreement is revoked.

14 D. A person approved by the secretary to pay the
15 [~~gross receipts~~] sales tax or governmental [~~gross receipts~~]
16 sales tax pursuant to Subsection A of this section shall be
17 deemed to be the taxpayer with respect to that tax pursuant to
18 the Tax Administration Act with respect to all rights and
19 responsibilities related to that tax, except that the person
20 shall not:

21 (1) [~~the person shall not~~] be entitled to
22 take any credit against the tax for which the person has
23 assumed liability pursuant to this section; and

24 (2) [~~the person shall not~~] claim a refund of
25 tax on the basis that the person is not statutorily liable to

1 pay the tax.

2 E. The department shall relieve from liability and
3 hold harmless from the payment of a tax assumed by another
4 person pursuant to an agreement approved pursuant to this
5 section a taxpayer that would otherwise be liable for that
6 tax."

7 SECTION 43. Section 7-1-26 NMSA 1978 (being Laws 1965,
8 Chapter 248, Section 28, as amended) is amended to read:

9 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT,
10 REBATE OR REFUND.--

11 A. A person who believes that an amount of tax has
12 been paid by or withheld from that person in excess of that
13 for which the person was liable, who has been denied any
14 credit or rebate claimed or who claims a prior right to
15 property in the possession of the department pursuant to a
16 levy made under authority of Sections 7-1-31 through 7-1-34
17 NMSA 1978 may claim a refund by directing to the secretary,
18 within the time limited by the provisions of Subsections D and
19 E of this section, a written claim for refund. Except as
20 provided in Subsection I of this section, a refund claim shall
21 include:

22 (1) the ~~[taxpayer's]~~ person's name, address
23 and identification number;

24 (2) the type of tax for which a refund is
25 being claimed, the credit or rebate denied or the property

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1 levied upon;

2 (3) the sum of money or other property being
3 claimed;

4 (4) with respect to refund, the period for
5 which overpayment was made; and

6 (5) a brief statement of the facts and the
7 law on which the claim is based, which may be referred to as
8 the "basis for the refund".

9 B. The secretary or the secretary's delegate may
10 allow the claim in whole or in part or may deny the claim.

11 (1) If the claim is denied in whole or in
12 part in writing, no claim may be refiled with respect to that
13 which was denied, but the person, within ninety days after
14 either the mailing or delivery of the denial of all or any
15 part of the claim, may elect to pursue one, but not more than
16 one, of the remedies in Subsection C of this section.

17 (2) If the department has neither granted
18 nor denied any portion of a claim for refund within one
19 hundred twenty days of the date the claim was mailed or
20 delivered to the department, the person may refile it within
21 the time limits set forth in Subsection D of this section or
22 may within ninety days elect to pursue one, but only one, of
23 the remedies in Subsection C of this section. After the
24 expiration of the two hundred ten days from the date the claim
25 was mailed or delivered to the department, the department may

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1 not approve or disapprove the claim unless the person has
2 pursued one of the remedies under Subsection C of this
3 section.

4 C. A person may elect to pursue no more than one
5 of the remedies in Paragraphs (1) and (2) of this subsection.
6 A person who timely pursues more than one remedy shall be
7 deemed to have elected the first remedy invoked. The person
8 may:

9 (1) direct to the secretary, pursuant to the
10 provisions of Section 7-1-24 NMSA 1978, a written protest that
11 shall set forth:

12 (a) the circumstances of: 1) an
13 alleged overpayment; 2) a denied credit; 3) a denied rebate;
14 or 4) a denial of a prior right to property levied upon by the
15 department;

16 (b) an allegation that, because of that
17 overpayment or denial, the state is indebted to the ~~[taxpayer]~~
18 person for a specified amount, including any allowed interest,
19 or for the property;

20 (c) demanding the refund to the
21 ~~[taxpayer]~~ person of that amount or that property; and

22 (d) reciting the facts of the claim for
23 refund; or

24 (2) commence a civil action in the district
25 court for Santa Fe county by filing a complaint setting forth

1 the circumstance of the claimed overpayment, denied credit or
2 rebate or denial of a prior right to property levied upon by
3 the department alleging that on account thereof the state is
4 indebted to the plaintiff in the amount or property stated,
5 together with any interest allowable, demanding the refund to
6 the plaintiff of that amount or property and reciting the
7 facts of the claim for refund. The plaintiff or the secretary
8 may appeal from any final decision or order of the district
9 court to the court of appeals.

10 D. Except as otherwise provided in Subsection E of
11 this section, no credit or refund of any amount may be allowed
12 or made to any person unless as the result of a claim made by
13 that person as provided in this section:

14 (1) within three years of the end of the
15 calendar year in which:

16 (a) the payment was originally due or
17 the overpayment resulted from an assessment by the department
18 pursuant to Section 7-1-17 NMSA 1978, whichever is later;

19 (b) the final determination of value
20 occurs with respect to any overpayment that resulted from a
21 disapproval by any agency of the United States or the state of
22 New Mexico or any court of increase in value of a product
23 subject to taxation under the Oil and Gas Severance Tax Act,
24 the Oil and Gas Conservation Tax Act, the Oil and Gas
25 Emergency School Tax Act, the Oil and Gas Ad Valorem

1 Production Tax Act or the Natural Gas Processors Tax Act;

2 (c) property was levied upon pursuant
3 to the provisions of the Tax Administration Act; or

4 (d) an overpayment of New Mexico tax
5 resulted from: 1) an internal revenue service audit
6 adjustment or a federal refund paid due to an adjustment of an
7 audit by the internal revenue service or an amended federal
8 return; or 2) making a change to a federal return for which
9 federal approval is required by the Internal Revenue Code;

10 (2) when an amount of a claim for ~~[credit~~
11 ~~under the provisions of the Investment Credit Act]~~ a
12 laboratory partnership with small business corporate income
13 tax credit ~~[Act or]~~, a technology jobs and research and
14 development tax credit ~~[Act or for the]~~, a rural job tax
15 credit ~~[pursuant to Section 7-2E-1.1 NMSA 1978]~~ or similar
16 credit has been denied, the taxpayer may claim a refund of the
17 credit no later than one year after the date of the denial;

18 (3) when a taxpayer under audit by the
19 department has signed a waiver of the limitation on
20 assessments on or after July 1, 1993 pursuant to Subsection F
21 of Section 7-1-18 NMSA 1978, the taxpayer may file a claim for
22 refund of the same tax paid for the same period for which the
23 waiver was given, until a date one year after the later of the
24 date of the mailing of an assessment issued pursuant to the
25 audit, the date of the mailing of final audit findings to the

1 taxpayer or the date a proceeding is begun in court by the
2 department with respect to the same tax and the same period;

3 (4) if the payment of an amount of tax was
4 not made within three years of the end of the calendar year in
5 which the original due date of the tax or date of the
6 assessment of the department occurred, a claim for refund of
7 that amount of tax can be made within one year of the date on
8 which the tax was paid; or

9 (5) when a taxpayer has been assessed a
10 tax on or after July 1, 1993 under Subsection B, C or D of
11 Section 7-1-18 NMSA 1978 and when the assessment applies to a
12 period ending at least three years prior to the beginning of
13 the year in which the assessment was made, the taxpayer may
14 claim a refund for the same tax for the period of the
15 assessment or for any period following that period within one
16 year of the date of the assessment unless a longer period for
17 claiming a refund is provided in this section.

18 E. No credit or refund shall be allowed or made to
19 any person claiming a refund of gasoline tax under Section
20 7-13-11 NMSA 1978 unless notice of the destruction of the
21 gasoline was given the department within thirty days of the
22 actual destruction and the claim for refund is made within six
23 months of the date of destruction. No credit or refund shall
24 be allowed or made to any person claiming a refund of gasoline
25 tax under Section 7-13-17 NMSA 1978 unless the refund is

1 claimed within six months of the date of purchase of the
2 gasoline and the gasoline has been used at the time the claim
3 for refund is made.

4 F. If as a result of an audit by the department or
5 a managed audit covering multiple periods an overpayment of
6 tax is found in any period under the audit, that overpayment
7 may be credited against an underpayment of the same tax found
8 in another period under audit pursuant to Section 7-1-29 NMSA
9 1978, provided that the taxpayer files a claim for refund for
10 the overpayments identified in the audit.

11 G. Any refund of tax paid under any tax or tax act
12 administered under Subsection B of Section 7-1-2 NMSA 1978 may
13 be made, at the discretion of the department, in the form of
14 credit against future tax payments if future tax liabilities
15 in an amount at least equal to the credit amount reasonably
16 may be expected to become due.

17 H. For the purposes of this section, "oil and gas
18 tax return" means a return reporting tax due with respect to
19 oil, natural gas, liquid hydrocarbons, carbon dioxide, helium
20 or nonhydrocarbon gas pursuant to the Oil and Gas Severance
21 Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
22 Emergency School Tax Act, the Oil and Gas Ad Valorem
23 Production Tax Act, the Natural Gas Processors Tax Act or the
24 Oil and Gas Production Equipment Ad Valorem Tax Act.

25 I. The filing of a fully completed original income

1 tax return, corporate income tax return, corporate income and
2 franchise tax return, estate tax return or special fuel excise
3 tax return that shows a balance due the taxpayer or a fully
4 completed amended income tax return, an amended corporate
5 income tax return, an amended corporate income and franchise
6 tax return, an amended estate tax return, an amended special
7 fuel excise tax return or an amended oil and gas tax return
8 that shows a lesser tax liability than the original return
9 constitutes the filing of a claim for refund for the
10 difference in tax due shown on the original and amended
11 returns."

12 SECTION 44. Section 7-1-29 NMSA 1978 (being Laws 1965,
13 Chapter 248, Section 31, as amended) is amended to read:

14 "7-1-29. AUTHORITY TO MAKE REFUNDS OR CREDITS.--

15 A. In response to a claim for refund, credit or
16 rebate made as provided in Section 7-1-26 NMSA 1978, but
17 before a court acquires jurisdiction of the matter, the
18 secretary or the secretary's delegate may authorize payment to
19 a person in the amount of the [~~creditor~~] credit or rebate
20 claimed or refund an overpayment of tax determined by the
21 secretary or the secretary's delegate to have been erroneously
22 made by the person, together with allowable interest. A
23 payment of a credit rebate claimed or a refund of tax and
24 interest erroneously paid amounting to twenty thousand dollars
25 (\$20,000) or more shall be made with the prior approval of the

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1 attorney general, except that the secretary or the secretary's
2 delegate may make refunds with respect to the Oil and Gas
3 Severance Tax Act, the Oil and Gas Conservation Tax Act, the
4 Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
5 Valorem Production Tax Act, the Natural Gas Processors Tax Act
6 or the Oil and Gas Production Equipment Ad Valorem Tax Act,
7 Section 7-13-17 NMSA 1978 and the Cigarette Tax Act without
8 the prior approval of the attorney general regardless of the
9 amount.

10 B. Pursuant to the final order of the district
11 court, the court of appeals, the supreme court of New Mexico
12 or a federal court, from which order, appeal or review is not
13 successfully taken, adjudging that a person has properly
14 claimed a credit or rebate or made an overpayment of tax, the
15 secretary shall authorize the payment to the person of the
16 amount thereof.

17 C. In the discretion of the secretary, any amount
18 of credit or rebate to be paid or tax to be refunded may be
19 offset against any amount of tax for which the person due to
20 receive the credit, rebate payment or refund is liable, or in
21 the case of a refund of sales tax, any use tax owed by that
22 person's customer as a result of transactions with that
23 person. The secretary or the secretary's delegate shall give
24 notice to the taxpayer that the credit, rebate payment or
25 refund will be made in this manner, and the taxpayer shall be

1 entitled to interest pursuant to Section 7-1-68 NMSA 1978
2 until the tax liability is credited with the credit, rebate or
3 refund amount.

4 D. In an audit by the department or a managed
5 audit covering multiple reporting periods in which both
6 underpayments and overpayments of a tax have been made in
7 different reporting periods, the department shall credit the
8 tax overpayments against the underpayments; provided that the
9 taxpayer files a claim for refund of the overpayments. An
10 overpayment shall be applied as a credit first to the earliest
11 underpayment and then to succeeding underpayments. An
12 underpayment of tax to which an overpayment is credited
13 pursuant to this section shall be deemed paid in the period in
14 which the overpayment was made or the period to which the
15 overpayment was credited against an underpayment, whichever is
16 later. If the overpayments credited pursuant to this section
17 exceed the underpayments of a tax, the amount of the net
18 overpayment for the periods covered in the audit shall be
19 refunded to the taxpayer.

20 E. When a taxpayer makes a payment identified to a
21 particular return or assessment, and the department determines
22 that the payment exceeds the amount due pursuant to that
23 return or assessment, the secretary may apply the excess to
24 the taxpayer's other liabilities pursuant to the tax acts to
25 which the return or assessment applies, without requiring the

1 taxpayer to file a claim for a refund. The liability to which
2 an overpayment is applied pursuant to this section shall be
3 deemed paid in the period in which the overpayment was made or
4 the period to which the overpayment was applied, whichever is
5 later.

6 F. If the department determines, upon review of an
7 original or amended income tax return, corporate income and
8 franchise tax return, estate tax return, special fuels excise
9 tax return or oil and gas tax return, that there has been an
10 overpayment of tax for the taxable period to which the return
11 or amended return relates in excess of the amount due to be
12 refunded to the taxpayer pursuant to the provisions of
13 Subsection I of Section 7-1-26 NMSA 1978, the department may
14 refund that excess amount to the taxpayer without requiring
15 the taxpayer to file a refund claim.

16 G. Records of refunds and credits made in excess
17 of ten thousand dollars (\$10,000) shall be available for
18 inspection by the public. The department shall keep such
19 records for a minimum of three years from the date of the
20 refund or credit.

21 H. In response to a timely refund claim pursuant
22 to Section 7-1-26 NMSA 1978 and notwithstanding any other
23 provision of the Tax Administration Act, the secretary or the
24 secretary's delegate may refund or credit a portion of an
25 assessment of tax paid, including applicable penalties and

1 interest representing the amount of tax previously paid by
2 another person on behalf of the taxpayer on the same
3 transaction; provided that the requirements of equitable
4 recoupment are met. For purposes of this subsection, the
5 refund claim may be filed by the taxpayer to whom the
6 assessment was issued or by another person who claims to have
7 previously paid the tax on behalf of the taxpayer. Prior to
8 granting the refund or credit, the secretary may require a
9 waiver of all rights to claim a refund or credit of the tax
10 previously paid by another person paying a tax on behalf of
11 the taxpayer."

12 SECTION 45. Section 7-1-55 NMSA 1978 (being Laws 1975,
13 Chapter 251, Section 3, as amended) is amended to read:

14 "7-1-55. CONTRACTOR'S BOND FOR GROSS RECEIPTS--TAX--
15 PENALTY.--

16 A. A person engaged in the construction business
17 who does not have a principal place of business in New Mexico
18 and who enters into a prime construction contract to be
19 performed in this state shall, at the time such contract is
20 entered into, furnish the secretary or the secretary's
21 delegate with a surety bond, or other acceptable security, in
22 a sum equivalent to the gross receipts to be paid under the
23 contract multiplied by the sum of the applicable rate of the
24 [~~gross receipts~~] state sales tax imposed by Section 7-9-4 NMSA
25 1978 plus the applicable rate or rates of tax imposed pursuant

1 to local option [~~gross receipts~~] sales taxes to secure payment
2 of the tax imposed on the gross receipts from the contract and
3 shall obtain a certificate from the secretary or the
4 secretary's delegate that the requirements of this subsection
5 have been met.

6 B. If the total sum to be paid under the contract
7 is changed by ten percent or more subsequent to the date the
8 surety bond or other acceptable security is furnished to the
9 secretary or the secretary's delegate, such person shall
10 increase or decrease, as the case may be, the amount of the
11 bond or security within fourteen days after the change.

12 C. If a person fails to comply with Subsection A
13 or B of this section, the secretary or the secretary's
14 delegate may:

15 (1) [~~may~~] demand of the person by certified
16 mail or in person that the person comply. Upon the failure of
17 the person to comply within ten days of the date of the
18 mailing of such demand, the secretary may institute a
19 proceeding to enjoin the person from doing business as
20 provided in Section 7-1-53 NMSA 1978; or

21 (2) [~~may~~] when a serious and immediate risk
22 exists that an amount of tax due or reasonably expected to
23 become due from the person on gross receipts from a prime
24 construction contract will not be paid, request the person to
25 comply with Subsections A and B of this section, and, upon

1 failure immediately to comply, the secretary may, without
2 further notice of any kind, apply to any district court of the
3 state for an injunction as provided in Section 7-1-53 NMSA
4 1978.

5 D. Subsections A, B and C of this section shall
6 not apply if the total gross receipts to be paid under the
7 construction contract, including any change in such amount,
8 are less than fifty thousand dollars (\$50,000).

9 E. As used in this section, "construction" shall
10 have the meaning set forth in Section 7-9-3.4 NMSA 1978 and
11 "engaging in business" shall have the meaning set forth in
12 Section 7-9-3.3 NMSA 1978.

13 F. A municipality or other political subdivision
14 of the state or any agency of the state shall not issue a
15 building or other construction permit to any person subject to
16 the requirements of Subsection A of this section without first
17 having been furnished by the construction contractor with the
18 certificate from the secretary or the secretary's delegate
19 specified in Subsection A of this section. Any person who
20 issues any such permit before receiving the certificate shall
21 be deemed guilty of a misdemeanor and, upon conviction, be
22 fined not less than fifty dollars (\$50.00) nor more than one
23 hundred dollars (\$100) for each offense."

24 SECTION 46. A new section of the Tax Administration
25 Act, Section 7-1-69.2 NMSA 1978, is enacted to read:

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1 "7-1-69.2. [NEW MATERIAL] PENALTY--VIOLATION OF
2 CONDITIONS OF NONTAXABLE TRANSACTION CERTIFICATE.--A buyer or
3 lessee delivering a nontaxable transaction certificate whose
4 subsequent use of the property or service violates the
5 conditions of the certificate shall pay as a penalty the
6 greater of six percent of the value of the property or service
7 or twenty-five dollars (\$25.00)."

8 SECTION 47. A new section of the Tax Administration Act
9 is enacted to read:

10 "[NEW MATERIAL] DISTRIBUTION--MUNICIPALITIES' AND
11 COUNTIES' SHARE OF USE TAX.--

12 A. A distribution pursuant to Section 7-1-6.1
13 shall be made to a municipality in an amount equal to the net
14 receipts attributable to that portion of the use tax pursuant
15 to Paragraph (2) of Subsection E of Section 7-9-7 NMSA 1978
16 that was collected for property or services used in the
17 municipality.

18 B. A distribution pursuant to Section 7-1-6.1
19 shall be made to a county in an amount equal to the net
20 receipts attributable to that portion of the use tax pursuant
21 to Paragraph (3) of Subsection E of Section 7-9-7 NMSA 1978
22 that was collected for property or services used in the
23 county."

24 SECTION 48. A new section of the Tax Administration Act
25 is enacted to read:

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1 "[NEW MATERIAL] DISTRIBUTION--STATE SALES TAX TO LOCAL
2 GOVERNMENT TAX STABILIZATION FUND.--Prior to July 1, 2021, a
3 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
4 made to the local government tax stabilization fund in an
5 amount equal to the excess state sales tax revenue."

6 SECTION 49. A new section of the Tax Administration Act
7 is enacted to read:

8 "[NEW MATERIAL] LOCAL GOVERNMENT TAX STABILIZATION
9 FUND--DISTRIBUTION TO MUNICIPALITIES AND COUNTIES.--

10 A. There is created in the state treasury the
11 "local government tax stabilization fund". The department
12 shall administer the fund, and money in the fund is
13 appropriated to the department for the purposes of making up
14 for any losses in local option sales tax revenue that a
15 municipality or county experiences due to the changes made by
16 this 2017 act.

17 B. A semiannual distribution from the local
18 government tax stabilization fund shall be made to each
19 municipality and county in January 2019, July 2019 and January
20 2020 in an amount equal to the municipality's or county's
21 monthly baseline revenue multiplied by the number of months
22 that have passed since July 1, 2018, less the transfers made
23 pursuant to Section 7-1-6.12 or 7-1-6.13 NMSA 1978, as
24 appropriate, since July 1, 2018, less all prior distributions
25 made pursuant to this section. The department shall adjust

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1 the amount of distributions made pursuant to this section in
2 proportion to the actual money available in the fund.

3 C. Immediately after all distributions pursuant to
4 this section have been made, money in the local government tax
5 stabilization fund shall revert to the general fund.

6 D. As used in this section, "monthly baseline
7 revenue" means the baseline revenue, as that term is used in
8 Sections 7-19D-9 and 7-20E-9 NMSA 1978, of each municipality,
9 county or county area, divided by twelve."

10 SECTION 50. A new section of the Tax Administration Act
11 is enacted to read:

12 "[NEW MATERIAL] DEPARTMENT TO DETERMINE SALES TAX RATES
13 EQUIVALENT TO GROSS RECEIPTS TAX RATES.--

14 A. For the purpose of determining the municipal
15 share pursuant to Subsection B of Section 3-37A-2 NMSA 1978,
16 the department shall establish the municipal sales tax rates
17 that will, in fiscal years 2019 and 2020, produce an amount
18 equivalent to what would have been produced by a municipal
19 gross receipts tax rate of one and thirty-five hundredths
20 percent, if that tax was still in effect in those fiscal
21 years. The established municipal sales tax rates shall be
22 used to determine the municipal share pursuant to Subsection B
23 of Section 3-37A-2 NMSA 1978 as follows:

24 (1) the rate established for fiscal year
25 2019 shall be used beginning July 1, 2018 and prior to July 1,
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1 2019; and

2 (2) the rate established for fiscal year
3 2020 shall be used on and after July 1, 2019.

4 B. For the purpose of determining the local tax
5 effort and a qualifying municipality pursuant to Subsections G
6 and H of Section 3-37A-2 NMSA 1978, the department shall
7 establish the municipal sales tax rates that will, in fiscal
8 years 2019 and 2020, produce an amount equivalent to what
9 would have been produced by a municipal gross receipts tax
10 rate of one and one-fourth percent if that tax was still in
11 effect in those fiscal years. The established municipal sales
12 tax rates shall be used to determine the local tax effort and
13 a qualifying municipality pursuant to Subsections G and H of
14 Section 3-37A-2 NMSA 1978 as follows:

15 (1) the rate established for fiscal year
16 2019 shall be used beginning July 1, 2018 and prior to July 1,
17 2019; and

18 (2) the rate established for fiscal year
19 2020 shall be used on and after July 1, 2019.

20 C. For the purpose of determining the limitation
21 on the amount that may be transferred pursuant to Subsection D
22 of Section 4-48B-12 NMSA 1978, the department shall establish
23 the county sales tax rates that will, in fiscal years 2019 and
24 2020, produce an amount equivalent to what would have been
25 produced by a county health care gross receipts tax if that

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1 tax was still in effect in those fiscal years. The
2 established county sales tax rates shall be used to determine
3 the limitation on the amount that may be transferred pursuant
4 to Subsection D of Section 4-48B-12 NMSA 1978 as follows:

5 (1) the rate established for fiscal year
6 2019 shall be used beginning July 1, 2018 and prior to July 1,
7 2019; and

8 (2) the rate established for fiscal year
9 2020 shall be used on and after July 1, 2019.

10 D. For the purpose of determining a qualifying
11 county pursuant to Paragraph (4) of Subsection F of Section
12 4-61-2 NMSA 1978, the department shall establish the county
13 sales tax rates that will, in fiscal years 2019 and 2020,
14 produce an amount equivalent to what would have been produced
15 by a county gross receipts tax rate of three-eighths percent
16 if that tax was still in effect in those fiscal years. The
17 established county sales tax rates shall be used to determine
18 a qualifying county pursuant to Paragraph (4) of Subsection F
19 of Section 4-61-2 NMSA as follows:

20 (1) the rate established for fiscal year
21 2019 shall be used beginning July 1, 2018 and prior to July 1,
22 2019; and

23 (2) the rate established for fiscal year
24 2020 shall be used on and after July 1, 2019.

25 E. For the purpose of determining the distribution

1 pursuant to Paragraphs (1) and (2) of Subsection E of Section
2 4-61-3 NMSA 1978, the department shall establish the county
3 sales tax rates that will, in fiscal years 2019 and 2020,
4 produce an amount equivalent to what would have been produced
5 by a county gross receipts tax rate of one-eighth percent and
6 a rate of one-sixteenth percent if the county gross receipts
7 tax was still in effect in those fiscal years. The
8 established county sales tax rates shall be used to determine
9 the distribution pursuant to Paragraphs (1) and (2) of
10 Subsection E of Section 4-61-3 NMSA 1978 as follows:

11 (1) the rates established for fiscal year
12 2019 shall be used beginning July 1, 2018 and prior to July 1,
13 2019; and

14 (2) the rates established for fiscal year
15 2020 shall be used on and after July 1, 2019.

16 F. For the purpose of determining the distribution
17 pursuant to Subsection C of Section 7-1-6.7 NMSA 1978, the
18 department shall establish the state sales tax rates that
19 will, in fiscal years 2019 and 2020, produce an amount
20 equivalent to what would have been produced by a gross
21 receipts tax rate of forty-six thousandths percent, if that
22 tax was still in effect in those fiscal years. The
23 established state sales tax rates shall be used to determine
24 the distribution pursuant to Subsection C of Section 7-1-6.7
25 NMSA 1978 as follows:

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1 (1) the rate established for fiscal year
2 2019 shall be used beginning July 1, 2018 and prior to July 1,
3 2019; and

4 (2) the rate established for fiscal year
5 2020 shall be used on and after July 1, 2019.

6 G. For the purpose of determining the distribution
7 pursuant to Paragraph (2) of Subsection A of Section 7-1-6.16
8 NMSA 1978, the department shall establish the county sales tax
9 rates that will, in fiscal years 2019 and 2020, produce an
10 amount equivalent to what would have been produced by a county
11 gross receipts tax rate of one-eighth percent if that tax was
12 still in effect in those fiscal years. The established county
13 sales tax rates shall be used to determine the distribution
14 pursuant to Paragraph (2) of Subsection A of Section 7-1-6.16
15 NMSA 1978 as follows:

16 (1) the rate established for fiscal year
17 2019 shall be used beginning July 1, 2018 and prior to July 1,
18 2019; and

19 (2) the rate established for fiscal year
20 2020 shall be used on and after July 1, 2019.

21 H. For the purpose of determining the dedication
22 pursuant to Subsection A of Section 27-5-6.2 NMSA 1978, the
23 department shall establish the county sales tax rates that
24 will, in fiscal years 2019 and 2020, produce an amount
25 equivalent to what would have been produced by a county gross

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1 receipts tax rate of one-twelfth percent if that tax was still
2 in effect in those fiscal years. The established county sales
3 tax rates shall be used to determine the dedication pursuant
4 to Subsection A of Section 27-5-6.2 NMSA 1978 as follows:

5 (1) the rate established for fiscal year
6 2019 shall be used beginning July 1, 2018 and prior to July 1,
7 2019; and

8 (2) the rate established for fiscal year
9 2020 shall be used on and after July 1, 2019.

10 I. For the purpose of determining the dedication
11 pursuant to Subsection A of Section 27-10-4 NMSA 1978, the
12 department shall establish the county sales tax rates that
13 will, in fiscal years 2019 and 2020, produce an amount
14 equivalent to what would have been produced by a county gross
15 receipts tax rate of one-sixteenth percent if that tax was
16 still in effect in those fiscal years. The established county
17 sales tax rates shall be used to determine the dedication
18 pursuant to Subsection A of Section 27-10-4 NMSA 1978, as
19 follows:

20 (1) the rate established for fiscal year
21 2019 shall be used beginning July 1, 2018 and prior to July 1,
22 2019; and

23 (2) the rate established for fiscal year
24 2020 shall be used on and after July 1, 2019.

25 J. The rates established pursuant to Subsections A

1 through I of this section shall be rounded up to the nearest
2 one-hundredth percent."

3 SECTION 51. Section 7-2-14 NMSA 1978 (being Laws 1972,
4 Chapter 20, Section 2, as amended) is amended to read:

5 "7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE.--

6 A. Except as otherwise provided in Subsection B of
7 this section, any resident who files an individual New Mexico
8 income tax return and who is not a dependent of another
9 individual may claim a tax rebate for a portion of state and
10 local taxes to which the resident has been subject during the
11 taxable year for which the return is filed. The tax rebate
12 may be claimed even though the resident has no income taxable
13 under the Income Tax Act. ~~[A husband and wife]~~ Married
14 individuals who file separate returns for a taxable year in
15 which they could have filed a joint return may each claim only
16 one-half of the tax rebate that would have been allowed on a
17 joint return.

18 B. No claim for the tax rebate provided in this
19 section shall be filed by a resident who was an inmate of a
20 public institution for more than six months during the taxable
21 year for which the tax rebate could be claimed or who was not
22 physically present in New Mexico for at least six months
23 during the taxable year for which the tax rebate could be
24 claimed.

25 ~~[G. For the purposes of this section, the total~~

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underscored material = new
[bracketed material] = delete

number of exemptions for which a tax rebate may be claimed or allowed is determined by adding the number of federal exemptions allowable for federal income tax purposes for each individual included in the return who is domiciled in New Mexico plus two additional exemptions for each individual domiciled in New Mexico included in the return who is sixty-five years of age or older plus one additional exemption for each individual domiciled in New Mexico included in the return who, for federal income tax purposes, is blind plus one exemption for each minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident.

D. The tax rebate provided for in this section may be claimed in the amount shown in the following table:

Modified gross income is:		And the total number of exemptions is:							
		[But Not							
		6 or							
Over	Over	1	2	3	4	5			
More									
\$ 0	\$ 500	\$ 120	\$ 160	\$ 200	\$ 240	\$ 280	\$ 320		
500	1,000	135	195	250	310	350	415		
1,000	1,500	135	195	250	310	350	435		
1,500	2,000	135	195	250	310	350	450		

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underscored material = new
[bracketed material] = delete

1 ~~2,000~~ ~~2,500~~ ~~135~~ ~~195~~ ~~250~~ ~~310~~ ~~350~~ ~~450~~
2 ~~2,500~~ ~~3,000~~ ~~135~~ ~~195~~ ~~250~~ ~~310~~ ~~350~~ ~~450~~
3 ~~3,000~~ ~~3,500~~ ~~135~~ ~~195~~ ~~250~~ ~~310~~ ~~350~~ ~~450~~
4 ~~3,500~~ ~~4,000~~ ~~135~~ ~~195~~ ~~250~~ ~~310~~ ~~355~~ ~~450~~
5 ~~4,000~~ ~~4,500~~ ~~135~~ ~~195~~ ~~250~~ ~~310~~ ~~355~~ ~~450~~
6 ~~4,500~~ ~~5,000~~ ~~125~~ ~~190~~ ~~240~~ ~~305~~ ~~355~~ ~~450~~
7 ~~5,000~~ ~~5,500~~ ~~115~~ ~~175~~ ~~230~~ ~~295~~ ~~355~~ ~~430~~
8 ~~5,500~~ ~~6,000~~ ~~105~~ ~~155~~ ~~210~~ ~~260~~ ~~315~~ ~~410~~
9 ~~6,000~~ ~~7,000~~ ~~90~~ ~~130~~ ~~170~~ ~~220~~ ~~275~~ ~~370~~
10 ~~7,000~~ ~~8,000~~ ~~80~~ ~~115~~ ~~145~~ ~~180~~ ~~225~~ ~~295~~
11 ~~8,000~~ ~~9,000~~ ~~70~~ ~~105~~ ~~135~~ ~~170~~ ~~195~~ ~~240~~
12 ~~9,000~~ ~~10,000~~ ~~65~~ ~~95~~ ~~115~~ ~~145~~ ~~175~~ ~~205~~
13 ~~10,000~~ ~~11,000~~ ~~60~~ ~~80~~ ~~100~~ ~~130~~ ~~155~~ ~~185~~
14 ~~11,000~~ ~~12,000~~ ~~55~~ ~~70~~ ~~90~~ ~~110~~ ~~135~~ ~~160~~
15 ~~12,000~~ ~~13,000~~ ~~50~~ ~~65~~ ~~85~~ ~~100~~ ~~115~~ ~~140~~
16 ~~13,000~~ ~~14,000~~ ~~50~~ ~~65~~ ~~85~~ ~~100~~ ~~115~~ ~~140~~
17 ~~14,000~~ ~~15,000~~ ~~45~~ ~~60~~ ~~75~~ ~~90~~ ~~105~~ ~~120~~
18 ~~15,000~~ ~~16,000~~ ~~40~~ ~~55~~ ~~70~~ ~~85~~ ~~95~~ ~~110~~
19 ~~16,000~~ ~~17,000~~ ~~35~~ ~~50~~ ~~65~~ ~~80~~ ~~85~~ ~~105~~
20 ~~17,000~~ ~~18,000~~ ~~30~~ ~~45~~ ~~60~~ ~~70~~ ~~80~~ ~~95~~
21 ~~18,000~~ ~~19,000~~ ~~25~~ ~~35~~ ~~50~~ ~~60~~ ~~70~~ ~~80~~
22 ~~19,000~~ ~~20,000~~ ~~20~~ ~~30~~ ~~40~~ ~~50~~ ~~60~~ ~~65~~
23 ~~20,000~~ ~~21,000~~ ~~15~~ ~~25~~ ~~30~~ ~~40~~ ~~50~~ ~~55~~
24 ~~21,000~~ ~~22,000~~ ~~10~~ ~~20~~ ~~25~~ ~~35~~ ~~40~~ ~~45]~~

25 ~~[E. If a taxpayer's modified gross income is zero,~~

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~~the taxpayer may claim a credit in the amount shown in the first row of the table appropriate for the taxpayer's number of exemptions.]~~

C. The tax rebate provided in this section may be claimed in an amount determined by the percentage of federal poverty guidelines of a taxpayer's household income, as follows:

<u>Percentage:</u>	<u>Family size:</u>							
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
up to 110%	\$157	\$211	\$266	\$321	\$375	\$430	\$485	\$540
110% up to 120%	69	96	117	141	165	189	213	237
120% up to 130%	56	76	96	115	135	155	175	194
130% up to 140%	41	55	69	83	98	112	126	140
140% up to 150%	22	30	37	45	53	60	68	76.

~~[F.]~~ D. The tax ~~[rebates]~~ rebate provided ~~[for]~~ in this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the tax ~~[rebates exceed]~~ rebate exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

~~[G. For purposes of this section, "dependent" means "dependent" as defined by Section 152 of the Internal Revenue Code of 1986, as that section may be amended or renumbered, but also includes any minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support~~

1 ~~of the child or stepchild was considered to have been~~
2 ~~contributed by the resident.]~~

3 E. As used in this section, "federal poverty
4 guidelines" means the level of income defining poverty by
5 family size published annually in the federal register by the
6 United States department of health and human services."

7 SECTION 52. Section 7-2-18.4 NMSA 1978 (being Laws
8 1994, Chapter 115, Section 1) is amended to read:

9 "7-2-18.4. QUALIFIED BUSINESS FACILITY REHABILITATION
10 CREDIT--INCOME TAX CREDIT.--

11 A. To stimulate the creation of new jobs and
12 revitalize economically depressed areas within New Mexico
13 enterprise zones, any taxpayer who files an individual New
14 Mexico income tax return, who is not a dependent of another
15 individual and who is the owner of a qualified business
16 facility may claim a credit in an amount equal to one-half of
17 the cost, not to exceed fifty thousand dollars (\$50,000),
18 incurred to restore, rehabilitate or renovate a qualified
19 business facility.

20 B. A taxpayer may claim the credit provided in
21 this section for each taxable year in which restoration,
22 rehabilitation or renovation is carried out. Except as
23 provided in Subsection E of this section, claims for the
24 credit provided in this section shall be limited to three
25 consecutive years, and the maximum aggregate credit allowable

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1 shall not exceed fifty thousand dollars (\$50,000) for any
2 single restoration, rehabilitation or renovation project for
3 any qualified business facility. Each claim for a qualified
4 business facility rehabilitation credit shall be accompanied
5 by documentation and certification as the department may
6 require by regulation or instruction.

7 C. No credit may be claimed or allowed pursuant to
8 the provisions of this section for any costs incurred for a
9 restoration, rehabilitation or renovation project for which a
10 credit may be claimed pursuant to the provisions of Section
11 7-2-18.2 [~~or Section 7-9A-1~~] NMSA 1978.

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

16 E. A taxpayer who otherwise qualifies and claims a
17 credit on a restoration, rehabilitation or renovation project
18 on a building owned by a partnership or other business
19 association of which the taxpayer is a member may claim a
20 credit only in proportion to [~~his~~] the taxpayer's interest in
21 the partnership or association. The total credit claimed by
22 all members of the partnership or association shall not exceed
23 fifty thousand dollars (\$50,000) in the aggregate for any
24 single restoration, rehabilitation or renovation project for a
25 qualified business facility.

1 F. The credit provided in this section may only be
2 deducted from the taxpayer's income tax liability. Any
3 portion of the maximum tax credit provided by this section
4 that remains unused at the end of the taxpayer's taxable year
5 may be carried forward for four consecutive taxable years;
6 provided the total tax credits claimed under this section
7 shall not exceed fifty thousand dollars (\$50,000) for any
8 single restoration, rehabilitation or renovation project for a
9 qualified business facility.

10 G. As used in this section:

11 (1) "qualified business facility" means a
12 building located in a New Mexico enterprise zone that is
13 suitable for use and is put into service by a person in the
14 manufacturing, distribution or service industry immediately
15 following the restoration, rehabilitation or renovation
16 project; provided the building ~~[must]~~ shall have been vacant
17 for the twenty-four-month period immediately preceding the
18 commencement of the restoration, rehabilitation or renovation
19 project; and

20 (2) "restoration, rehabilitation or
21 renovation" includes:

22 (a) the construction services necessary
23 to ensure that a building is in compliance with applicable
24 zoning codes, is safe for occupancy and meets the operating
25 needs of a person in the manufacturing, distribution or

1 service industry; and

2 (b) expansion of or an addition to a
3 building if the expansion or addition does not increase the
4 usable square footage of the building by more than ten percent
5 of the usable square footage of the building prior to the
6 restoration, rehabilitation or renovation project."

7 SECTION 53. Section 7-2-18.25 NMSA 1978 (being Laws
8 2009, Chapter 279, Section 1) is amended to read:

9 "7-2-18.25. ADVANCED ENERGY INCOME TAX CREDIT.--

10 A. The tax credit that may be claimed pursuant to
11 this section may be referred to as the "advanced energy income
12 tax credit".

13 B. A taxpayer who holds an interest in a qualified
14 generating facility located in New Mexico and who files an
15 individual New Mexico income tax return may claim an advanced
16 energy income tax credit in an amount equal to six percent of
17 the eligible generation plant costs of a qualified generating
18 facility, subject to the limitations imposed in this section.
19 The tax credit claimed shall be verified and approved by the
20 department.

21 C. An entity that holds an interest in a qualified
22 generating facility may request a certificate of eligibility
23 from the department of environment to enable the requester to
24 apply for an advanced energy income tax credit. The
25 department of environment:

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1 (1) shall determine if the facility is a
2 qualified generating facility;

3 (2) shall require that the requester provide
4 the department of environment with the information necessary
5 to assess whether the requester's facility meets the criteria
6 to be a qualified generating facility;

7 (3) shall issue a certificate to the
8 requester stating that the facility is or is not a qualified
9 generating facility within one hundred eighty days after
10 receiving all information necessary to make a determination;

11 (4) shall:

12 (a) issue a schedule of fees in which
13 no fee exceeds one hundred fifty thousand dollars (\$150,000);
14 and

15 (b) deposit fees collected pursuant to
16 this paragraph in the state air quality permit fund created
17 pursuant to Section 74-2-15 NMSA 1978; and

18 (5) shall report annually to the appropriate
19 interim legislative committee information that will allow the
20 legislative committee to analyze the effectiveness of the
21 advanced energy tax credits, including the identity of
22 qualified generating facilities, the energy production means
23 used, the amount of emissions identified in this section
24 reduced and removed by those qualified generating facilities
25 and whether any requests for certificates of eligibility could

1 not be approved due to program limits.

2 D. A taxpayer who holds an interest in a qualified
3 generating facility may be allocated the right to claim the
4 advanced energy income tax credit without regard to the
5 taxpayer's relative interest in the qualified generating
6 facility if:

7 (1) the business entity making the
8 allocation provides notice of the allocation and the
9 taxpayer's interest in the qualified generating facility to
10 the department on forms prescribed by the department;

11 (2) allocations to the taxpayer and all
12 other taxpayers allocated a right to claim the advanced energy
13 tax credit shall not exceed one hundred percent of the
14 advanced energy tax credit allowed for the qualified
15 generating facility; and

16 (3) the taxpayer and all other taxpayers
17 allocated a right to claim the advanced energy tax credits
18 collectively own at least a five percent interest in the
19 qualified generating facility.

20 E. To claim the advanced energy income tax credit,
21 a taxpayer shall submit with the taxpayer's New Mexico income
22 tax return a certificate of eligibility from the department of
23 environment stating that the taxpayer may be eligible for
24 advanced energy tax credits. The taxation and revenue
25 department shall provide credit claims forms. A credit claim

1 form shall accompany any return in which the taxpayer wishes
2 to apply for an approved credit, and the claim shall specify
3 the amount of credit intended to apply to each return. The
4 taxation and revenue department shall determine the amount of
5 advanced energy income tax credit for which the taxpayer may
6 apply.

7 F. Upon receipt of the notice of an allocation of
8 the right to claim all or a portion of the advanced energy
9 income tax credit, the department shall verify the allocation
10 due to the recipient.

11 G. ~~[A husband and wife]~~ Married individuals who
12 file separate returns for a taxable year in which they could
13 have filed a joint return may each claim only one-half of the
14 advanced energy income tax credit that would have been allowed
15 on a joint return.

16 H. The total amount of all advanced energy tax
17 credits claimed shall not exceed the total amount determined
18 by the department to be allowable pursuant to this section and
19 the Corporate Income and Franchise Tax Act ~~[and Section 7-9G-2~~
20 ~~NMSA 1978]~~.

21 I. ~~[Any balance of the advanced energy income tax~~
22 ~~credit that the taxpayer is approved to claim may be claimed~~
23 ~~by the taxpayer as an advanced energy combined reporting tax~~
24 ~~credit allowed pursuant to Section 7-9G-2 NMSA 1978.]~~ If the
25 advanced energy income tax credit exceeds the amount of the

1 taxpayer's tax liabilities pursuant to the Income Tax Act [~~and~~
2 ~~Section 7-96-2 NMSA 1978~~] in the taxable year in which it is
3 claimed, the balance of the unpaid credit may be carried
4 forward for ten years [~~and claimed as an advanced energy~~
5 ~~income tax credit or an advanced energy combined reporting tax~~
6 ~~credit~~]. The advanced energy income tax credit is not
7 refundable.

8 J. A taxpayer claiming the advanced energy income
9 tax credit pursuant to this section is ineligible for credits
10 pursuant to [~~the Investment Credit Act or~~] any other credit
11 that may be taken pursuant to the Income Tax Act [~~or credits~~
12 ~~that may be taken against the gross receipts tax, compensating~~
13 ~~tax or withholding tax~~] for the same expenditures.

14 K. The aggregate amount of all advanced energy tax
15 credits that may be claimed with respect to a qualified
16 generating facility shall not exceed sixty million dollars
17 (\$60,000,000).

18 L. As used in this section:

19 (1) "advanced energy tax credit" means the
20 advanced energy income tax credit and the advanced energy
21 corporate income tax credit [~~and the advanced energy combined~~
22 ~~reporting tax credit~~];

23 (2) "coal-based electric generating
24 facility" means a new or repowered generating facility and an
25 associated coal gasification facility, if any, that uses coal

1 to generate electricity and that meets the following
2 specifications:

3 (a) emits the lesser of: 1) what is
4 achievable with the best available control technology; or 2)
5 thirty-five thousandths pound per million British thermal
6 units of sulfur dioxide, twenty-five thousandths pound per
7 million British thermal units of oxides of nitrogen and one
8 hundredth pound per million British thermal units of total
9 particulates in the flue gas;

10 (b) removes the greater of: 1) what is
11 achievable with the best available control technology; or 2)
12 ninety percent of the mercury from the input fuel;

13 (c) captures and sequesters or controls
14 carbon dioxide emissions so that by the later of January 1,
15 2017 or eighteen months after the commercial operation date of
16 the coal-based electric generating facility, no more than one
17 thousand one hundred pounds per megawatt-hour of carbon
18 dioxide is emitted into the atmosphere;

19 (d) all infrastructure required for
20 sequestration is in place by the later of January 1, 2017 or
21 eighteen months after the commercial operation date of the
22 coal-based electric generating facility;

23 (e) includes methods and procedures to
24 monitor the disposition of the carbon dioxide captured and
25 sequestered from the coal-based electric generating facility;

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1 and

2 (f) does not exceed a name-plate
3 capacity of seven hundred net megawatts;

4 (3) "eligible generation plant costs" means
5 expenditures for the development and construction of a
6 qualified generating facility, including permitting; site
7 characterization and assessment; engineering; design; carbon
8 dioxide capture, treatment, compression, transportation and
9 sequestration; site and equipment acquisition; and fuel supply
10 development used directly and exclusively in a qualified
11 generating facility;

12 (4) "entity" means an individual, estate,
13 trust, receiver, cooperative association, club, corporation,
14 company, firm, partnership, limited liability company, limited
15 liability partnership, joint venture, syndicate or other
16 association or a gas, water or electric utility owned or
17 operated by a county or municipality;

18 (5) "geothermal electric generating
19 facility" means a facility with a name-plate capacity of one
20 megawatt or more that uses geothermal energy to generate
21 electricity, including a facility that captures and provides
22 geothermal energy to a preexisting electric generating
23 facility using other fuels in part;

24 (6) "interest in a qualified generating
25 facility" means title to a qualified generating facility; a

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1 leasehold interest in a qualified generating facility; an
2 ownership interest in a business or entity that is taxed for
3 federal income tax purposes as a partnership that holds title
4 to or a leasehold interest in a qualified generating facility;
5 or an ownership interest, through one or more intermediate
6 entities that are each taxed for federal income tax purposes
7 as a partnership, in a business that holds title to or a
8 leasehold interest in a qualified generating facility;

9 (7) "name-plate capacity" means the maximum
10 rated output of the facility measured as alternating current
11 or the equivalent direct current measurement;

12 (8) "qualified generating facility" means a
13 facility that begins construction not later than December 31,
14 2015 and is:

15 (a) a solar thermal electric generating
16 facility that begins construction on or after July 1, 2007 and
17 that may include an associated renewable energy storage
18 facility;

19 (b) a solar photovoltaic electric
20 generating facility that begins construction on or after July
21 1, 2009 and that may include an associated renewable energy
22 storage facility;

23 (c) a geothermal electric generating
24 facility that begins construction on or after July 1, 2009;

25 (d) a recycled energy project if that

1 facility begins construction on or after July 1, 2007; or

2 (e) a new or repowered coal-based
3 electric generating facility and an associated coal
4 gasification facility;

5 (9) "recycled energy" means energy produced
6 by a generation unit with a name-plate capacity of not more
7 than fifteen megawatts that converts the otherwise lost energy
8 from the exhaust stacks or pipes to electricity without
9 combustion of additional fossil fuel;

10 (10) "sequester" means to store, or
11 chemically convert, carbon dioxide in a manner that prevents
12 its release into the atmosphere and may include the use of
13 geologic formations and enhanced oil, coalbed methane or
14 natural gas recovery techniques; and

15 (11) "solar photovoltaic electric generating
16 facility" means an electric generating facility with a
17 name-plate capacity of one megawatt or more that uses solar
18 photovoltaic energy to generate electricity [and

19 ~~(12) "solar thermal generating facility"~~
20 ~~means an electric generating facility with a name-plate~~
21 ~~capacity of one megawatt or more that uses solar thermal~~
22 ~~energy to generate electricity, including a facility that~~
23 ~~captures and provides solar energy to a preexisting electric~~
24 ~~generating facility using other fuels in part]."~~

25 SECTION 54. Section 7-2A-15 NMSA 1978 (being Laws 1994,

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Chapter 115, Section 2) is amended to read:

"7-2A-15. QUALIFIED BUSINESS FACILITY REHABILITATION
CREDIT--CORPORATE INCOME TAX CREDIT.--

A. To stimulate the creation of new jobs and
revitalize economically distressed areas within New Mexico
enterprise zones, any taxpayer who files a corporate income
tax return and who is the owner of a qualified business
facility may claim a credit in an amount equal to one-half of
the cost, not to exceed fifty thousand dollars (\$50,000),
incurred to restore, rehabilitate or renovate a qualified
business facility.

B. A taxpayer may claim the credit provided in
this section for each taxable year in which restoration,
rehabilitation or renovation is carried out. Except as
provided in Subsection [D] E of this section, claims for the
credit provided in this section shall be limited to three
consecutive years, and the maximum aggregate credit allowable
shall not exceed fifty thousand dollars (\$50,000) for any
single restoration, rehabilitation or renovation project for
any qualified business facility. Each claim for a qualified
business facility rehabilitation credit shall be accompanied
by documentation and certification as the department may
require by regulation or instruction.

C. No credit may be claimed or allowed pursuant
to the provisions of this section for any costs incurred for a

1 restoration, rehabilitation or renovation project for which a
2 credit may be claimed pursuant to the provisions of Section
3 7-2A-8.6 [~~or Section 7-9A-1~~] NMSA 1978.

4 D. A taxpayer who otherwise qualifies and claims
5 a credit on a restoration, rehabilitation or renovation
6 project on a building owned by a partnership or other business
7 association of which the taxpayer is a member may claim a
8 credit only in proportion to [~~his~~] the taxpayer's interest in
9 the partnership or association. The total credit claimed by
10 all members of the partnership or association shall not exceed
11 fifty thousand dollars (\$50,000) in the aggregate for any
12 single restoration, rehabilitation or renovation project for a
13 qualified business facility.

14 E. The credit provided in this section may only
15 be deducted from the taxpayer's corporate income tax
16 liability. Any portion of the maximum tax credit provided by
17 this section that remains unused at the end of the taxpayer's
18 taxable year may be carried forward for four consecutive
19 taxable years; provided the total tax credits claimed under
20 this section shall not exceed fifty thousand dollars (\$50,000)
21 for any single restoration, rehabilitation or renovation
22 project for a qualified business facility.

23 F. As used in this section:

24 (1) "qualified business facility" means a
25 building located in a New Mexico enterprise zone that is

1 suitable for use and is put into service by a person in the
2 manufacturing, distribution or service industry immediately
3 following the restoration, rehabilitation or renovation
4 project; provided the building ~~[must]~~ shall have been vacant
5 for the twenty-four-month period immediately preceding the
6 commencement of the restoration, rehabilitation or renovation
7 project; and

8 (2) "restoration, rehabilitation or
9 renovation" includes:

10 (a) the construction services necessary
11 to ensure that a building is in compliance with applicable
12 zoning codes, is safe for occupancy and meets the operating
13 needs of a person in the manufacturing, distribution or
14 service industry; and

15 (b) expansion of or additions to a
16 building if the expansion or addition does not increase the
17 usable square footage of the building by more than ten percent
18 of the usable square footage of the building prior to the
19 restoration, rehabilitation or renovation."

20 SECTION 55. Section 7-2A-25 NMSA 1978 (being Laws 2009,
21 Chapter 279, Section 2) is amended to read:

22 "7-2A-25. ADVANCED ENERGY CORPORATE INCOME TAX
23 CREDIT.--

24 A. The tax credit that may be claimed pursuant to
25 this section may be referred to as the "advanced energy

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1 corporate income tax credit".

2 B. A taxpayer that holds an interest in a
3 qualified generating facility located in New Mexico and that
4 files a New Mexico corporate income tax return may claim an
5 advanced energy corporate income tax credit in an amount equal
6 to six percent of the eligible generation plant costs of a
7 qualified generating facility, subject to the limitations
8 imposed in this section. The tax credit claimed shall be
9 verified and approved by the department.

10 C. An entity that holds an interest in a
11 qualified generating facility may request a certificate of
12 eligibility from the department of environment to enable the
13 requester to apply for an advanced energy corporate income tax
14 credit. The department of environment:

15 (1) shall determine if the facility is a
16 qualified generating facility;

17 (2) shall require that the requester provide
18 the department of environment with the information necessary
19 to assess whether the requester's facility meets the criteria
20 to be a qualified generating facility;

21 (3) shall issue a certificate to the
22 requester stating that the facility is or is not a qualified
23 generating facility within one hundred eighty days after
24 receiving all information necessary to make a determination;

25 (4) shall:

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1 (a) issue a schedule of fees in which
2 no fee exceeds one hundred fifty thousand dollars (\$150,000);
3 and

4 (b) deposit fees collected pursuant to
5 this paragraph in the state air quality permit fund created
6 pursuant to Section 74-2-15 NMSA 1978; and

7 (5) shall report annually to the appropriate
8 interim legislative committee information that will allow the
9 legislative committee to analyze the effectiveness of the
10 advanced energy tax credits, including the identity of
11 qualified generating facilities, the energy production means
12 used, the amount of emissions identified in this section
13 reduced and removed by those qualified generating facilities
14 and whether any requests for certificates of eligibility could
15 not be approved due to program limits.

16 D. A taxpayer that holds an interest in a
17 qualified generating facility may be allocated the right to
18 claim the advanced energy corporate income tax credit without
19 regard to the taxpayer's relative interest in the qualified
20 generating facility if:

21 (1) the business entity making the
22 allocation provides notice of the allocation and the
23 taxpayer's interest in the qualified generating facility to
24 the department on forms prescribed by the department;

25 (2) allocations to the taxpayer and all

1 other taxpayers allocated a right to claim the advanced energy
2 tax credit shall not exceed one hundred percent of the
3 advanced energy tax credit allowed for the qualified
4 generating facility; and

5 (3) the taxpayer and all other taxpayers
6 allocated a right to claim the advanced energy tax credits
7 collectively own at least a five percent interest in the
8 qualified generating facility.

9 E. Upon receipt of the notice of an allocation of
10 the right to claim all or a portion of the advanced energy
11 corporate income tax credit, the department shall verify the
12 allocation due to the recipient.

13 F. To claim the advanced energy corporate income
14 tax credit, a taxpayer shall submit with the taxpayer's New
15 Mexico corporate income tax return a certificate of
16 eligibility from the department of environment stating that
17 the taxpayer may be eligible for advanced energy tax credits.
18 The taxation and revenue department shall provide credit claim
19 forms. A credit claim form shall accompany any return in
20 which the taxpayer wishes to apply for an approved credit, and
21 the claim shall specify the amount of credit intended to apply
22 to each return. The taxation and revenue department shall
23 determine the amount of advanced energy corporate income tax
24 credit for which the taxpayer may apply.

25 G. The total amount of all advanced energy tax

1 credits claimed shall not exceed the total amount determined
2 by the department to be allowable pursuant to this section and
3 the Income Tax Act [~~and Section 7-9G-2 NMSA 1978~~].

4 H. [~~Any balance of the advanced energy corporate~~
5 ~~income tax credit that the taxpayer is approved to claim may~~
6 ~~be claimed by the taxpayer as an advanced energy combined~~
7 ~~reporting tax credit allowed pursuant to Section 7-9G-2 NMSA~~
8 ~~1978.~~] If the advanced energy corporate income tax credit
9 exceeds the amount of the taxpayer's tax liabilities pursuant
10 to the Corporate Income and Franchise Tax Act [~~and Section~~
11 ~~7-9G-2 NMSA 1978~~] in the taxable year in which it is claimed,
12 the balance of the unpaid credit may be carried forward for
13 ten years [~~and claimed as an advanced energy corporate income~~
14 ~~tax credit or an advanced energy combined reporting tax~~
15 ~~credit~~]. The advanced energy corporate income tax credit is
16 not refundable.

17 I. A taxpayer claiming the advanced energy
18 corporate income tax credit pursuant to this section is
19 ineligible for credits pursuant to the [~~Investment Credit Act~~
20 ~~or any other credit that may be taken pursuant to the~~]
21 Corporate Income and Franchise Tax Act [~~or credits that may be~~
22 ~~taken against the gross receipts tax, compensating tax or~~
23 ~~withholding tax~~] for the same expenditures.

24 J. The aggregate amount of all advanced energy
25 tax credits that may be claimed with respect to a qualified

1 generating facility shall not exceed sixty million dollars
2 (\$60,000,000).

3 K. As used in this section:

4 (1) "advanced energy tax credit" means the
5 advanced energy income tax credit and the advanced energy
6 corporate income tax credit [~~and the advanced energy combined~~
7 ~~reporting tax credit~~];

8 (2) "coal-based electric generating
9 facility" means a new or repowered generating facility and an
10 associated coal gasification facility, if any, that uses coal
11 to generate electricity and that meets the following
12 specifications:

13 (a) emits the lesser of: 1) what is
14 achievable with the best available control technology; or 2)
15 thirty-five thousandths pound per million British thermal
16 units of sulfur dioxide, twenty-five thousandths pound per
17 million British thermal units of oxides of nitrogen and one
18 hundredth pound per million British thermal units of total
19 particulates in the flue gas;

20 (b) removes the greater of: 1) what is
21 achievable with the best available control technology; or 2)
22 ninety percent of the mercury from the input fuel;

23 (c) captures and sequesters or controls
24 carbon dioxide emissions so that by the later of January 1,
25 2017 or eighteen months after the commercial operation date of

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1 the coal-based electric generating facility, no more than one
2 thousand one hundred pounds per megawatt-hour of carbon
3 dioxide is emitted into the atmosphere;

4 (d) all infrastructure required for
5 sequestration is in place by the later of January 1, 2017 or
6 eighteen months after the commercial operation date of the
7 coal-based electric generating facility;

8 (e) includes methods and procedures to
9 monitor the disposition of the carbon dioxide captured and
10 sequestered from the coal-based electric generating facility;
11 and

12 (f) does not exceed a name-plate
13 capacity of seven hundred net megawatts;

14 (3) "eligible generation plant costs" means
15 expenditures for the development and construction of a
16 qualified generating facility, including permitting; site
17 characterization and assessment; engineering; design; carbon
18 dioxide capture, treatment, compression, transportation and
19 sequestration; site and equipment acquisition; and fuel supply
20 development used directly and exclusively in a qualified
21 generating facility;

22 (4) "entity" means an individual, estate,
23 trust, receiver, cooperative association, club, corporation,
24 company, firm, partnership, limited liability company, limited
25 liability partnership, joint venture, syndicate or other

1 association or a gas, water or electric utility owned or
2 operated by a county or municipality;

3 (5) "geothermal electric generating
4 facility" means a facility with a name-plate capacity of one
5 megawatt or more that uses geothermal energy to generate
6 electricity, including a facility that captures and provides
7 geothermal energy to a preexisting electric generating
8 facility using other fuels in part;

9 (6) "interest in a qualified generating
10 facility" means title to a qualified generating facility; a
11 leasehold interest in a qualified generating facility; an
12 ownership interest in a business or entity that is taxed for
13 federal income tax purposes as a partnership that holds title
14 to or a leasehold interest in a qualified generating facility;
15 or an ownership interest, through one or more intermediate
16 entities that are each taxed for federal income tax purposes
17 as a partnership, in a business that holds title to or a
18 leasehold interest in a qualified generating facility;

19 (7) "name-plate capacity" means the maximum
20 rated output of the facility measured as alternating current
21 or the equivalent direct current measurement;

22 (8) "qualified generating facility" means a
23 facility that begins construction not later than December 31,
24 2015 and is:

25 (a) a solar thermal electric generating

1 facility that begins construction on or after July 1, 2007 and
2 that may include an associated renewable energy storage
3 facility;

4 (b) a solar photovoltaic electric
5 generating facility that begins construction on or after July
6 1, 2009 and that may include an associated renewable energy
7 storage facility;

8 (c) a geothermal electric generating
9 facility that begins construction on or after July 1, 2009;

10 (d) a recycled energy project if that
11 facility begins construction on or after July 1, 2007; or

12 (e) a new or repowered coal-based
13 electric generating facility and an associated coal
14 gasification facility;

15 (9) "recycled energy" means energy produced
16 by a generation unit with a name-plate capacity of not more
17 than fifteen megawatts that converts the otherwise lost energy
18 from the exhaust stacks or pipes to electricity without
19 combustion of additional fossil fuel;

20 (10) "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; and

25 (11) "solar photovoltaic electric generating

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 ~~(12) "solar thermal electric generating~~
5 ~~facility" means an electric generating facility with a name-~~
6 ~~plate capacity of one megawatt or more that uses solar thermal~~
7 ~~energy to generate electricity, including a facility that~~
8 ~~captures and provides solar energy to a preexisting electric~~
9 ~~generating facility using other fuels in part]."~~

10 SECTION 56. A new section of the Corporate Income and
11 Franchise Tax Act is enacted to read:

12 "[NEW MATERIAL] LABORATORY PARTNERSHIP WITH SMALL
13 BUSINESS CORPORATE INCOME TAX CREDIT.--

14 A. A national laboratory may be eligible for a
15 tax credit in an amount equal to qualified expenditures if:

16 (1) the small business assistance is
17 rendered to a small business located in New Mexico;

18 (2) the small business assistance is
19 completed;

20 (3) the small business certifies to the
21 national laboratory that the small business assistance
22 provided is not otherwise available to the small business at a
23 reasonable cost through private industry;

24 (4) the national laboratory provides written
25 notice to each small business to which it is providing small

1 business assistance of the option that the small business has
2 to obtain ownership of or license to tangible or intangible
3 property developed from the small business assistance;

4 (5) the national laboratory requires small
5 businesses to which it is providing small business assistance
6 to acknowledge only after the small business assistance is
7 completed that the small business assistance has been
8 rendered; and

9 (6) the national laboratory provides forms
10 for small business requests and for completion of small
11 business assistance that are in accordance this section and
12 other applicable state and federal laws.

13 B. The purpose of the tax credit provided by this
14 section is to bring the technology and expertise of the
15 national laboratories to small businesses in New Mexico to
16 promote economic development in the state with an emphasis on
17 rural areas.

18 C. To qualify for a tax credit pursuant to this
19 section, a national laboratory shall:

20 (1) establish a small business assistance
21 program;

22 (2) establish a revolving fund with initial
23 funding from a source other than tax credits. Money from the
24 revolving fund shall be used to pay for qualified
25 expenditures, and the fund shall be replenished with an amount

1 equal to the tax credits taken pursuant to this section;

2 (3) consult with the secretary of economic
3 development to seek advice on improvements in the operation of
4 the small business assistance program; and

5 (4) establish a methodology to utilize
6 contractors who have demonstrated the capability to provide
7 small business assistance.

8 D. A tax credit provided by this section shall be
9 in an amount equal to the qualified expenditure incurred by
10 the national laboratory to provide small business assistance
11 to a specific small business, not to exceed ten thousand
12 dollars (\$10,000) for each small business located outside of a
13 rural area for which small business assistance is rendered in
14 a calendar year or twenty thousand dollars (\$20,000) if the
15 small business assistance was provided to a small business
16 located in a rural area.

17 E. A national laboratory eligible for a tax
18 credit pursuant to this section may claim the amount of each
19 tax credit by crediting that amount against the national
20 laboratory's corporate income tax liability. In no event
21 shall the tax credits taken by an individual national
22 laboratory exceed two million four hundred thousand dollars
23 (\$2,400,000) in a given calendar year.

24 F. Tax credits claimed pursuant to this section
25 by all national laboratories in the aggregate for qualified

1 expenditures for a specific small business not located in a
2 rural area shall not exceed ten thousand dollars (\$10,000).

3 G. Tax credits claimed pursuant to this section
4 by all national laboratories in the aggregate for qualified
5 expenditures for a specific small business located in a rural
6 area shall not exceed twenty thousand dollars (\$20,000).

7 H. Should the revolving fund established pursuant
8 to Subsection C of this section cease to be used for the
9 purposes stated in that subsection, any amounts remaining in
10 the revolving fund, excluding initial funding from nontax
11 credit sources, shall be paid over to the department as
12 additional corporate income taxes due.

13 I. If more than one national laboratory is
14 eligible for a tax credit pursuant to this section, a national
15 laboratory shall not file a tax credit claim pursuant to the
16 Laboratory Partnership with Small Business Tax Credit Act
17 until:

18 (1) coordination is developed between the
19 national laboratories providing small business assistance
20 pursuant to the Laboratory Partnership with Small Business Tax
21 Credit Act that generates a joint small business assistance
22 operational plan and a plan to ensure that the small business
23 assistance provided by a national laboratory suits the small
24 business's needs and challenges; and

25 (2) a written copy of each plan formed

1 pursuant to this section is provided to the department.

2 J. By October 15 of each year, a national
3 laboratory that has claimed a tax credit pursuant to this
4 section for the previous calendar year shall submit an annual
5 report in writing to the taxation and revenue department, the
6 economic development department and an appropriate legislative
7 interim committee.

8 K. If more than one national laboratory claims a
9 tax credit pursuant to this section for the previous calendar
10 year, those laboratories shall jointly submit an annual report
11 to the taxation and revenue department, the economic
12 development department and an appropriate legislative interim
13 committee no later than October 15 following the calendar year
14 in which the small business assistance was provided.

15 L. An annual report shall summarize activities
16 related to and the results of the small business assistance
17 programs that were provided by one or more national
18 laboratories and shall include:

19 (1) a summary of the program results and the
20 number of small businesses assisted in each county;

21 (2) a description of the projects involving
22 multiple small businesses;

23 (3) results of surveys of small businesses
24 to which small business assistance is provided;

25 (4) the total amount of the tax credits

1 claimed pursuant to this section for the year on which the
2 report is based; and

3 (5) an economic impact study of jobs
4 created, jobs retained, cost savings and increased sales
5 generated by small businesses for which small business
6 assistance is provided.

7 M. At any time after receipt of an annual report
8 from one or more national laboratories eligible for tax
9 credits authorized pursuant to this section, the taxation and
10 revenue department or the economic development department may
11 provide written instructions to a national laboratory
12 identifying future improvements in the laboratory's small
13 business assistance program for which it receives that tax
14 credit.

15 N. As used in this section:

16 (1) "contractor":

17 (a) means a person that: 1) has the
18 capability to provide small business assistance; and 2) may
19 enter into a contract with a national laboratory to provide
20 small business assistance; and

21 (b) includes: 1) a gas, water or
22 electric utility owned or operated by a county, municipality
23 or other political subdivision of the state; or 2) a national,
24 federal, state, Indian or other governmental unit or
25 subdivision, or an agency, department or instrumentality of

1 any of the foregoing;

2 (2) "national laboratory" means a prime
3 contractor designated as a national laboratory by act of
4 congress that is operating a facility in New Mexico;

5 (3) "qualified expenditure" means an
6 expenditure by a national laboratory in providing small
7 business assistance, limited to the following expenditures
8 incurred in providing the assistance:

9 (a) employee salaries, wages, fringe
10 benefits and employer payroll taxes;

11 (b) administrative costs related
12 directly to the provision of small business assistance, the
13 total of which is limited to forty-nine percent of employee
14 salaries, wages, fringe benefits and employer payroll taxes;

15 (c) in-state travel expenses, including
16 per diem and mileage at the internal revenue service standard
17 rates; and

18 (d) supplies and services of
19 contractors related to the provision of small business
20 assistance;

21 (4) "rural area" means an area of the state
22 outside of the exterior boundaries of a class A county that
23 has a net taxable value for rate-setting purposes for any
24 property tax year of more than seven billion dollars
25 (\$7,000,000,000);

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1 (5) "small business" means a business in New
2 Mexico that conforms to the definition of small business found
3 in the federal Small Business Act; and

4 (6) "small business assistance" means
5 assistance rendered by a national laboratory related to the
6 transfer of technology, including software, manufacturing,
7 mining, oil and gas, environmental, agricultural, information
8 and solar and other alternative energy source technologies.
9 "Small business assistance" includes nontechnical assistance
10 related to expanding the New Mexico base of suppliers,
11 including training and mentoring individual small businesses;
12 assistance in developing business systems to meet audit,
13 reporting and quality assurance requirements; and other
14 supplier development initiatives for individual small
15 businesses."

16 SECTION 57. Section 7-2E-1.1 NMSA 1978 (being Laws
17 2007, Chapter 172, Section 2, as amended) is amended to read:

18 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

19 A. The tax credit created by this section may be
20 referred to as the "rural job tax credit". Every eligible
21 employer may apply for, and the taxation and revenue
22 department may allow, a tax credit for each qualifying job the
23 employer creates. The maximum tax credit amount with respect
24 to each qualifying job is equal to:

25 (1) twenty-five percent of the first sixteen

1 thousand dollars (\$16,000) in wages paid for the qualifying
2 job if the job is performed or based at a location in a tier
3 one area; or

4 (2) twelve and one-half percent of the first
5 sixteen thousand dollars (\$16,000) in wages paid if the
6 qualifying job is performed or based at a location in a tier
7 two area.

8 B. The purpose of the rural job tax credit is to
9 encourage businesses to start new businesses in rural areas of
10 the state.

11 C. The amount of the rural job tax credit shall
12 be six and one-fourth percent of the first sixteen thousand
13 dollars (\$16,000) in wages paid for the qualifying job in a
14 qualifying period. The rural job tax credit may be claimed
15 for each qualifying job for a maximum of:

16 (1) four qualifying periods for each
17 qualifying job performed or based at a location in a tier one
18 area; and

19 (2) two qualifying periods for each
20 qualifying job performed or based at a location in a tier two
21 area.

22 D. With respect to each qualifying job for which
23 an eligible employer seeks the rural job tax credit, the
24 employer shall certify the amount of wages paid to each
25 eligible employee during each qualifying period, the number of

1 weeks during the qualifying period the position was occupied
2 and whether the qualifying job was in a tier one or tier two
3 area.

4 E. The economic development department shall
5 determine which employers are eligible employers and shall
6 report the listing of eligible businesses to the taxation and
7 revenue department in a manner and at times the departments
8 shall agree upon.

9 F. To receive a rural job tax credit with respect
10 to any qualifying period, an eligible employer must apply to
11 the taxation and revenue department on forms and in the manner
12 the department may prescribe. The application shall include a
13 certification made pursuant to Subsection D of this section.
14 If all the requirements of this section have been complied
15 with, the taxation and revenue department may issue to the
16 applicant a document granting a tax credit for the appropriate
17 qualifying period. The tax credit document shall be numbered
18 for identification and declare its date of issuance and the
19 amount of rural job tax credit allowed for the respective jobs
20 created. The tax credit documents may be sold, exchanged or
21 otherwise transferred and may be carried forward for a period
22 of three years from the date of issuance. The parties to such
23 a transaction to sell, exchange or transfer a rural job tax
24 credit document shall notify the department of the transaction
25 within ten days of the sale, exchange or transfer.

1 G. The holder of the tax credit document may apply
2 all or a portion of the rural job tax credit granted by the
3 document against the holder's ~~[modified combined tax~~
4 ~~liability]~~ personal income tax liability or corporate income
5 tax liability. Any balance of rural job tax credit granted by
6 the document may be carried forward for up to three years from
7 the date of issuance of the tax credit document. ~~[No amount~~
8 ~~of rural job tax credit may be applied against a gross~~
9 ~~receipts tax imposed by a municipality or county.]~~

10 H. Notwithstanding the provisions of Section 7-1-8
11 NMSA 1978, the taxation and revenue department may disclose to
12 any person the balance of rural job tax credit remaining on
13 any tax credit document and the balance of credit remaining on
14 that document for any period.

15 I. The secretary of economic development, the
16 secretary of taxation and revenue and the secretary of
17 workforce solutions or their designees shall annually evaluate
18 the effectiveness of the rural job tax credit in stimulating
19 economic development in the rural areas of New Mexico and make
20 a joint report of their findings to each session of the
21 legislature so long as the rural job tax credit is in effect.

22 J. An eligible employer that creates a qualifying
23 job in the period beginning on or after July 1, 2006 but
24 before July 1, 2007 or creates a qualifying job, the
25 qualifying period of which includes a part of the period

1 between July 1, 2006 and July 1, 2007, for which the eligible
2 employer has not received a rural job tax credit document
3 pursuant to this section may submit an application for, and
4 the taxation and revenue department may issue to the eligible
5 employer applying, a document granting a tax credit for the
6 appropriate qualifying period. Claims for a rural job tax
7 credit submitted pursuant to the provisions of this subsection
8 shall be submitted within three years from the date of
9 issuance of the rural job tax credit document.

10 K. A qualifying job shall not be eligible for a
11 rural job credit pursuant to this section if:

12 (1) the job is created due to a business
13 merger, acquisition or other change in organization;

14 (2) the eligible employee was terminated
15 from employment in New Mexico by another employer involved in
16 the merger, acquisition or other change in organization; and

17 (3) the job is performed by:

18 (a) the person who performed the job or
19 its functional equivalent prior to the business merger,
20 acquisition or other change in organization; or

21 (b) a person replacing the person who
22 performed the job or its functional equivalent prior to the
23 business merger, acquisition or other change in organization.

24 L. Notwithstanding the provisions of Subsection K
25 of this section, a qualifying job that was created by another

1 employer and for which the rural job tax credit claim was
2 received by the taxation and revenue department prior to July
3 1, 2013 and is under review or has been approved shall remain
4 eligible for the rural job tax credit for the balance of the
5 qualifying periods for which the job qualifies by the new
6 employer that results from a business merger, acquisition or
7 other change in the organization.

8 M. A job shall not be eligible for a rural job tax
9 credit pursuant to this section if the job is created due to
10 an eligible employer entering into a contract or becoming a
11 subcontractor to a contract with a governmental entity that
12 replaces one or more entities performing functionally
13 equivalent services for the governmental entity in New Mexico
14 unless the job is a qualifying job that was not being
15 performed by an employee of the replaced entity.

16 N. As used in this section:

17 (1) "eligible employee" means any individual
18 other than an individual who:

19 (a) bears any of the relationships
20 described in Paragraphs (1) through (8) of 26 U.S.C. Section
21 152(a) to the employer or, if the employer is a corporation,
22 to an individual who owns, directly or indirectly, more than
23 fifty percent in value of the outstanding stock of the
24 corporation or, if the employer is an entity other than a
25 corporation, to any individual who owns, directly or

1 indirectly, more than fifty percent of the capital and profits
2 interests in the entity;

3 (b) if the employer is an estate or
4 trust, is a grantor, beneficiary or fiduciary of the estate or
5 trust or is an individual who bears any of the relationships
6 described in Paragraphs (1) through (8) of 26 U.S.C. Section
7 152(a) to a grantor, beneficiary or fiduciary of the estate or
8 trust; or

9 (c) is a dependent, as that term is
10 described in 26 U.S.C. Section 152(a)(9), of the employer or,
11 if the taxpayer is a corporation, of an individual who owns,
12 directly or indirectly, more than fifty percent in value of
13 the outstanding stock of the corporation or, if the employer
14 is an entity other than a corporation, of any individual who
15 owns, directly or indirectly, more than fifty percent of the
16 capital and profits interests in the entity or, if the
17 employer is an estate or trust, of a grantor, beneficiary or
18 fiduciary of the estate or trust;

19 (2) "eligible employer" means an employer
20 who is eligible for in-plant training assistance pursuant to
21 Section 21-19-7 NMSA 1978;

22 (3) "metropolitan statistical area" means a
23 metropolitan statistical area in New Mexico as determined by
24 the United States bureau of the census;

25 [~~(4)~~ "~~modified combined tax liability~~" means

1 ~~the total liability for the reporting period for the gross~~
2 ~~receipts tax imposed by Section 7-9-4 NMSA 1978 together with~~
3 ~~any tax collected at the same time and in the same manner as~~
4 ~~that gross receipts tax, such as the compensating tax, the~~
5 ~~withholding tax, the interstate telecommunications gross~~
6 ~~receipts tax, the surcharges imposed by Section 63-9D-5 NMSA~~
7 ~~1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,~~
8 ~~minus the amount of any credit other than the rural job tax~~
9 ~~credit applied against any or all of these taxes or~~
10 ~~surcharges; but "modified combined tax liability" excludes all~~
11 ~~amounts collected with respect to local option gross receipts~~
12 ~~taxes;~~

13 ~~(5)]~~ (4) "qualifying job" means a job
14 established by the employer that is occupied by an eligible
15 employee for at least forty-eight weeks of a qualifying
16 period;

17 ~~[(6)]~~ (5) "qualifying period" means the
18 period of twelve months beginning on the day an eligible
19 employee begins working in a qualifying job or the period of
20 twelve months beginning on the anniversary of the day an
21 eligible employee began working in a qualifying job;

22 ~~[(7)]~~ (6) "rural area" means any part of the
23 state other than:

- 24 (a) an H class county;
25 (b) the state fairgrounds;

1 (c) an incorporated municipality within
2 a metropolitan statistical area if the municipality's
3 population is thirty thousand or more according to the most
4 recent federal decennial census; and

5 (d) any area within ten miles of the
6 exterior boundaries of a municipality described in
7 Subparagraph (c) of this paragraph;

8 [~~(8)~~] (7) "tier one area" means:

9 (a) any municipality within the rural
10 area if the municipality's population according to the most
11 recent federal decennial census is fifteen thousand or less;
12 or

13 (b) any part of the rural area that is
14 not within the exterior boundaries of a municipality;

15 [~~(9)~~] (8) "tier two area" means any
16 municipality within the rural area if the municipality's
17 population according to the most recent federal decennial
18 census is more than fifteen thousand; and

19 [~~(10)~~] (9) "wages" means all compensation
20 paid by an eligible employer to an eligible employee through
21 the employer's payroll system, including those wages the
22 employee elects to defer or redirect, such as the employee's
23 contribution to 401(k) or cafeteria plan programs, but not
24 including benefits or the employer's share of payroll taxes."

25 SECTION 58. Section 7-9-1 NMSA 1978 (being Laws 1966,

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

"7-9-1. SHORT TITLE.--Chapter 7, Article 9 NMSA 1978 may be cited as the "~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act"."

SECTION 59. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

"7-9-3. DEFINITIONS.--As used in the ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act:

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

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

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

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

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

(2) participation in progress reviews,

1 briefings, consultations and conferences conducted by the
2 performer of services;

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

5 (4) inspection of preliminary prototypes
6 developed by the performer of services; or

7 (5) similar activities;

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

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

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

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

10 I. "person" means:

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

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

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

25 K. "research and development services" means an

1 activity engaged in for other persons for consideration, for
2 one or more of the following purposes:

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

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

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

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

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

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

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

1 revenue or the secretary's delegate;

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

19 N. "use" or "using" includes use, consumption or
20 storage other than storage for subsequent sale in the ordinary
21 course of business or for use solely outside this state."

22 SECTION 60. Section 7-9-3.2 NMSA 1978 (being Laws 1991,
23 Chapter 8, Section 1, as amended) is amended to read:

24 "7-9-3.2. ADDITIONAL DEFINITION.--[A.] As used in the
25 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act,

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1 "governmental gross receipts":

2 A. means receipts of the state or an agency,
3 institution, instrumentality or political subdivision from:

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

6 (2) the performance of or admissions to
7 recreational, athletic or entertainment services or events in
8 facilities open to the general public;

9 (3) refuse collection or refuse disposal or
10 both;

11 (4) sewage services;

12 (5) the sale of water by a utility owned or
13 operated by a county, municipality or other political
14 subdivision of the state; and

15 (6) the renting of parking, docking or tie-
16 down spaces or the granting of permission to park vehicles,
17 tie down aircraft or dock boats;

18 ~~["Governmental gross receipts"]~~ B. includes
19 receipts from the sale of tangible personal property handled
20 on consignment when sold from facilities open to the general
21 public, ~~[but excludes cash discounts taken and allowed,~~
22 ~~governmental gross receipts tax payable on transactions~~
23 ~~reportable for the period and any type of time-price~~
24 ~~differential.~~

25 ~~B. As used in this section, "facilities open to~~

1 ~~the general public" does not include]~~ not including point of
2 sale registers or electronic devices at a bookstore owned or
3 operated by a public post-secondary educational institution
4 when the registers or devices are utilized in the sale of
5 textbooks or other materials required for courses at the
6 institution to a student enrolled at the institution who
7 displays a valid student identification card; and

8 C. excludes cash discounts taken and allowed,
9 governmental sales tax payable on transactions reportable for
10 the period and any type of time-price differential."

11 SECTION 61. Section 7-9-3.3 NMSA 1978 (being Laws 2003,
12 Chapter 272, Section 4) is amended to read:

13 "7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in
14 the ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act,
15 "engaging in business" means carrying on or causing to be
16 carried on any activity with the purpose of direct or indirect
17 benefit, without regard to having physical presence, including
18 the presence of a representative acting on behalf of the
19 person, in the state, except that "engaging in business" does
20 not include:

21 A. ~~["engaging in business" does not include]~~
22 having a worldwide ~~[web site]~~ website as a third-party content
23 provider on a computer physically located in New Mexico but
24 owned by another nonaffiliated person; ~~[and]~~

25 B. ~~["engaging in business" does not include]~~ using
26 .204982.3

1 a nonaffiliated third-party call center to accept and process
2 telephone or electronic orders of tangible personal property
3 or licenses primarily from non-New Mexico buyers, which orders
4 are forwarded to a location outside New Mexico for filling, or
5 to provide services primarily to non-New Mexico customers; and

6 C. the activities of a person without physical
7 presence in this state if the person and the person's
8 affiliates have less than one hundred thousand dollars
9 (\$100,000) of gross receipts in the state, based on receipts
10 during the prior calendar year. As used in this subsection,
11 "affiliate" means a business entity that directly or
12 indirectly, through one or more intermediaries controls, is
13 controlled by or is under common control with another business
14 entity."

15 SECTION 62. Section 7-9-3.4 NMSA 1978 (being Laws 2003,
16 Chapter 272, Section 5) is amended to read:

17 "7-9-3.4. DEFINITIONS--CONSTRUCTION AND CONSTRUCTION
18 MATERIALS.--As used in the [~~Gross Receipts and Compensating~~]
19 Sales and Use Tax Act:

20 A. "construction" means:

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

23 (a) road, highway, bridge, parking area
24 or related project;

25 (b) building, stadium or other

1 structure;

2 (c) airport, subway or similar

3 facility;

4 (d) park, trail, athletic field, golf
5 course or similar facility;

6 (e) dam, reservoir, canal, ditch or
7 similar facility;

8 (f) sewerage or water treatment
9 facility, power generating plant, pump station, natural gas
10 compressing station, gas processing plant, coal gasification
11 plant, refinery, distillery or similar facility;

12 (g) sewerage, water, gas or other
13 pipeline;

14 (h) transmission line;

15 (i) radio, television or other tower;

16 (j) water, oil or other storage tank;

17 (k) shaft, tunnel or other mining

18 appurtenance;

19 (l) microwave station or similar
20 facility;

21 (m) retaining wall, wall, fence, gate
22 or similar structure; or

23 (n) similar work;

24 (2) the leveling or clearing of land;

25 (3) the excavating of earth;

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1 (4) the drilling of wells of any type,
2 including seismograph shot holes or core drilling; or

3 (5) similar work; and

4 B. "construction material" means tangible personal
5 property that becomes or is intended to become an ingredient
6 or component part of a construction project, but "construction
7 material" does not include a replacement fixture when the
8 replacement is not construction or a replacement part for a
9 fixture."

10 SECTION 63. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
11 Chapter 272, Section 3, as amended) is amended to read:

12 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

13 A. As used in the [~~Gross Receipts and~~
14 ~~Compensating~~] Sales and Use Tax Act, "gross receipts":

15 (1) [~~"gross receipts"~~] means the total
16 amount of money or the value of other consideration received
17 from selling property in New Mexico, from leasing or licensing
18 property employed in New Mexico, from granting a right to use
19 a franchise employed in New Mexico, from selling services
20 performed outside New Mexico, the product of which is
21 initially used in New Mexico, or from performing services in
22 New Mexico. In an exchange in which the money or other
23 consideration received does not represent the value of the
24 property or service exchanged, "gross receipts" means the
25 reasonable value of the property or service exchanged;

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1 (2) [~~"gross receipts"~~] includes:

2 (a) any receipts from sales of tangible
3 personal property handled on consignment;

4 (b) the total commissions or fees
5 derived from the business of buying, selling or promoting the
6 purchase, sale or lease, as an agent or broker on a commission
7 or fee basis, of any property, service, stock, bond or
8 security;

9 (c) amounts paid by members of any
10 cooperative association or similar organization for sales or
11 leases of personal property or performance of services by such
12 organization;

13 (d) amounts received from transmitting
14 messages or conversations by persons providing telephone or
15 telegraph services;

16 (e) amounts received by a New Mexico
17 florist from the sale of flowers, plants or other products
18 that are customarily sold by florists where the sale is made
19 pursuant to orders placed with the New Mexico florist that are
20 filled and delivered outside New Mexico by an out-of-state
21 florist; and

22 (f) the receipts of a home service
23 provider from providing mobile telecommunications services to
24 customers whose place of primary use is in New Mexico if: 1)
25 the mobile telecommunications services originate and terminate

1 in the same state, regardless of where the services originate,
2 terminate or pass through; and 2) the charges for mobile
3 telecommunications services are billed by or for a customer's
4 home service provider and are deemed provided by the home
5 service provider. For the purposes of this section, "home
6 service provider", "mobile telecommunications services",
7 "customer" and "place of primary use" have the meanings given
8 in the federal Mobile Telecommunications Sourcing Act; and

9 (3) [~~"gross receipts"~~] excludes:

10 (a) cash discounts allowed and taken;

11 (b) [~~New Mexico gross receipts~~] state
12 and local option sales tax, governmental [~~gross receipts~~]
13 sales tax and leased vehicle [~~gross receipts~~] sales tax
14 payable on transactions for the 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
20 the 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

1 political subdivisions;

2 (e) any type of time-price
3 differential;

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

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

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

23 SECTION 64. Section 7-9-4 NMSA 1978 (being Laws 1966,
24 Chapter 47, Section 4, as amended) is amended to read:

25 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS

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1 "[~~GROSS RECEIPTS~~] STATE SALES TAX".--

2 A. For the privilege of engaging in business, an
3 excise tax equal to [~~five and one-eighth percent~~] the rates
4 determined pursuant to Subsection B of this section of gross
5 receipts is imposed on any person engaging in business in New
6 Mexico. [~~B.~~] The tax imposed by this section shall be
7 referred to as the "[~~gross receipts~~] state sales tax.

8 B. The rate of the state sales tax shall be
9 determined as follows:

10 (1) on and after July 1, 2018, and prior to
11 January 1, 2020, the rate shall be the quotient of baseline
12 revenue divided by fiscal year 2018 base revenue, multiplied
13 by one hundred three percent and rounded up to the nearest
14 one-hundredth percent; and

15 (2) on and after January 1, 2020, the rate
16 shall be the quotient of baseline revenue divided by fiscal
17 year 2019 base revenue, multiplied by one hundred three
18 percent and rounded up to the nearest one-hundredth percent.

19 C. As used in this section:

20 (1) "baseline revenue" means the total net
21 receipts attributable to the gross receipts tax of persons
22 engaging in business in the state in fiscal year 2015, 2016 or
23 2017, whichever is greater;

24 (2) "fiscal year 2018 base revenue" means
25 the gross receipts of all persons engaging in business in the

1 state in fiscal year 2018 that are subject to the gross
2 receipts tax, as estimated by the taxation and revenue
3 department, in consultation with the department of finance and
4 administration and the legislative finance committee; and

5 (3) "fiscal year 2019 base revenue" means
6 the gross receipts of all persons engaging in business in the
7 state in fiscal year 2019 that are subject to the state sales
8 tax, as estimated by the taxation and revenue department, in
9 consultation with the department of finance and administration
10 and the legislative finance committee."

11 SECTION 65. Section 7-9-4.3 NMSA 1978 (being Laws 1991,
12 Chapter 8, Section 2, as amended by Laws 1993, Chapter 332,
13 Section 1 and by Laws 1993, Chapter 352, Section 1) is amended
14 to read:

15 "7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
16 "GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX".--For the privilege
17 of engaging in certain activities by governments, there is
18 imposed on every agency, institution, instrumentality or
19 political subdivision of the state [~~except any school district~~
20 ~~and any entity licensed by the department of health that is~~
21 ~~principally engaged in providing health care services]~~ an
22 excise tax of five percent of governmental gross receipts.
23 The tax imposed by this section shall be referred to as the
24 "governmental [~~gross receipts~~] sales tax".

25 SECTION 66. Section 7-9-5 NMSA 1978 (being Laws 1966,

Chapter 47, Section 5, as amended) is amended to read:

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

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

B. If receipts from nontaxable charges for mobile telecommunications services are aggregated with and not separately stated from taxable charges for mobile telecommunications services, ~~[then]~~ the charges for nontaxable mobile telecommunications services shall be subject to ~~[gross receipts]~~ state sales tax unless the home service provider can reasonably identify nontaxable charges in its books and records that are kept in the regular course of business. For the purposes of this subsection, "charges for mobile telecommunications services", "home service provider" and "mobile telecommunications services" have the meanings given in the federal Mobile Telecommunications Sourcing Act."

SECTION 67. Section 7-9-6 NMSA 1978 (being Laws 1966, Chapter 47, Section 6, as amended) is amended to read:

"7-9-6. SEPARATELY STATING THE ~~[GROSS RECEIPTS]~~ STATE

1 SALES TAX.--When the [~~gross receipts~~] state sales tax is
2 stated separately on the books of the seller or lessor, and if
3 the total amount of tax that is stated separately on
4 transactions reportable within one reporting period is in
5 excess of the amount of [~~gross receipts~~] state sales tax
6 otherwise payable on the transactions on which the tax was
7 stated separately, the excess amount of tax stated on the
8 transactions within that reporting period shall be included in
9 gross receipts."

10 SECTION 68. Section 7-9-7 NMSA 1978 (being Laws 1966,
11 Chapter 47, Section 7, as amended) is amended to read:

12 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
13 "[~~COMPENSATING~~] USE TAX".--

14 A. For the privilege of using tangible property in
15 New Mexico, there is imposed on the person using the property
16 an excise tax [~~equal to five and one-eighth percent~~] at the
17 rate provided in Subsection E of this section of the value of
18 tangible property that was:

19 (1) manufactured by the person using the
20 property in the state; or

21 (2) acquired inside or outside of this state
22 as the result of a transaction with a person located outside
23 this state that would have been subject to the [~~gross~~
24 ~~receipts~~] state sales tax had the tangible personal property
25 been acquired from a person with nexus with New Mexico [~~or~~

1 ~~(3) acquired as the result of a transaction~~
2 ~~that was not initially subject to the compensating tax imposed~~
3 ~~by Paragraph (2) of this subsection or the gross receipts tax~~
4 ~~but which transaction, because of the buyer's subsequent use~~
5 ~~of the property, should have been subject to the compensating~~
6 ~~tax imposed by Paragraph (2) of this subsection or the gross~~
7 ~~receipts tax].~~

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

16 C. For the privilege of using a license or
17 franchise in New Mexico, there is imposed on the person using
18 the property an excise tax equal to the tax rates in effect
19 and imposed by Subsection E of this section against the value
20 of the property in its use in New Mexico. For use of a
21 license or franchise to be taxable under this subsection, the
22 property must have been sold, leased or licensed by a person
23 outside this state and the receipts from the sale, lease or
24 licensing of the license or franchise must not have been
25 subject to the state sales tax.

1 ~~[G.]~~ D. For the privilege of using services
2 rendered in New Mexico, there is imposed on the person using
3 such services an excise tax ~~[equal to five percent]~~ at the
4 rate provided in Subsection E of this section of the value of
5 the services at the time they were rendered. ~~[The services,~~
6 ~~to be taxable under this subsection, must have been rendered~~
7 ~~as the result of a transaction that was not initially subject~~
8 ~~to the gross receipts tax but which transaction, because of~~
9 ~~the buyer's subsequent use of the services, should have been~~
10 ~~subject to the gross receipts tax.]~~ For use of services to be
11 taxable under this subsection, the services must have been
12 performed by a person outside this state and receipts from the
13 performance or sale of the services not subject to the state
14 sales tax.

15 E. The tax rate imposed by this section shall be
16 the sum of:

17 (1) the tax rate in effect and imposed
18 pursuant to Section 7-9-4 NMSA 1978;

19 (2) the tax rate in effect and imposed
20 pursuant to Section 7-19D-9 NMSA 1978 by the municipality in
21 which the property or service is used; and

22 (3) the tax rate in effect and imposed
23 pursuant to Section 7-20E-9 NMSA 1978 by the county in which
24 the property or service is used.

25 ~~[D.]~~ F. The tax imposed by this section shall be

1 referred to as the "[~~compensating~~] use tax".

2 SECTION 69. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
3 Chapter 45, Section 1, as amended) is amended to read:

4 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION
5 ACTIONS WITH RESPECT TO CERTAIN [~~COMPENSATING~~] SALES AND USE
6 TAX LIABILITIES.--

7 A. The department shall take no action to enforce
8 collection of [~~compensating~~] use tax due on purchases made by
9 an individual if:

10 (1) the property is used only for
11 nonbusiness purposes;

12 (2) the property is not a manufactured home;
13 and

14 (3) the individual is not an agent for
15 collection of [~~compensating~~] use tax pursuant to Section
16 7-9-10 NMSA 1978.

17 B. The department shall take no action to enforce
18 collection of sales tax for a tax period prior to July 1, 2018
19 on persons engaging in business if, for those tax periods,
20 those persons:

21 (1) lacked physical presence in the state;
22 and

23 (2) did not report taxable gross receipts.

24 [~~B-~~] C. The prohibition in Subsection A of this
25 section does not prevent the department from enforcing

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1 collection of ~~[compensating]~~ use tax on purchases from persons
2 who are not individuals, who are agents for collection
3 pursuant to Section 7-9-10 NMSA 1978 or who use the property
4 in the course of engaging in business in New Mexico or from
5 enforcing collection of ~~[compensating]~~ use tax due on purchase
6 of manufactured homes."

7 **SECTION 70.** Section 7-9-8 NMSA 1978 (being Laws 1966,
8 Chapter 47, Section 8, as amended) is amended to read:

9 "7-9-8. PRESUMPTION OF TAXABILITY AND VALUE.--

10 A. To prevent evasion of the ~~[compensating]~~ use
11 tax and the duty to collect it, it is presumed that property
12 bought or sold by any person for delivery into this state is
13 bought or sold for a taxable use in this state.

14 B. In determining the amount of ~~[compensating]~~ use
15 tax due on the use of property, it is presumed, in the absence
16 of preponderant evidence of another value, that the value
17 means the total amount of money or the reasonable value of
18 other consideration paid for property exclusive of any type of
19 time-price differential. However, in an exchange in which the
20 amount of money paid does not represent the value of the
21 property or property and service purchased, the ~~[compensating]~~
22 use tax shall be imposed on the reasonable value of the
23 property or property and service purchased.

24 C. In determining the amount of ~~[compensating]~~ use
25 tax due on the use of a service, it is presumed, in the

1 absence of preponderant evidence of another value, that the
2 value means the total amount of money or the reasonable value
3 of other consideration paid for the service exclusive of any
4 type of time-price differential. However, in an exchange in
5 which the amount paid does not represent the value of the
6 service purchased, the [~~compensating~~] use tax shall be imposed
7 on the reasonable value of the service purchased."

8 SECTION 71. Section 7-9-9 NMSA 1978 (being Laws 1966,
9 Chapter 47, Section 9, as amended) is amended to read:

10 "7-9-9. LIABILITY OF USER FOR PAYMENT OF [~~COMPENSATING~~]
11 USE TAX.--Any person in New Mexico using property on the value
12 of which [~~compensating~~] use tax is payable but has not been
13 paid is liable to the state for payment of the [~~compensating~~]
14 use tax, but this liability is discharged if the buyer has
15 paid the [~~compensating~~] use tax to the seller for payment over
16 to the department."

17 SECTION 72. Section 7-9-10 NMSA 1978 (being Laws 1966,
18 Chapter 47, Section 10, as amended) is amended to read:

19 "7-9-10. AGENTS FOR COLLECTION OF [~~COMPENSATING~~] USE
20 TAX--DUTIES.--

21 A. Every person carrying on or causing to be
22 carried on any activity within this state attempting to
23 exploit New Mexico's markets who sells property or sells
24 property and service for use in this state and who is not
25 subject to [~~the gross receipts~~] state sales tax on receipts

1 from these sales shall collect the [~~compensating~~] use tax from
2 the buyer and pay the tax collected to the department.

3 [~~"Activity", for the purposes of this section, includes but is~~
4 ~~not limited to]~~

5 B. To ensure orderly and efficient collection of
6 the public revenue, if any application of this section is held
7 invalid, the section's application to other situations or
8 persons shall not be affected.

9 C. As used in this section, "activity":

10 (1) means engaging in any of the following
11 in New Mexico:

12 (a) maintaining an office or other
13 place of business;

14 (b) soliciting orders through employees
15 or independent contractors;

16 (c) soliciting orders through
17 advertisements placed in newspapers or magazines published in
18 New Mexico or advertisements broadcast by New Mexico radio or
19 television stations;

20 (d) soliciting orders through programs
21 broadcast by New Mexico radio or television stations or
22 transmitted by cable systems in New Mexico; and

23 (e) canvassing, demonstrating,
24 collecting money, warehousing or storing merchandise or
25 delivering or distributing products as a consequence of an

1 advertising or other sales program directed at potential
2 customers; [~~"Activity", for the purposes of this section]~~ and

3 (2) does not include:

4 (a) having a [~~world wide web site~~]
5 worldwide website as a third-party provider on a computer
6 physically located in New Mexico but owned by another
7 nonaffiliated person; [~~and "activity" does not include]~~ or
8 (b) using a nonaffiliated third-party
9 call center to accept and process telephone or electronic
10 orders of tangible personal property or licenses primarily
11 from non-New Mexico buyers, which orders are forwarded to a
12 location outside New Mexico for filling, or to provide
13 services primarily to non-New Mexico customers.

14 [~~B. To ensure orderly and efficient collection of~~
15 ~~the public revenue, if any application of this section is held~~
16 ~~invalid, the section's application to other situations or~~
17 ~~persons shall not be affected.]"~~

18 SECTION 73. Section 7-9-11 NMSA 1978 (being Laws 1966,
19 Chapter 47, Section 11, as amended) is amended to read:

20 "7-9-11. DATE PAYMENT DUE.--The taxes imposed by the
21 [~~Gross Receipts and Compensating]~~ Sales and Use Tax Act are to
22 be paid on or before the twenty-fifth day of the month
23 following the month in which the taxable event occurs."

24 SECTION 74. Section 7-9-12 NMSA 1978 (being Laws 1969,
25 Chapter 144, Section 5, as amended) is amended to read:

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1 "7-9-12. EXEMPTIONS.--~~[Exempted from the gross receipts~~
2 ~~or compensating tax are those receipts or uses exempted in~~
3 ~~Sections 7-9-13 through 7-9-42 NMSA 1978.]~~ Exemptions from
4 either the ~~[gross receipts]~~ state sales tax or the
5 ~~[compensating]~~ use tax are not exemptions from both taxes
6 unless explicitly stated otherwise by law."

7 SECTION 75. Section 7-9-13.1 NMSA 1978 (being Laws
8 1989, Chapter 262, Section 4) is amended to read:

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

12 A. ~~[Except as provided otherwise in Subsection B~~
13 ~~of this section]~~ Exempted from the ~~[gross receipts]~~ state
14 sales tax are the receipts from selling services, other than
15 research and development services, performed outside New
16 Mexico the product of which is initially used in New Mexico.

17 B. ~~[The exemption provided by this section does~~
18 ~~not apply to research and development services other than]~~
19 Exempted from the state sales tax are receipts from selling
20 research and development services performed outside New
21 Mexico, the product of which is initially used in New Mexico
22 when the services are sold:

23 (1) ~~[sold]~~ between affiliated corporations;

24 (2) ~~[sold]~~ to the United States by persons

25 ~~[other than organizations described in Subsection A of Section~~

1 ~~7-9-29 NMSA 1978~~] who are prime contractors operating
2 facilities in New Mexico designated as national laboratories
3 by act of congress; or

4 (3) [~~sold~~] to persons [~~other than~~
5 ~~organizations described in Subsection A of Section 7-9-29 NMSA~~
6 ~~1978~~] who are prime contractors operating facilities in New
7 Mexico designated as national laboratories by act of congress.

8 C. An "affiliated corporation" means a corporation
9 that directly or indirectly, through one or more
10 intermediaries controls, is controlled by or is under common
11 control with the subject corporation. "Control" means
12 ownership of stock in a corporation [~~which~~] that represents at
13 least eighty percent of the total voting power of that
14 corporation and has a stated or par value equal to at least
15 eighty percent of the total stated or par value of the stock
16 of that corporation."

17 SECTION 76. Section 7-9-43 NMSA 1978 (being Laws 1966,
18 Chapter 47, Section 13, as amended) is amended to read:

19 "7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER
20 EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS.--

21 A. All nontaxable transaction certificates of the
22 appropriate series executed by buyers or lessees should be in
23 the possession of the seller or lessor for nontaxable
24 transactions at the time the return is due for receipts from
25 the transactions. If the seller or lessor is not in

1 possession of the required nontaxable transaction certificates
2 within sixty days from the date that the notice requiring
3 possession of these nontaxable transaction certificates is
4 given the seller or lessor by the department, deductions
5 claimed by the seller or lessor that require delivery of these
6 nontaxable transaction certificates shall be disallowed
7 ~~[except as provided in Subsection E of this section]~~. The
8 nontaxable transaction certificates shall contain the
9 information and be in a form prescribed by the department.
10 The department by regulation may deem to be nontaxable
11 transaction certificates documents issued by other states or
12 the multistate tax commission to taxpayers not required to be
13 registered in New Mexico. Only buyers or lessees who have a
14 registration number or have applied for a registration number
15 and have not been refused one under Subsection C of Section
16 7-1-12 NMSA 1978 shall execute nontaxable transaction
17 certificates issued by the department. If the seller or
18 lessor has been given an identification number for tax
19 purposes by the department, the seller or lessor shall
20 disclose that identification number to the buyer or lessee
21 prior to or upon acceptance of a nontaxable transaction
22 certificate. When the seller or lessor accepts a nontaxable
23 transaction certificate within the required time and in good
24 faith that the buyer or lessee will employ the property or
25 service transferred in a nontaxable manner, the properly

1 executed nontaxable transaction certificate shall be
2 conclusive evidence, and the only material evidence, that the
3 proceeds from the transaction are deductible from the seller's
4 or lessor's gross receipts.

5 ~~[B. Properly executed documents required to~~
6 ~~support the deductions provided in Sections 7-9-57, 7-9-58 and~~
7 ~~7-9-74 NMSA 1978 should be in the possession of the seller at~~
8 ~~the time the return is due for receipts from the transactions.~~
9 ~~If the seller is not in possession of these documents within~~
10 ~~sixty days from the date that the notice requiring possession~~
11 ~~of these documents is given to the seller by the department,~~
12 ~~deductions claimed by the seller or lessor that require~~
13 ~~delivery of these documents shall be disallowed. These~~
14 ~~documents shall contain the information and be in a form~~
15 ~~prescribed by the department. When the seller accepts these~~
16 ~~documents within the required time and in good faith that the~~
17 ~~buyer will employ the property or service transferred in a~~
18 ~~nontaxable manner, the properly executed documents shall be~~
19 ~~conclusive evidence, and the only material evidence, that the~~
20 ~~proceeds from the transaction are deductible from the seller's~~
21 ~~gross receipts.~~

22 G.] B. Notice, as used in this section, is
23 sufficient if the notice is mailed or served as provided in
24 Subsection A of Section 7-1-9 NMSA 1978. Notice by the
25 department under this section shall not be given prior to the

1 commencement of an audit of the seller required to be in
2 possession of the documents.

3 ~~[D-]~~ C. To exercise the privilege of executing
4 appropriate nontaxable transaction certificates, a buyer or
5 lessee shall apply to the department for permission to execute
6 nontaxable transaction certificates, except with respect to
7 documents issued by other states or the multistate tax
8 commission that the department has deemed to be nontaxable
9 transaction certificates. If a person is shown on the
10 department's records to be a delinquent taxpayer or to have a
11 non-filed period, the department may refuse to approve the
12 application of the person until the person has filed returns
13 for all non-filed periods and is no longer shown to be a
14 delinquent taxpayer, and the taxpayer may protest that refusal
15 pursuant to Section 7-1-24 NMSA 1978. Upon the department's
16 approval of the application, the buyer or lessee may request
17 appropriate nontaxable transaction certificates for execution
18 by the buyer or lessee; provided that if a person is shown on
19 the department's records to be a delinquent taxpayer or to
20 have a non-filed period, the department may refuse to issue
21 nontaxable transaction certificates to the person until the
22 person has filed returns for all non-filed periods and is no
23 longer shown to be a delinquent taxpayer. The taxpayer may
24 protest that refusal pursuant to Section 7-1-24 NMSA 1978.
25 The department may require a buyer or lessee requesting and

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1 receiving nontaxable transaction certificates for execution by
2 that buyer or lessee to report to the department the names,
3 addresses and identification numbers assigned by the
4 department of the sellers and lessors to whom they have
5 delivered nontaxable transaction certificates. The department
6 may require a seller or lessor engaged in business in New
7 Mexico to report to the department the names, addresses and
8 federal employer identification numbers or state
9 identification numbers for tax purposes issued by the
10 department of the buyers or lessees from whom the seller or
11 lessor has accepted nontaxable transaction certificates.

12 ~~[E. The secretary or secretary's delegate may~~
13 ~~accept other evidence, as specified by rule, to support the~~
14 ~~deduction provided pursuant to Section 7-9-47 NMSA 1978 for~~
15 ~~the sale of tangible personal property if a taxpayer is unable~~
16 ~~to provide a nontaxable transaction certificate within the~~
17 ~~sixty-day period specified in Subsection A of this section:~~

18 ~~(1) prior to the issuance of an audit~~
19 ~~assessment; or~~

20 ~~(2) if the audit assessment is protested,~~
21 ~~prior to either the taxpayer's withdrawal of the protest or~~
22 ~~the formal hearing of the protest; provided, however, that the~~
23 ~~protest in this paragraph is acknowledged by the department~~
24 ~~prior to December 31, 2011.]"~~

25 SECTION 77. Section 7-9-44 NMSA 1978 (being Laws 1969,

Chapter 144, Section 34, as amended) is amended to read:

"7-9-44. SUSPENSION OF THE RIGHT TO USE A NONTAXABLE TRANSACTION CERTIFICATE.--

A. The secretary may suspend for not more than one year the privilege of a person to execute nontaxable transaction certificates if that person ~~[(1)]~~ fails to pay, within one year of the date ~~[the tax is due, the compensating tax on the]~~ in which the transaction subject to the nontaxable transaction certificate occurred, the penalty provided by Section 7-1-69.2 NMSA 1978 with respect to the person's subsequent use of property or services purchased through the execution of a nontaxable transaction certificate [or

~~(2) executes with the seller or lessor a nontaxable transaction certificate inapplicable to the transaction when no compensating tax is due on that buyer's or lessee's use of the property or service.~~

~~B. The secretary may suspend for not more than six months the privilege of a person to execute nontaxable transaction certificates to claim deductions on the basis of nontaxable transaction certificates accepted by that person, or both, if that person fails to account in the manner and time required by the department, in accordance with Subsection E of Section 7-9-43 NMSA 1978, for the certificates executed or accepted by that person].~~

~~[G.]~~ B. A suspension under this section voids the

1 department's approval of the person's application for the
2 privilege of executing nontaxable transaction certificates
3 and, prior to resumption of the privilege, the person whose
4 privilege to execute nontaxable transaction certificates has
5 been suspended shall reapply for the privilege of executing
6 such certificates in accordance with Section 7-9-43 NMSA 1978.

7 ~~[D-]~~ C. Notwithstanding the provisions of Section
8 7-1-8 NMSA 1978, the department may notify the public or
9 provide for notice to the public of the suspension of a
10 person's privilege to execute nontaxable transaction
11 certificates."

12 **SECTION 78.** Section 7-9-45 NMSA 1978 (being Laws 1969,
13 Chapter 144, Section 35, as amended) is amended to read:

14 "7-9-45. DEDUCTIONS.--

15 A. ~~[In computing the gross receipts tax or~~
16 ~~governmental gross receipts tax due, only those receipts~~
17 ~~specified in Sections 7-9-46 through 7-9-76.2, 7-9-77.1,~~
18 ~~7-9-83, 7-9-85 through 7-9-87 and 7-9-89 NMSA 1978 may be~~
19 ~~deducted. Receipts, whether specified once or several times~~
20 ~~in those sections, may be deducted only once from gross~~
21 ~~receipts or governmental gross]~~ Receipts may only be deducted
22 once from state sales tax or governmental sales tax when
23 computing the state sales tax or governmental sales tax due.

24 B. Receipts that are exempted from ~~[the gross~~
25 ~~receipts]~~ state sales tax may not be deducted from gross

1 receipts. Receipts that are deducted from gross receipts may
2 not be exempted from ~~[the gross receipts]~~ state sales tax.

3 C. Receipts that are exempted from the
4 governmental ~~[gross receipts]~~ sales tax shall not be deducted
5 from governmental gross receipts. Receipts that are deducted
6 from governmental gross receipts shall not be exempted from
7 the governmental ~~[gross receipts]~~ sales tax."

8 SECTION 79. Section 7-9-55 NMSA 1978 (being Laws 1969,
9 Chapter 144, Section 45, as amended) is amended to read:

10 "7-9-55. ~~[DEDUCTION--GROSS RECEIPTS]~~ EXEMPTION--STATE
11 SALES TAX--GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--
12 TRANSACTION IN INTERSTATE COMMERCE.--

13 A. Exempted from the state sales tax are receipts
14 from transactions in interstate commerce ~~[may be deducted from~~
15 ~~gross receipts]~~ to the extent that the imposition of the
16 ~~[gross receipts]~~ state sales tax would be unlawful under the
17 United States constitution.

18 B. Exempted from the governmental sales tax are
19 receipts from transactions in interstate commerce ~~[may be~~
20 ~~deducted from governmental gross receipts.~~

21 ~~C. Receipts from transmitting messages or~~
22 ~~conversations by radio other than from one point in this state~~
23 ~~to another point in this state and receipts from the sale of~~
24 ~~radio or television broadcast time when the advertising~~
25 ~~message is supplied by or on behalf of a national or regional~~

1 ~~seller or advertiser not having its principal place of~~
2 ~~business in or being incorporated under the laws of this state~~
3 ~~may be deducted from gross receipts. Commissions of~~
4 ~~advertising agencies from performing services in this state~~
5 ~~may not be deducted from gross receipts under this section]."~~

6 SECTION 80. Section 7-9-57.1 NMSA 1978 (being Laws
7 1998, Chapter 92, Section 3) is amended to read:

8 "7-9-57.1. [~~DEDUCTION--GROSS RECEIPTS~~] EXEMPTION--STATE
9 SALES TAX--SALES THROUGH [WORLD WIDE WEB SITES] WORLDWIDE
10 WEBSITES.--Exempted from the state sales tax are receipts of
11 any person derived from the sale of a service or property made
12 through a [world wide web site] worldwide website to a person
13 with a billing address outside New Mexico [may be deducted
14 from gross receipts]."

15 SECTION 81. Section 7-9-67 NMSA 1978 (being Laws 1969,
16 Chapter 144, Section 58, as amended) is amended to read:

17 "7-9-67. [~~DEDUCTION--GROSS RECEIPTS~~] EXEMPTION--STATE
18 SALES TAX--GOVERNMENTAL [GROSS RECEIPTS] SALES TAX--REFUNDS--
19 UNCOLLECTIBLE DEBTS.--

20 A. Exempted from the state sales tax are refunds
21 and allowances made to buyers or amounts written off the books
22 as an uncollectible debt by a person reporting [gross
23 receipts] state sales tax on an accrual basis [may be deducted
24 from gross receipts]. If debts reported uncollectible are
25 subsequently collected, such receipts shall be included in

1 gross receipts in the month of collection.

2 B. Exempted from the governmental sales tax are
3 refunds and allowances made to buyers or amounts written off
4 the books as an uncollectible debt by a person reporting
5 governmental ~~[gross receipts]~~ sales tax on an accrual basis
6 ~~[may be deducted from governmental gross receipts]~~. If debts
7 reported uncollectible are subsequently collected, such
8 receipts shall be included in governmental gross receipts in
9 the month of collection."

10 SECTION 82. Section 7-9-71 NMSA 1978 (being Laws 1969,
11 Chapter 144, Section 63, as amended) is amended to read:

12 "7-9-71. ~~[DEDUCTION--GROSS RECEIPTS]~~ EXEMPTION--STATE
13 SALES TAX--TRADE-IN ALLOWANCE.--Exempted from the state sales
14 tax is that portion of the receipts of a seller that is
15 represented by a trade-in of tangible personal property of the
16 same type being sold, except for the receipts represented by a
17 trade-in of a manufactured home ~~[may be deducted from gross~~
18 ~~receipts]~~."

19 SECTION 83. Section 7-9-77 NMSA 1978 (being Laws 1966,
20 Chapter 47, Section 15, as amended) is amended to read:

21 "7-9-77. ~~[DEDUCTIONS]~~ DEDUCTION--COMPENSATING TAX--
22 TRADE-IN VALUE OF TANGIBLE PERSONAL PROPERTY.--

23 ~~[A. Fifty percent of the value of agricultural~~
24 ~~implements, farm tractors, aircraft not exempted under Section~~
25 ~~7-9-30 NMSA 1978 or vehicles that are not required to be~~

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1 ~~registered under the Motor Vehicle Code may be deducted from~~
2 ~~the value in computing the compensating tax due; provided~~
3 ~~that, with respect to use of agricultural implements, the~~
4 ~~person using the property is regularly engaged in the business~~
5 ~~of farming or ranching. Any deduction allowed under~~
6 ~~Subsection B of this section is to be taken before the~~
7 ~~deduction allowed by this subsection is computed. As used in~~
8 ~~this subsection, "agricultural implement" means a tool,~~
9 ~~utensil or instrument that is:~~

10 ~~(1) designed primarily for use with a source~~
11 ~~of motive power, such as a tractor, in planting, growing,~~
12 ~~cultivating, harvesting or processing agricultural produce at~~
13 ~~the place where the produce is grown; in raising poultry or~~
14 ~~livestock; or in obtaining or processing food or fiber, such~~
15 ~~as eggs, milk, wool or mohair, from living poultry or~~
16 ~~livestock at the place where the poultry or livestock are kept~~
17 ~~for this purpose; and~~

18 ~~(2) depreciable for federal income tax~~
19 ~~purposes.~~

20 B.] That portion of the value of tangible personal
21 property on which an allowance was granted to the buyer for a
22 trade-in of tangible personal property of the same type that
23 was bought may be deducted from the value in computing the
24 compensating tax due."

25 SECTION 84. Section 7-9-90 NMSA 1978 (being Laws 1999,

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Chapter 231, Section 3, as amended) is amended to read:

"7-9-90. DEDUCTIONS--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
SALES OF URANIUM HEXAFLUORIDE AND ENRICHMENT OF URANIUM.--

A. Prior to July 1, 2038, receipts from selling uranium hexafluoride and from providing the service of enriching uranium may be deducted from gross receipts.

B. The department shall annually report to the revenue stabilization and tax policy committee aggregate amounts of deductions taken pursuant to this section, the number of taxpayers claiming the deduction and any other information that is necessary to determine that the deduction is performing a purpose that is beneficial to the state.

C. A taxpayer deducting gross receipts pursuant to this section shall report the amount deducted separately and attribute the amount of the deduction to the authorization provided in this section in a manner required by the department that facilitates the evaluation by the legislature for the benefit to the state of this deduction."

SECTION 85. Section 7-9-92 NMSA 1978 (being Laws 2004, Chapter 116, Section 5) is amended to read:

"7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT
RETAIL FOOD STORE TO BENEFICIARIES OF THE FEDERAL SUPPLEMENTAL
NUTRITION ASSISTANCE PROGRAM.--

A. Receipts from the sale of food at a retail food store ~~[that]~~ may be deducted from gross receipts if:

1 (1) the sale is made to a person who is a
2 cardholder of an electronic benefit transfer card and who is
3 eligible to receive benefits under the federal supplemental
4 nutrition assistance program in the month the sale is made;
5 and

6 (2) the receipts are not exempt [~~from gross~~
7 ~~receipts taxation and are not~~] or deductible pursuant to
8 another provision of the [~~Gross Receipts and Compensating~~
9 Sales and Use Tax Act [~~may be deducted from gross receipts~~].

10 B. The deduction provided by this section shall be
11 separately stated by the taxpayer.

12 [~~B.~~] C. For the purposes of this section:

13 (1) "electronic benefit transfer card" means
14 a plastic card or any other access device issued by the human
15 services department to a cardholder that enables the
16 cardholder to have access to and process transactions against
17 one or more public assistance benefit accounts or other
18 benefit accounts;

19 [~~(1)~~] (2) "food" means any food or food
20 product for home consumption that meets the definition of food
21 in 7 USCA [~~2012(g)(1)~~] 2012(k)(1) for purposes of the federal
22 [~~food stamp~~] supplemental nutrition assistance program; and

23 [~~(2)~~] (3) "retail food store" means an
24 establishment that sells food for home preparation and
25 consumption and that meets the definition of retail food store

1 in 7 USCA [~~2012(k)(1)~~] 2012(p)(1) for purposes of the federal
2 [~~food stamp~~] supplemental nutrition assistance program,
3 whether or not the establishment participates in the [~~food~~
4 ~~stamp~~] supplemental nutrition assistance program."

5 SECTION 86. Section 7-9-103 NMSA 1978 (being Laws 2007,
6 Chapter 3, Section 18) is amended to read:

7 "7-9-103. DEDUCTION--GROSS RECEIPTS--SERVICES PROVIDED
8 FOR CERTAIN ELECTRIC TRANSMISSION AND STORAGE FACILITIES.--
9 Prior to July 1, 2038, receipts from providing services to the
10 New Mexico renewable energy transmission authority or an agent
11 or lessee of the authority for the planning, installation,
12 repair, maintenance or operation 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 may be deducted from gross
16 receipts."

17 SECTION 87. Section 7-9-110.1 NMSA 1978 (being Laws
18 2011, Chapter 60, Section 1 and Laws 2011, Chapter 61, Section
19 1) is amended to read:

20 "7-9-110.1. DEDUCTION--~~[GROSS RECEIPTS]~~ STATE SALES
21 TAX--LOCOMOTIVE ENGINE FUEL.--

22 A. Prior to July 1, 2038, receipts from the sale
23 of fuel to a common carrier to be loaded or used in a
24 locomotive engine may be deducted from gross receipts. [~~For~~
25 ~~the purposes of this section, "locomotive engine" means a~~

1 ~~wheeled vehicle consisting of a self-propelled engine that is~~
2 ~~used to draw trains along railway tracks.]~~

3 B. Prior to July 1, 2038, the value of fuel to be
4 loaded or used by a common carrier in a locomotive engine may
5 be deducted in computing the use tax due.

6 C. The purpose of the deductions provided by this
7 section is to encourage the construction, renovation,
8 maintenance and operation of railroad locomotive refueling
9 facilities and other railroad capital investments in New
10 Mexico.

11 D. To be eligible for a deduction on fuel loaded
12 or used by a common carrier in a locomotive engine from the
13 use tax, the fuel shall be used or loaded by a common carrier
14 that:

15 (1) after July 1, 2011, made a capital
16 investment of one hundred million dollars (\$100,000,000) or
17 more in new construction or renovations at the railroad
18 locomotive refueling facility in which the fuel is loaded or
19 used; or

20 (2) on or after July 1, 2012, made a capital
21 investment of fifty million dollars (\$50,000,000) or more in
22 new railroad infrastructure improvements, including railroad
23 facilities, track, signals and supporting railroad network,
24 located in New Mexico; provided that the new railroad
25 infrastructure improvements are not required by a regulatory

1 agency to correct problems, such as regular or preventive
2 maintenance, specifically identified by that agency as
3 requiring necessary corrective action.

4 E. To be eligible for the deduction on fuel loaded
5 or used by a common carrier in a locomotive engine from gross
6 receipts, a common carrier shall deliver an appropriate
7 nontaxable transaction certificate to the seller and the sale
8 shall be made to a common carrier that:

9 (1) after July 1, 2011, made a capital
10 investment of one hundred million dollars (\$100,000,000) or
11 more in new construction or renovations at the railroad
12 locomotive refueling facility in which the fuel is sold; or

13 (2) on or after July 1, 2012, made a capital
14 investment of fifty million dollars (\$50,000,000) or more in
15 new railroad infrastructure improvements, including railroad
16 facilities, track, signals and supporting railroad network,
17 located in New Mexico; provided that the new railroad
18 infrastructure improvements are not required by a regulatory
19 agency to correct problems, such as regular or preventative
20 maintenance, specifically identified by that agency as
21 requiring necessary corrective action.

22 F. The economic development department shall
23 promulgate rules for the issuance of a certificate of
24 eligibility for the purposes of claiming a deduction pursuant
25 to this section. A common carrier may request a certificate

1 of eligibility from the economic development department to
2 provide to the taxation and revenue department to establish
3 eligibility for a nontaxable transaction certificate for the
4 deduction on fuel loaded or used by a common carrier in a
5 locomotive engine from gross receipts. The taxation and
6 revenue department shall issue nontaxable transaction
7 certificates to a common carrier upon the presentation of a
8 certificate of eligibility obtained from the economic
9 development department pursuant to this subsection.

10 G. The economic development department shall keep
11 a record of temporary and permanent jobs from all railroad
12 activity where a capital investment is made by a common
13 carrier that claims a deduction pursuant to this section. The
14 economic development department and the taxation and revenue
15 department shall estimate the amount of state revenue that is
16 attributable to all railroad activity where a capital
17 investment is made by a common carrier that claims a deduction
18 pursuant to this section.

19 H. The economic development department and the
20 taxation and revenue department shall compile an annual report
21 with the number of taxpayers who claim the deduction pursuant
22 to this section, the number of jobs created as a result of
23 that deduction, the amount of that deduction approved, the net
24 revenue to the state as a result of that deduction and any
25 other information required by the legislature to aid in

1 evaluating the effectiveness of that deduction. A taxpayer
2 who claims a deduction pursuant to this section shall provide
3 the economic development department and the taxation and
4 revenue department with the information required to compile
5 that report. The economic development department and the
6 taxation and revenue department shall present that report
7 before the legislative interim revenue stabilization and tax
8 policy committee and the legislative finance committee by
9 November of each year. Notwithstanding any other section of
10 law to the contrary, the economic development department and
11 the taxation and revenue department may disclose the number of
12 applicants for the deduction pursuant to this section, the
13 amount of the deduction approved, the number of employees of
14 the taxpayer and any other information required by the
15 legislature or the taxation and revenue department to aid in
16 evaluating the effectiveness of that deduction.

17 I. An appropriate legislative committee shall
18 review the effectiveness of the deduction for each taxpayer
19 who claims the deduction pursuant to this section every six
20 years beginning in 2019.

21 J. For the purposes of this section, "locomotive
22 engine" means a wheeled vehicle consisting of a self-propelled
23 engine that is used to draw trains along railway tracks."

24 **SECTION 88.** A new section of the Sales and Use Tax Act
25 is enacted to read:

1 "[NEW MATERIAL] BUSINESS SERVICES TAX CREDIT--SALES
2 TAX.--

3 A. A qualified taxpayer may apply for, and the
4 department may allow, a tax credit in an amount equal to five
5 percent of qualified expenditures made by the taxpayer in a
6 reporting period against the taxpayer's sales tax liabilities
7 for that reporting period. The tax credit provided in the
8 section may be referred to as the "business services tax
9 credit".

10 B. The purpose of the business services tax credit
11 is to reduce the tax burden on businesses that results from
12 multiple impositions of transactional taxes upon the sale or
13 use of services that businesses purchase.

14 C. The business services tax credit may be claimed
15 against state sales tax, use tax or withholding tax for which
16 the taxpayer would be liable for a tax reporting period in
17 which the qualified expenditure was paid or in later periods.
18 In no case may the credit taken exceed the total state sales
19 tax, use tax or withholding tax due for the reporting period.
20 After the initial reporting period in which part of the credit
21 for a qualified expenditure was claimed, any excess credit may
22 be carried forward and used in future reporting periods.

23 D. As used in this section:

24 (1) "qualified expenditure" means the amount
25 paid by a qualified taxpayer to purchase a service that is

1 deductible for purposes of determining net income pursuant to
2 Section 162 of the Internal Revenue Code of 1986, as that
3 section may be amended or renumbered, and for which receipts
4 from performance of that service are subject to the sales tax
5 and are not eligible for a deduction or exemption from the
6 sales tax, but does not include expenditures for:

7 (a) commercial linen supply services;

8 (b) entertainment or recreational
9 services;

10 (c) intrastate telephone and telegraph
11 services;

12 (d) janitorial or cleaning services;

13 (e) landscaping services;

14 (f) repair and maintenance services;

15 (g) sewer and solid waste services

16 disposal; and

17 (h) services, the purchase price of
18 which is the basis for any other New Mexico tax credit claimed
19 and allowed either prior or subsequent to this credit; and

20 (2) "qualified taxpayer" means a person
21 liable for payment of any tax, a person responsible for
22 withholding a payment or for collection and payment of any tax
23 or a person to whom an assessment has been made if the
24 assessment remains unabated or the amount of the assessment
25 has not been paid, but does not include:

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1 (a) a federal, state, tribal or other
2 governmental unit or subdivision or an agency, department,
3 institution or instrumentality of a federal, state, tribal or
4 other governmental unit or subdivision;

5 (b) a taxpayer that is a nonprofit
6 entity and for which receipts are exempt from the state sales
7 receipts tax pursuant to Sections 7-9-16 and 7-9-29 NMSA 1978;
8 or

9 (c) a taxpayer for which receipts are
10 exempt from the gross receipts tax pursuant to Section 7-9-24
11 NMSA 1978."

12 SECTION 89. Section 7-9C-1 NMSA 1978 (being Laws 1992,
13 Chapter 50, Section 1 and also Laws 1992, Chapter 67, Section
14 1, as amended) is amended to read:

15 "7-9C-1. SHORT TITLE.--Chapter 7, Article 9C NMSA 1978
16 may be cited as the "Interstate Telecommunications [~~Gross~~
17 ~~Receipts~~] Sales Tax Act".

18 SECTION 90. Section 7-9C-7 NMSA 1978 (being Laws 1992,
19 Chapter 50, Section 7 and also Laws 1992, Chapter 67, Section
20 7, as amended) is amended to read:

21 "7-9C-7. DEDUCTION--SALE OF A SERVICE FOR RESALE.--[A-]
22 Receipts from providing an interstate telecommunications
23 service in this state that will be used by other persons in
24 providing telephone or telegraph services to the final user
25 may be deducted from interstate telecommunications gross

1 receipts if the sale is made to a person who is subject to the
2 interstate telecommunications [~~gross receipts tax or to the~~
3 ~~gross receipts tax or the compensating~~] sales tax, the state
4 sales tax or the use tax.

5 [B. ~~Receipts during the period July 1, 1998~~
6 ~~through June 30, 2000 from providing leased telephone lines,~~
7 ~~telecommunications services, internet access services or~~
8 ~~computer programming that will be used by other persons in~~
9 ~~providing internet access and related services to the final~~
10 ~~user may be deducted from interstate telecommunications gross~~
11 ~~receipts if the sale is made to a person who is subject to the~~
12 ~~interstate telecommunications gross receipts tax, the gross~~
13 ~~receipts tax or the compensating tax.]"~~

14 SECTION 91. Section 7-9F-3 NMSA 1978 (being Laws 2000
15 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to
16 read:

17 "7-9F-3. DEFINITIONS.--As used in the Technology Jobs
18 and Research and Development Tax Credit Act:

19 A. "affiliate" means a person who directly or
20 indirectly owns or controls, is owned or controlled by or is
21 under common ownership or control with another person through
22 ownership of voting securities or other ownership interests
23 representing a majority of the total voting power of the
24 entity;

25 B. "annual payroll expense" means the wages paid

1 or payable to employees in the state by the taxpayer in the
2 taxable year for which the taxpayer applies for an additional
3 credit pursuant to the Technology Jobs and Research and
4 Development Tax Credit Act;

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

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

24 E. "facility" means a factory, mill, plant,
25 refinery, warehouse, dairy, feedlot, building or complex of

1 buildings located within the state, including the land on
2 which it is located and all machinery, equipment and other
3 real and tangible personal property located at or within it
4 and used in connection with its operation;

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

20 G.] F. "qualified expenditure" means an
21 expenditure or an allocated portion of an expenditure by a
22 taxpayer in connection with qualified research at a qualified
23 facility, including expenditures for depletable land and rent
24 paid or incurred for land, improvements, the allowable amount
25 paid or incurred to operate or maintain a facility, buildings,

1 equipment, computer software, computer software upgrades,
2 consultants and contractors performing work in New Mexico,
3 payroll, technical books and manuals and test materials, but
4 not including any expenditure on property that is owned by a
5 municipality or county in connection with an industrial
6 revenue bond project, property for which the taxpayer has
7 received any credit pursuant to the Investment Credit Act,
8 property that was owned by the taxpayer or an affiliate before
9 July 3, 2000 or research and development expenditures
10 reimbursed by a person who is not an affiliate of the
11 taxpayer. If a "qualified expenditure" is an allocation of an
12 expenditure, the cost accounting methodology used for the
13 allocation of the expenditure shall be the same cost
14 accounting methodology used by the taxpayer in its other
15 business activities;

16 ~~[H.]~~ G. "qualified facility" means a facility in
17 New Mexico at which qualified research is conducted other than
18 a facility operated by a taxpayer for the United States or any
19 agency, department or instrumentality thereof;

20 ~~[I.]~~ H. "qualified research" means research:

21 (1) that is undertaken for the purpose of
22 discovering information:

23 (a) that is technological in nature;

24 and

25 (b) the application of which is

1 intended to be useful in the development of a new or improved
2 business component of the taxpayer; and

3 (2) substantially all of the activities of
4 which constitute elements of a process of experimentation
5 related to a new or improved function, performance,
6 reliability or quality, but not related to style, taste or
7 cosmetic or seasonal design factors;

8 ~~[J-]~~ I. "qualified research and development small
9 business" means a taxpayer that:

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

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

17 (3) did not have more than fifty percent of
18 its voting securities or other equity interest with the right
19 to designate or elect the board of directors or other
20 governing body of the business owned directly or indirectly by
21 another business;

22 ~~[K-]~~ J. "rural area" means any area of the state
23 other than the state fairgrounds, an incorporated municipality
24 with a population of thirty thousand or more according to the
25 most recent federal decennial census and any area within three

1 miles of the external boundaries of an incorporated
2 municipality with a population of thirty thousand or more
3 according to the most recent federal decennial census;

4 ~~[H.]~~ K. "taxpayer" means any of the following
5 persons, other than a federal, state or other governmental
6 unit or subdivision or an agency, department, institution or
7 instrumentality thereof:

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

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

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

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

19 (a) a small business corporation that
20 has elected to be treated as an S corporation for federal
21 income tax purposes; or

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

24 ~~[M.]~~ L. "wages" means remuneration for services
25 performed by an employee in New Mexico for an employer."

1 SECTION 92. Section 7-9F-9 NMSA 1978 (being Laws 2000
2 (2nd S.S.), Chapter 22, Section 9, as amended) is amended to
3 read:

4 "7-9F-9. CLAIMING THE BASIC CREDIT.--

5 A. A taxpayer may apply for approval of a credit
6 within one year following the end of the reporting period in
7 which the qualified expenditure was made.

8 B. A taxpayer having applied for and been granted
9 approval for a basic credit by the department pursuant to the
10 Technology Jobs and Research and Development Tax Credit Act
11 may claim the amount of the approved basic credit against the
12 taxpayer's ~~[compensating tax, withholding tax or gross~~
13 ~~receipts tax, excluding local option gross receipts tax]~~
14 income tax or corporate income tax liability due to the state
15 of New Mexico; provided that no taxpayer may claim an amount
16 of approved basic credit for a ~~[reporting period]~~ taxable year
17 in which the basic credit is being claimed that exceeds the
18 ~~[sum]~~ amount of the taxpayer's ~~[compensating tax, withholding~~
19 ~~tax and gross receipts tax, excluding local option gross~~
20 ~~receipts tax, due for that reporting period]~~ income tax or
21 corporate income tax due for that taxable year.

22 C. Any amount of approved basic credit not claimed
23 against the taxpayer's ~~[compensating tax, withholding tax or~~
24 ~~gross receipts tax, excluding local option gross receipts tax]~~
25 income tax or corporate income tax liability due may be

1 claimed in subsequent ~~[reporting periods]~~ taxable years for a
2 period of up to three years from the date of the original
3 claim."

4 **SECTION 93.** Section 7-9F-11 NMSA 1978 (being Laws 2000
5 (2nd S.S.), Chapter 22, Section 11) is amended to read:

6 "7-9F-11. RECAPTURE.--If the taxpayer or a successor in
7 business of the taxpayer ceases operations in New Mexico for
8 at least one hundred eighty consecutive days within a two-year
9 period after the taxpayer has claimed a basic credit or an
10 additional credit at a facility ~~[with respect to which the~~
11 ~~taxpayer has claimed the basic credit or the additional~~
12 ~~credit]~~, the department shall grant no further basic credit or
13 additional credit to the taxpayer with respect to that
14 facility. In addition, any amount of approved basic credit
15 ~~[not claimed against the taxpayer's gross receipts tax,~~
16 ~~compensating tax or withholding tax and any amount of~~
17 ~~approved]~~ or additional credit not claimed against the
18 taxpayer's income tax or corporate income tax shall be
19 extinguished, and within thirty days after the one hundred
20 eightieth day of the cessation of operations, the taxpayer
21 shall pay the amount of any ~~[gross receipts tax, compensating~~
22 ~~tax or withholding tax for which an approved basic credit was~~
23 ~~taken and any]~~ income tax or corporate income tax against
24 which an approved additional credit was taken. For purposes
25 of this section, a taxpayer shall not be deemed to have ceased

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1 operations during reasonable periods for maintenance or
2 retooling or for the repair or replacement of facilities
3 damaged or destroyed or during the continuance of labor
4 disputes."

5 SECTION 94. Section 7-9I-2 NMSA 1978 (being Laws 2005,
6 Chapter 104, Section 18, as amended) is amended to read:

7 "7-9I-2. DEFINITIONS.--As used in the Affordable
8 Housing Tax Credit Act:

9 A. "affordable housing project" means land
10 acquisition, construction, building acquisition, remodeling,
11 improvement, rehabilitation, conversion or weatherization for
12 residential housing that is approved by the authority and that
13 includes single-family housing or multifamily housing;

14 B. "authority" means the New Mexico mortgage
15 finance authority;

16 C. "department" means the taxation and revenue
17 department; and

18 ~~[D. "modified combined tax liability" means the~~
19 ~~total liability for the reporting period for the gross~~
20 ~~receipts tax imposed by Section 7-9-4 NMSA 1978 together with~~
21 ~~any tax collected at the same time and in the same manner as~~
22 ~~the gross receipts tax, such as the compensating tax, the~~
23 ~~withholding tax, the interstate telecommunications gross~~
24 ~~receipts tax, the surcharges imposed by Section 63-9D-5 NMSA~~
25 ~~1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,~~

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1 ~~minus the amount of any credit other than the affordable~~
2 ~~housing tax credit applied against any or all of these taxes~~
3 ~~or surcharges; but "modified combined tax liability" excludes~~
4 ~~all amounts collected with respect to local option gross~~
5 ~~receipts taxes and governmental gross receipts taxes; and~~

6 E.] D. "person" means an individual, tribal
7 government, housing authority, corporation, limited liability
8 company, partnership, joint venture, syndicate, association or
9 nonprofit organization."

10 SECTION 95. Section 7-9I-5 NMSA 1978 (being Laws 2005,
11 Chapter 104, Section 21) is amended to read:

12 "7-9I-5. AFFORDABLE HOUSING TAX CREDIT.--

13 A. The tax credit provided in this section may be
14 referred to as the "affordable housing tax credit". Except as
15 otherwise provided by the Affordable Housing Tax Credit Act, a
16 holder of an investment voucher that submits the investment
17 voucher to the department may apply for, and the department
18 may allow, a tax credit in an amount not to exceed the value
19 of the investment voucher during the tax year in which the
20 authority certifies to the department:

21 (1) completion of a service for which an
22 investment voucher has been issued pursuant to the Affordable
23 Housing Tax Credit Act; or

24 (2) approval by the authority or completion
25 of an affordable housing project for which a land, building or

1 cash donation has been made and for which an investment
2 voucher has been issued pursuant to the Affordable Housing Tax
3 Credit Act.

4 B. A holder of an investment voucher may apply all
5 or a portion of the affordable housing tax credit against the
6 holder's ~~[modified combined tax liability]~~ personal income tax
7 liability or corporate income tax liability. Any balance of
8 the affordable housing tax credit claimed may be carried
9 forward for up to five years from the calendar year during
10 which the authority certifies to the department approval of
11 the affordable housing project for which the investment
12 voucher used to claim the affordable housing tax credit is
13 issued. ~~[No amount of the affordable housing tax credit may
14 be applied against a local option gross receipts tax imposed
15 by a municipality or county or against the government gross
16 receipts tax.]~~

17 C. Notwithstanding the provisions of Section 7-1-8
18 NMSA 1978, the department may disclose to a person the balance
19 of the affordable housing tax credit remaining with respect to
20 any investment voucher submitted by that person."

21 SECTION 96. 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".

1 SECTION 97. 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 98. 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~~] STATE SALES TAX
20 REQUIRED.--Any person leasing or selling property to the state
21 or performing services for the state, as those terms are used
22 in the [~~Gross Receipts and Compensating~~] Sales and Use Tax
23 Act, shall be registered with the department to pay [~~the gross~~
24 ~~receipts~~] state sales tax unless that person has no business
25 location, employees or property in New Mexico and does not

1 conduct business in New Mexico through agents or contractors."

2 SECTION 99. 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~~] state
7 sales tax, the state shall withhold payment of the amount due
8 until the person has presented evidence of registration with
9 the department to pay the [~~gross receipts~~] state sales tax."

10 SECTION 100. Section 7-14-10 NMSA 1978 (being Laws
11 1988, Chapter 73, Section 20, as amended) is amended to read:

12 "7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from
13 the tax and any associated interest and penalties shall be
14 deposited in the "motor vehicle suspense fund", hereby created
15 in the state treasury. As of the end of each month, the net
16 receipts attributable to the tax and associated penalties and
17 interest shall be distributed [~~to the general fund~~] as
18 follows:

19 A. fifty percent to the state road fund; and

20 B. fifty percent to the local governments road
21 fund."

22 SECTION 101. Section 7-14A-1 NMSA 1978 (being Laws
23 1991, Chapter 197, Section 5, as amended) is amended to read:

24 "7-14A-1. SHORT TITLE.--Chapter 7, Article 14A NMSA
25 1978 may be cited as the "Leased Vehicle [~~Gross Receipts~~]

1 Sales Tax Act".

2 SECTION 102. Section 7-14A-2 NMSA 1978 (being Laws
3 1991, Chapter 197, Section 6, as amended) is amended to read:

4 "7-14A-2. DEFINITIONS.--As used in the Leased Vehicle
5 [~~Gross Receipts~~] Sales Tax Act:

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

10 B. "engaging in business" means carrying on or
11 causing to be carried on the leasing of vehicles with the
12 purpose of direct or indirect benefit;

13 C. "gross receipts" means the total amount of
14 money or the value of other consideration received from
15 leasing vehicles used in New Mexico, but excludes cash
16 discounts allowed and taken, leased vehicle [~~gross receipts~~]
17 sales tax payable on transactions for the reporting period,
18 [~~gross receipts~~] state sales tax payable pursuant to the
19 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act on
20 transactions for the reporting period and taxes imposed
21 pursuant to the provisions of any local option [~~gross~~
22 ~~receipts~~] sales tax, as that term is defined in the Tax
23 Administration Act, that is payable on transactions for the
24 reporting period and any type of time-price differential.

25 Also excluded from "gross receipts" are any gross receipts or

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1 sales taxes imposed by an Indian nation, tribe or pueblo;
2 provided that the tax is approved, if approval is required by
3 federal law or regulation, by the secretary of the interior of
4 the United States; and provided further that the gross
5 receipts or sales tax imposed by the Indian nation, tribe or
6 pueblo provides a reciprocal exclusion for gross receipts,
7 sales or gross receipts-based excise taxes imposed by the
8 state or its political subdivisions. In an exchange in which
9 the money or other consideration received does not represent
10 the value of the lease of the vehicle, "gross receipts" means
11 the reasonable value of the lease of the vehicle. When the
12 leasing of vehicles is made under a leasing contract, the
13 seller or lessor may elect to treat all receipts under those
14 contracts as gross receipts as and when the payments are
15 actually received. "Gross receipts" also includes amounts
16 paid by members of any cooperative association or similar
17 organization for the lease of vehicles by that organization;

18 D. "leasing" means any arrangement whereby, for a
19 consideration, a vehicle without a driver furnished by the
20 lessor or owner is employed for or by any person other than
21 the owner of the vehicle for a period of not more than six
22 months;

23 E. "person" means any individual, estate, trust,
24 receiver, cooperative association, club, corporation, company,
25 firm, partnership, joint venture, syndicate or other entity;

1 and

2 F. "vehicle" means a passenger automobile designed
3 to accommodate six or fewer adult human beings that is part of
4 a fleet of five or more passenger automobiles owned by the
5 same person."

6 SECTION 103. Section 7-14A-3 NMSA 1978 (being Laws
7 1991, Chapter 197, Section 7) is amended to read:

8 "7-14A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
9 "LEASED VEHICLE [~~GROSS RECEIPTS~~] SALES TAX".--

10 A. For the privilege of engaging in business, an
11 excise tax equal to five percent of gross receipts is imposed
12 on any person engaging in business in New Mexico.

13 B. The tax imposed by this section shall be
14 referred to as the "leased vehicle [~~gross receipts~~] sales
15 tax".

16 SECTION 104. Section 7-14A-3.1 NMSA 1978 (being Laws
17 1993, Chapter 359, Section 1, as amended) is amended to read:

18 "7-14A-3.1. IMPOSITION AND RATE--LEASED VEHICLE
19 SURCHARGE.--

20 A. Except as provided in Subsection B of this
21 section, there is imposed a surcharge on the leasing of a
22 vehicle to another person by a person engaging in business in
23 New Mexico if the lease is subject to the leased vehicle
24 [~~gross receipts~~] sales tax. The amount of this surcharge is
25 two dollars (\$2.00) for each day the vehicle is leased by the

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1 person. The surcharge may be referred to as the "leased
2 vehicle surcharge".

3 B. The leased vehicle surcharge imposed in
4 Subsection A of this section shall not apply to the lease of a
5 temporary replacement vehicle if the lessee signs a statement
6 that the temporary replacement vehicle is to be used as a
7 replacement for another vehicle that is being repaired,
8 serviced or replaced. For the purposes of this section,
9 "temporary replacement vehicle" means a vehicle that is:

10 (1) used by an individual in place of
11 another vehicle that is unavailable for use by the individual
12 due to loss, damage, mechanical breakdown or need for
13 servicing; and

14 (2) leased temporarily by or on behalf of
15 the individual or loaned temporarily to the individual by a
16 vehicle repair facility or dealer while the other vehicle is
17 being repaired, serviced or replaced."

18 SECTION 105. Section 7-14A-4 NMSA 1978 (being Laws
19 1991, Chapter 197, Section 8, as amended) is amended to read:

20 "7-14A-4. PRESUMPTION OF TAXABILITY.--To prevent
21 evasion of the leased vehicle [~~gross receipts~~] sales tax and
22 the leased vehicle surcharge and to aid in their
23 administration, it is presumed that all receipts of a person
24 engaging in business are subject to the leased vehicle [~~gross~~
25 ~~receipts~~] sales tax and that all vehicles leased by that

1 person are subject to the leased vehicle surcharge."

2 SECTION 106. Section 7-14A-5 NMSA 1978 (being Laws
3 1991, Chapter 197, Section 9) is amended to read:

4 "7-14A-5. SEPARATELY STATING THE LEASED VEHICLE [~~GROSS~~
5 ~~RECEIPTS~~] SALES TAX.--When the leased vehicle [~~gross receipts~~]
6 sales tax is stated separately on the books of the lessor and
7 if the total amount of tax that is stated separately on
8 transactions reportable within one reporting period is in
9 excess of the amount of leased vehicle [~~gross receipts~~] sales
10 tax otherwise payable on the transactions on which the tax was
11 separately stated, the excess amount of tax stated on the
12 transactions within that reporting period shall be included in
13 gross receipts."

14 SECTION 107. Section 7-14A-6 NMSA 1978 (being Laws
15 1991, Chapter 197, Section 10, as amended) is amended to read:

16 "7-14A-6. DATE PAYMENT DUE.--The tax and the surcharge
17 imposed by the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act
18 are to be paid on or before the twenty-fifth day of the month
19 following the month in which the taxable event occurs."

20 SECTION 108. Section 7-14A-7 NMSA 1978 (being Laws
21 1991, Chapter 197, Section 11) is amended to read:

22 "7-14A-7. DEDUCTION--TRANSACTIONS IN INTERSTATE
23 COMMERCE.--Receipts from transactions in interstate commerce
24 may be deducted from gross receipts to the extent that the
25 imposition of the leased vehicle [~~gross receipts~~] sales tax

1 would be unlawful under the United States constitution."

2 **SECTION 109.** Section 7-14A-10 NMSA 1978 (being Laws
3 1991, Chapter 197, Section 14, as amended) is amended to read:

4 "7-14A-10. DISTRIBUTION OF PROCEEDS.--At the end of
5 each month, the net receipts attributable to the leased
6 vehicle [~~gross receipts~~] sales tax and any associated
7 penalties and interest shall be distributed as follows:

8 A. one-fourth to the local governments road fund;
9 and

10 B. three-fourths to the highway infrastructure
11 fund."

12 **SECTION 110.** Section 7-14A-11 NMSA 1978 (being Laws
13 1991, Chapter 197, Section 15, as amended) is amended to read:

14 "7-14A-11. ADMINISTRATION.--

15 A. The department shall interpret the provisions
16 of the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act.

17 B. The department shall administer and enforce the
18 collection of the leased vehicle [~~gross receipts~~] sales tax
19 and the leased vehicle surcharge, and the Tax Administration
20 Act applies to the administration and enforcement of the tax
21 and the surcharge."

22 **SECTION 111.** Section 7-19D-1 NMSA 1978 (being Laws
23 1993, Chapter 346, Section 1) is amended to read:

24 "7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA
25 1978 may be cited as the "Municipal Local Option [~~Gross~~

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1 ~~Receipts Taxes~~] Sales Tax Act".

2 SECTION 112. Section 7-19D-2 NMSA 1978 (being Laws
3 1993, Chapter 346, Section 2) is amended to read:

4 "7-19D-2. DEFINITIONS.--As used in the Municipal Local
5 Option [~~Gross Receipts Taxes~~] Sales Tax Act:

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

10 B. "governing body" means the city council or city
11 commission of a city, the board of trustees of a town or
12 village and the board of county commissioners of an H-class
13 [~~counties~~] county;

14 C. "municipality" means any incorporated city,
15 town or village, whether incorporated under general act,
16 special act or special charter, and an H-class county;

17 D. "person" means an individual or any other legal
18 entity; and

19 E. "state [~~gross receipts~~] sales tax" means the
20 [~~gross receipts~~] state sales tax imposed [~~under the Gross~~
21 ~~Receipts and Compensating~~] pursuant to the Sales and Use Tax
22 Act."

23 SECTION 113. Section 7-19D-3 NMSA 1978 (being Laws
24 1993, Chapter 346, Section 3) is amended to read:

25 "7-19D-3. EFFECTIVE DATE OF ORDINANCE.--An ordinance

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1 imposing, amending or repealing a tax or an increment of tax
2 authorized by the Municipal Local Option [~~Gross Receipts~~
3 ~~Taxes~~] Sales Tax Act shall be effective on July 1 or January
4 1, whichever date occurs first after the expiration of at
5 least three months from the date the adopted ordinance is
6 mailed or delivered to the department. The ordinance shall
7 include that effective date."

8 SECTION 114. Section 7-19D-4 NMSA 1978 (being Laws
9 1993, Chapter 346, Section 4) is amended to read:

10 "7-19D-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS
11 OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT
12 AND REQUIREMENTS OF THE DEPARTMENT.--

13 A. An ordinance imposing a tax [~~under~~] pursuant to
14 the provisions of the Municipal Local Option [~~Gross Receipts~~
15 ~~Taxes~~] Sales Tax Act shall adopt by reference the same
16 definitions and the same provisions relating to exemptions and
17 deductions as are contained in the [~~Gross Receipts and~~
18 ~~Compensating~~] Sales and Use Tax Act then in effect and as it
19 may be amended from time to time.

20 B. The governing body of any municipality imposing
21 a tax [~~under~~] pursuant to provisions of the Municipal Local
22 Option [~~Gross Receipts Taxes~~] Sales Tax Act shall impose the
23 tax by adopting the model ordinance with respect to the tax
24 furnished to the municipality by the department. An ordinance
25 that does not conform substantially to the model ordinance of

1 the department is not valid."

2 SECTION 115. Section 7-19D-5 NMSA 1978 (being Laws
3 1993, Chapter 346, Section 5, as amended) is amended to read:

4 "7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by
5 the provisions of the Municipal Local Option [~~Gross Receipts~~
6 ~~Taxes~~] Sales Tax Act shall be imposed on the gross receipts
7 arising from [~~A.~~] transporting persons or property for hire by
8 railroad, motor vehicle, air transportation or any other means
9 from one point within the municipality to another point
10 outside the municipality [~~or~~

11 ~~B. a business located outside the boundaries of a~~
12 ~~municipality on land owned by that municipality for which a~~
13 ~~state gross receipts tax distribution is made pursuant to~~
14 ~~Section 7-1-6.4 NMSA 1978]."~~

15 SECTION 116. Section 7-19D-6 NMSA 1978 (being Laws
16 1993, Chapter 346, Section 6) is amended to read:

17 "7-19D-6. COPY OF ORDINANCE TO BE SUBMITTED TO
18 DEPARTMENT.--A certified copy of the ordinance imposing or
19 repealing a tax authorized [~~under~~] by the Municipal Local
20 Option [~~Gross Receipts Taxes~~] Sales Tax Act or changing the
21 tax rate imposed shall be mailed or delivered to the
22 department within five days after the later of the date the
23 ordinance is adopted or the date the results of any election
24 held with respect to the ordinance are certified to be in
25 favor of the ordinance."

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1 SECTION 117. Section 7-19D-7 NMSA 1978 (being Laws
2 1993, Chapter 346, Section 7, as amended) is amended to read:

3 "7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF
4 PROCEEDS--DEDUCTIONS.--

5 A. The department shall collect each tax imposed
6 pursuant to the provisions of the Municipal Local Option
7 ~~[Gross Receipts Taxes]~~ Sales Tax Act in the same manner and at
8 the same time it collects the state ~~[gross receipts]~~ sales
9 tax.

10 B. Except as provided in Subsection C of this
11 section, the department shall withhold an administrative fee
12 pursuant to Section ~~[1 of this 1997 act]~~ 7-1-6.41 NMSA 1978.
13 The department shall transfer to each municipality for which
14 it is collecting a tax pursuant to the provisions of the
15 Municipal Local Option ~~[Gross Receipts Taxes]~~ Sales Tax Act
16 the amount of each tax collected for that municipality, less
17 the administrative fee withheld and less any disbursements for
18 tax credits, refunds and the payment of interest applicable to
19 the tax. The transfer to the municipality shall be made
20 within the month following the month in which the tax is
21 collected.

22 C. With respect to the municipal ~~[gross receipts]~~
23 sales tax imposed by a municipality pursuant to Section
24 7-19D-9 NMSA 1978, the department shall withhold the
25 administrative fee pursuant to Section ~~[1 of this 1997 act]~~

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1 7-1-6.41 NMSA 1978 only on that portion of the municipal
2 [~~gross receipts~~] sales tax arising from a municipal [~~gross~~
3 ~~receipts~~] sales tax rate in excess of one-half [~~of one~~]
4 percent."

5 SECTION 118. Section 7-19D-8 NMSA 1978 (being Laws
6 1993, Chapter 346, Section 8) is amended to read:

7 "7-19D-8. INTERPRETATION OF ACT--ADMINISTRATION AND
8 ENFORCEMENT OF ACT.--

9 A. The department shall interpret the provisions
10 of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax
11 Act.

12 B. The department shall administer and enforce the
13 collection of each tax authorized [~~under~~] by the provisions of
14 the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax
15 Act, and the Tax Administration Act applies to the
16 administration and enforcement of each tax."

17 SECTION 119. Section 7-19D-9 NMSA 1978 (being Laws
18 1978, Chapter 151, Section 1, as amended) is amended to read:

19 "7-19D-9. MUNICIPAL [~~GROSS RECEIPTS~~] SALES TAX--
20 AUTHORITY TO IMPOSE RATE.--

21 A. The majority of the members of the governing
22 body of any municipality may impose by ordinance an excise tax
23 [~~not to exceed a rate of one and one-half percent of~~] on the
24 gross receipts of any person engaging in business in the
25 municipality for the privilege of engaging in business in the

1 municipality. A tax imposed pursuant to this section shall be
2 imposed by the enactment of one or more ordinances [~~each~~
3 ~~imposing any number of municipal gross receipts tax rate~~
4 ~~increments, but the total municipal gross receipts tax rate~~
5 ~~imposed by all ordinances shall not exceed an aggregate rate~~
6 ~~of one and one-half percent of the gross receipts of a person~~
7 ~~engaging in business. Municipalities may impose increments of~~
8 ~~one-eighth of one~~] in increments measured by hundredths of a
9 percent. [~~B.~~] The tax imposed pursuant to [~~Subsection A of~~]
10 this section may be referred to as the "municipal [~~gross~~
11 ~~receipts~~] sales tax.

12 B. The maximum rate of the municipal sales tax on
13 the gross receipts of any person engaging in business in a
14 municipality shall be determined as follows for each
15 municipality:

16 (1) on and after July 1, 2018, and prior to
17 January 1, 2020, the rate shall be the quotient of baseline
18 revenue divided by fiscal year 2018 base revenue, multiplied
19 by one hundred three percent and rounded up to the nearest
20 one-hundredth percent;

21 (2) on and after January 1, 2020, and prior
22 to July 1, 2020, the rate shall be the quotient of baseline
23 revenue divided by fiscal year 2019 base revenue, multiplied
24 by one hundred three percent and rounded up to the nearest
25 one-hundredth percent; and

1 (3) on and after July 1, 2020:

2 (a) for a municipality that, on July 1,
3 2018, had in effect a municipal sales tax rate of greater than
4 two and two-tenths percent: 1) one and four-tenths percent,
5 which shall not be subject to an election pursuant to
6 Subsection D of this section; plus 2) one and six-tenths
7 percent, which shall be subject to an election pursuant to
8 Subsection D of this section; and

9 (b) for a municipality not described in
10 Subparagraph (a) of this paragraph: 1) one and four-tenths
11 percent, which shall not be subject to an election pursuant to
12 Subsection D of this section; plus 2) eight-tenths percent,
13 which shall be subject to an election pursuant to Subsection D
14 of this section.

15 C. The governing body of a municipality may, at
16 the time of enacting an ordinance imposing the tax authorized
17 in Subsection A of this section, dedicate the revenue for a
18 specific purpose or area of municipal government services
19 ~~[including but not limited to police protection, fire~~
20 ~~protection, public transportation or street repair and~~
21 ~~maintenance]~~. If the governing body proposes to dedicate such
22 revenue, the ordinance and, if any election is held, the
23 ballot shall clearly state the purpose to which the revenue
24 will be dedicated, and any revenue so dedicated shall be used
25 by the municipality for that purpose unless a subsequent

1 ordinance is adopted to change the purpose to which dedicated
2 or to place the revenue in the general fund of the
3 municipality.

4 D. An election shall be called on the questions of
5 disapproval or approval of any ordinance enacted pursuant to
6 ~~[Subsection A]~~ Subparagraph (b) of Paragraph (3) of Subsection
7 B of this section or any ordinance amending such ordinance.

8 ~~[(1) if the governing body chooses to~~
9 ~~provide in the ordinance that it shall not be effective until~~
10 ~~the ordinance is approved by the majority of the registered~~
11 ~~voters voting on the question at an election to]~~ The election
12 shall be held pursuant to the provisions of a home-rule
13 charter or on a date set by the governing body and pursuant to
14 the provisions of the Municipal Election Code governing
15 special elections. ~~[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~~

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 Municipal Election Code for~~
19 ~~special elections, and the election shall be held within~~
20 ~~seventy-five days after the date the petition is verified by~~
21 ~~the municipal clerk or it may be held in conjunction with a~~
22 ~~regular municipal election if such election occurs within~~
23 ~~seventy-five days after the date of verification by the~~
24 ~~municipal clerk.~~

25 ~~F.]~~ E. If at an election called pursuant to

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

13 ~~[G. Any municipality that has lawfully imposed by~~
14 ~~the requirements of the Special Municipal Gross Receipts Tax~~
15 ~~Act a rate of at least one-fourth of one percent shall be~~
16 ~~deemed to have imposed one-fourth of one percent municipal~~
17 ~~gross receipts tax pursuant to this section. Any rate of tax~~
18 ~~deemed to be imposed pursuant to this subsection shall~~
19 ~~continue to be dedicated to the payment of outstanding bonds~~
20 ~~issued by the municipality that pledged the tax revenues by~~
21 ~~ordinance until such time as the bonds are fully paid. A~~
22 ~~municipality may by ordinance change the purpose for any rate~~
23 ~~of tax deemed to be imposed at any time the revenues are not~~
24 ~~committed to payment of bonds.~~

25 H.] F. Any law that imposes or authorizes the

1 imposition of a municipal [~~gross receipts~~] sales tax or that
2 affects the municipal [~~gross receipts~~] sales tax, or any law
3 supplemental thereto or otherwise appertaining thereto, shall
4 not be repealed or amended or otherwise directly or indirectly
5 modified in such a manner as to impair adversely any
6 outstanding revenue bonds that may be secured by a pledge of
7 such municipal [~~gross receipts~~] sales tax unless such
8 outstanding revenue bonds have been discharged in full or
9 provision has been fully made therefor.

10 G. As used in this section:

11 (1) "baseline revenue " means, for each
12 municipality, the total net receipts attributable to the gross
13 receipts tax of persons engaging in business in the
14 municipality in fiscal year 2015, 2016 or 2017, whichever is
15 greater;

16 (2) "fiscal year 2018 base revenue" means,
17 for each municipality, the gross receipts of all persons
18 engaging in business in the municipality in fiscal year 2018
19 that are subject to the gross receipts tax, as estimated by
20 the taxation and revenue department, in consultation with the
21 department of finance and administration and the legislative
22 finance committee; and

23 (3) "fiscal year 2019 base revenue" means,
24 for each municipality, the gross receipts of all persons
25 engaging in business in the municipality in fiscal year 2019

1 that are subject to the state sales tax, as estimated by the
2 taxation and revenue department, in consultation with the
3 department of finance and administration and the legislative
4 finance committee."

5 SECTION 120. Section 7-20E-1 NMSA 1978 (being Laws
6 1993, Chapter 354, Section 1) is amended to read:

7 "7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA
8 1978 may be cited as the "County Local Option [~~Gross Receipts~~
9 ~~Taxes~~] Sales Tax Act"."

10 SECTION 121. Section 7-20E-2 NMSA 1978 (being Laws
11 1993, Chapter 354, Section 2, as amended by Laws 1994, Chapter
12 93, Section 1 and also by Laws 1994, Chapter 97, Section 1) is
13 amended to read:

14 "7-20E-2. DEFINITIONS.--As used in the County Local
15 Option [~~Gross Receipts Taxes~~] Sales Tax Act:

16 A. "county" means, unless specifically defined
17 otherwise in the County Local Option [~~Gross Receipts Taxes~~]
18 Sales Tax Act, a county, including an H class county;

19 B. "county area" means that portion of a county
20 located outside the boundaries of any municipality, except
21 that for H class counties, "county area" means the entire
22 county;

23 C. "department" means the taxation and revenue
24 department, the secretary of taxation and revenue or any
25 employee of the department exercising authority lawfully

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1 delegated to that employee by the secretary;

2 D. "governing body" means the county commission of
3 the county or the county council of an H class county;

4 E. "person" means an individual or any other legal
5 entity; and

6 F. "state [~~gross receipts~~] sales tax" means the
7 [~~gross receipts~~] state sales tax imposed under the [~~Gross~~
8 ~~Receipts and Compensating~~] Sales and Use Tax Act."

9 SECTION 122. Section 7-20E-3 NMSA 1978 (being Laws
10 1993, Chapter 354, Section 3, as amended) is amended to read:

11 "7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE
12 OF ORDINANCE.--

13 A. The governing body of a county imposing a tax
14 or an increment of tax authorized by [~~the County Local Option~~
15 ~~Gross Receipts Taxes Act or any other county local option~~
16 ~~gross receipts tax act that is subject to optional referendum~~
17 ~~selection~~] Subparagraph (b) of Paragraph (3) of Subsection B
18 and Subparagraph (b) of Paragraph (3) of Subsection C of
19 Section 7-20E-9 NMSA 1978 shall select, when enacting the
20 ordinance imposing the tax, one of the following referendum
21 options:

22 (1) the ordinance imposing the tax or
23 increment of tax shall go into effect on July 1 or January 1
24 in accordance with the provisions of the County Local Option
25 [~~Gross Receipts Taxes~~] Sales Tax Act, but an election may be

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1 called in the county on the question of approving or
2 disapproving that ordinance as follows:

3 (a) an election shall be called when:
4 1) in a county having a referendum provision in its charter, a
5 petition requesting such an election is filed pursuant to the
6 requirements of that provision in the charter and signed by
7 the number of registered voters in the county equal to the
8 number of registered voters required in its charter to seek a
9 referendum; and 2) in all other counties, a petition
10 requesting such an election is filed with the county clerk
11 within sixty days of enactment of the ordinance by the
12 governing body and the petition has been signed by a number of
13 registered voters in the county equal to at least five percent
14 of the number of the voters in the county who were registered
15 to vote in the most recent general election;

16 (b) the signatures on the petition
17 requesting an election shall be verified by the county clerk.
18 If the petition is verified by the county clerk as containing
19 the required number of signatures of registered voters, the
20 governing body shall adopt a resolution calling an election on
21 the question of approving or disapproving the ordinance. The
22 election shall be held within sixty days after the date the
23 petition is verified by the county clerk, or it may be held in
24 conjunction with a general election if that election occurs
25 within sixty days after the date of the verification. The

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1 election shall be called, held, conducted and canvassed in
2 substantially the same manner as provided by law for general
3 elections; and

4 (c) if a majority of the registered
5 voters voting on the question approves the ordinance, the
6 ordinance shall go into effect on July 1 or January 1 in
7 accordance with the provisions of the County Local Option
8 [~~Gross Receipts Taxes~~] Sales Tax Act. If at such an election
9 a majority of the registered voters voting on the question
10 disapproves the ordinance, the ordinance imposing the tax
11 shall be deemed repealed and the question of imposing the tax
12 or increment of tax shall not be considered again by the
13 governing body for a period of one year from the date of the
14 election; or

15 (2) the ordinance imposing the tax or
16 increment of tax shall not go into effect until after an
17 election is held and a simple majority of the registered
18 voters of the county voting on the question votes in favor of
19 imposing the tax or increment of tax. The governing body
20 shall adopt a resolution calling for an election within
21 seventy-five days of the date the ordinance is adopted on the
22 question of imposing the tax or increment of tax. Such
23 question may be submitted to the voters and voted upon as a
24 separate question at any general election or at any special
25 election called for that purpose by the governing body. The

1 election upon the question shall be called, held, conducted
2 and canvassed in substantially the same manner as may be
3 provided by law for general elections. If the question of
4 imposing the tax or increment of tax fails, the governing body
5 shall not again propose the tax or increment of tax for a
6 period of one year after the election.

7 B. An ordinance imposing, amending or repealing a
8 tax or an increment of tax authorized by the County Local
9 Option [~~Gross Receipts Taxes~~] Sales Tax Act shall be effective
10 on July 1 or January 1, whichever date occurs first after the
11 expiration of at least three months from the date the adopted
12 ordinance is mailed or delivered to the department. The
13 ordinance shall include that effective date."

14 SECTION 123. Section 7-20E-4 NMSA 1978 (being Laws
15 1993, Chapter 354, Section 4) is amended to read:

16 "7-20E-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS
17 OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT
18 AND REQUIREMENTS OF THE DEPARTMENT.--

19 A. An ordinance imposing a tax [~~under~~] pursuant to
20 the provisions of the County Local Option [~~Gross Receipts~~
21 ~~Taxes~~] Sales Tax Act shall adopt by reference the same
22 definitions and the same provisions relating to exemptions and
23 deductions as are contained in the [~~Gross Receipts and~~
24 ~~Compensating~~] Sales and Use Tax Act then in effect and as it
25 may be amended from time to time.

1 B. The governing body of any county imposing a tax
2 ~~[under]~~ authorized by the County Local Option ~~[Gross Receipts~~
3 ~~Taxes]~~ Sales Tax Act shall impose the tax by adopting the
4 model ordinance with respect to the tax furnished to the
5 county by the department. An ordinance that does not conform
6 substantially to the model ordinance of the department is not
7 valid."

8 SECTION 124. Section 7-20E-5 NMSA 1978 (being Laws
9 1993, Chapter 354, Section 5, as amended) is amended to read:

10 "7-20E-5. SPECIFIC EXEMPTIONS.--No tax authorized under
11 the provisions of the County Local Option ~~[Gross Receipts~~
12 ~~Taxes]~~ Sales Tax Act shall be imposed on the gross receipts
13 arising from transporting persons or property for hire by
14 railroad, motor vehicle, air transportation or any other means
15 from one point within the county to another point outside the
16 county."

17 SECTION 125. Section 7-20E-6 NMSA 1978 (being Laws
18 1993, Chapter 354, Section 6) is amended to read:

19 "7-20E-6. COPY OF ORDINANCE TO BE SUBMITTED TO
20 DEPARTMENT.--A certified copy of any ordinance imposing or
21 repealing a tax or an increment of a tax authorized ~~[under]~~ by
22 the County Local Option ~~[Gross Receipts Taxes]~~ Sales Tax Act
23 or changing the tax rate imposed shall be mailed or delivered
24 to the department within five days after the later of the date
25 the ordinance is adopted or the date the results of any

1 election held with respect to the ordinance are certified to
2 be in favor of the ordinance."

3 SECTION 126. Section 7-20E-7 NMSA 1978 (being Laws
4 1993, Chapter 354, Section 7, as amended) is amended to read:

5 "7-20E-7. COLLECTION BY DEPARTMENT--TRANSFER OF
6 PROCEEDS--DEDUCTIONS.--

7 A. The department shall collect each tax imposed
8 pursuant to the provisions of the County Local Option [~~Gross~~
9 ~~Receipts Taxes~~] Sales Tax Act in the same manner and at the
10 same time it collects the state [~~gross receipts~~] sales tax.

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

21 SECTION 127. Section 7-20E-8 NMSA 1978 (being Laws
22 1993, Chapter 354, Section 8) is amended to read:

23 "7-20E-8. INTERPRETATION OF ACT--ADMINISTRATION AND
24 ENFORCEMENT OF ACT.--

25 A. The department shall interpret the provisions

1 of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax
2 Act.

3 B. The department shall administer and enforce the
4 collection of each tax authorized [~~under~~] by the provisions of
5 the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act,
6 and the Tax Administration Act applies to the administration
7 and enforcement of each tax."

8 SECTION 128. Section 7-20E-9 NMSA 1978 (being Laws
9 1983, Chapter 213, Section 30, as amended) is amended to read:

10 "7-20E-9. COUNTY [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY
11 TO IMPOSE RATE--COUNTY HEALTH CARE ASSISTANCE FUND
12 REQUIREMENTS.--

13 A. [~~Except as provided in Subsection E of this~~
14 ~~section~~] A majority of the members of the governing body of a
15 county may enact an ordinance imposing an excise tax [~~not to~~
16 ~~exceed a rate of seven-sixteenths percent of~~] on the gross
17 receipts of any person engaging in business in the county or
18 county area for the privilege of engaging in business in the
19 county or county area. [~~An ordinance imposing an excise tax~~
20 ~~pursuant to this subsection shall impose the tax in three~~
21 ~~independent increments of one-eighth percent and one~~
22 ~~independent increment of one-sixteenth percent, which shall be~~
23 ~~separately denominated as "the first one-eighth increment",~~
24 ~~"the second one-eighth increment", "the third one-eighth~~
25 ~~increment" and "the one-sixteenth increment", respectively,~~

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1 ~~not to exceed an aggregate amount of seven-sixteenths percent.~~

2 ~~B.]~~ A tax imposed pursuant to this section shall be
3 imposed by the enactment of one or more ordinances in
4 increments measured by hundredths of a percent. The tax
5 authorized by this section is to be referred to as the "county
6 [~~gross receipts~~] sales tax".

7 B. The maximum rate of the county sales tax on the
8 gross receipts of any person engaging in business in a county
9 or county area shall be determined as follows for each county
10 and county area:

11 (1) on and after July 1, 2018, and prior to
12 January 1, 2020, the rate shall be the quotient of the
13 county's or county area's baseline revenue divided by fiscal
14 year 2018 base revenue of the county or county area,
15 multiplied by one hundred three percent and rounded up to the
16 nearest one-hundredth percent;

17 (2) on and after January 1, 2020, and prior
18 to July 1, 2020, the rate shall be the quotient of the
19 county's or county area's baseline revenue divided by fiscal
20 year 2019 base revenue of the county or county area,
21 multiplied by one hundred three percent and rounded up to the
22 nearest one-hundredth percent; and

23 (3) on and after July 1, 2020:

24 (a) for a county that, on July 1, 2018,
25 had in effect a county sales tax rate of greater than two and

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1 two-tenths percent on the gross receipts of any person
2 engaging business in the county: 1) six-tenths percent, which
3 shall not be subject to referendum pursuant to Section 7-20E-3
4 NMSA 1978; plus 2) seventy-five hundredths percent, which
5 shall be subject to referendum pursuant to Section 7-20E-3
6 NMSA 1978;

7 (b) for a county that, on July 1, 2018,
8 had in effect a county sales tax rate of two and two-tenths
9 percent or less on the gross receipts of any person engaging
10 business in the county: 1) six-tenths percent, which shall
11 not be subject to referendum pursuant to Section 7-20E-3 NMSA
12 1978; plus 2) four-tenths percent, which shall be subject to
13 an election pursuant to Subsection D of this section;

14 (c) for a county that, on July 1, 2018,
15 had in effect a county sales tax rate of greater than one and
16 four-tenths percent on the gross receipts of any person
17 engaging business in the county area: 1) eight-tenths
18 percent, which shall not be subject to referendum pursuant to
19 Section 7-20E-3 NMSA 1978; plus 2) ninety-five hundredths
20 percent, which shall be subject to referendum pursuant to
21 Section 7-20E-3 NMSA 1978; and

22 (d) for a county that, on July 1, 2018,
23 had in effect a county sales tax rate of one and four-tenths
24 percent or less on the gross receipts of any person engaging
25 business in the county area: 1) eight-tenths percent, which

1 shall not be subject to referendum pursuant to Section 7-20E-3
2 NMSA 1978; plus 2) six-tenths percent, which shall be subject
3 to an election pursuant to Subsection D of this section.

4 C. A class A county with a county hospital
5 operated and maintained pursuant to a lease or operating
6 agreement with a state educational institution named in
7 Article 12, Section 11 of the constitution of New Mexico
8 enacting [~~the second one-eighth~~] an increment of county [~~gross~~
9 ~~receipts~~] sales tax shall provide, each year that the tax is
10 in effect, not less than one million dollars (\$1,000,000) in
11 funds, and that amount shall be dedicated to the support of
12 indigent patients who are residents of that county. Funds for
13 indigent care shall be made available each month of each year
14 the tax is in effect in an amount not less than eighty-three
15 thousand three hundred thirty-three dollars thirty-three cents
16 (\$83,333.33). The interest from the investment of county
17 funds for indigent care may be used for other assistance to
18 indigent persons, not to exceed twenty thousand dollars
19 (\$20,000) for all other assistance in any year.

20 D. A county, except a class A county with a county
21 hospital operated and maintained pursuant to a lease or
22 operating agreement with a state educational institution named
23 in Article 12, Section 11 of the constitution of New Mexico,
24 imposing [~~the second one-eighth~~] an increment of a county
25 [~~gross receipts~~] sales tax shall be required to dedicate the

1 ~~[entire]~~ same amount of revenue that would have been produced
2 by the imposition of ~~[the second]~~ a one-eighth increment of a
3 county gross receipts tax, if the county gross receipts tax
4 was still in effect, for the support of indigent patients who
5 are residents of that county. ~~[The revenue produced by the~~
6 ~~imposition of the third one-eighth increment and the one-~~
7 ~~sixteenth increment may be used for general purposes. Any]~~ A
8 county that has ~~[imposed the second one-eighth increment or~~
9 ~~the third one-eighth increment, or both, on January 1, 1996~~
10 ~~for support of indigent patients in the county or, after~~
11 ~~January 1, 1996, imposes the second one-eighth increment or~~
12 ~~imposes the third one-eighth increment and dedicates one-half~~
13 ~~of that increment]~~ dedicated revenue from a county sales tax
14 for county indigent patient purposes shall deposit the revenue
15 ~~[dedicated for county indigent purposes]~~ that is transferred
16 to the county in the county health care assistance fund, and
17 such revenues shall be expended pursuant to the Indigent
18 Hospital and County Health Care Act.

19 ~~[E. Until June 30, 2017, in addition to the~~
20 ~~increments authorized pursuant to Subsection A of this~~
21 ~~section, the majority of the members of the governing body of~~
22 ~~a county, except a class A county with a hospital that is~~
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, may~~

1 ~~enact an ordinance imposing an excise tax of one-sixteenth~~
2 ~~percent or one-twelfth percent of the gross receipts of any~~
3 ~~person engaging in business in the county for the privilege of~~
4 ~~engaging in business in the county.]~~

5 E. As used in this section:

6 (1) "baseline revenue" means, for each
7 county and county area, the total net receipts attributable to
8 the gross receipts tax of persons engaging in business in the
9 county or county area in fiscal year 2015, 2016 or 2017,
10 whichever is greater;

11 (2) "fiscal year 2018 base revenue" means,
12 for each county and county area, the gross receipts of all
13 persons engaging in business in the county or county area in
14 fiscal year 2018 that are subject to the gross receipts tax,
15 as estimated by the taxation and revenue department, in
16 consultation with the department of finance and administration
17 and the legislative finance committee; and

18 (3) "fiscal year 2019 base revenue" means,
19 for each county and county area, the gross receipts of all
20 persons engaging in business in the county or county area in
21 fiscal year 2019 that are subject to the state sales tax, as
22 estimated by the taxation and revenue department, in
23 consultation with the department of finance and administration
24 and the legislative finance committee."

25 SECTION 129. Section 27-5-6.2 NMSA 1978 (being Laws

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2014, Chapter 79, Section 16) is amended to read:

"27-5-6.2. TRANSFER TO SAFETY NET CARE POOL FUND.--

A. A county shall ~~[by ordinance to be effective July 1, 2014]~~ dedicate to the safety net care pool fund an amount equal to a ~~[gross receipts]~~ county sales tax rate ~~[of one-twelfth percent]~~ as determined pursuant to Subsection H of Section 50 of this 2017 act applied to the taxable gross receipts reported during the prior fiscal year by persons engaging in business in the county. For purposes of this ~~[subsection]~~ section, a county may use public funds from any existing authorized revenue source of the county.

B. A county ~~[enacting an ordinance pursuant to Subsection A of this section]~~ shall transfer the dedicated amounts to the safety net care pool fund by the last day of March, June, September and December of each year an amount equal to one-fourth of the county's payment to the safety net care pool fund."

SECTION 130. Section 27-10-4 NMSA 1978 (being Laws 1991, Chapter 212, Section 4, as amended) is amended to read:

"27-10-4. ~~[ALTERNATIVE REVENUE SOURCE TO IMPOSITION OF COUNTY HEALTH CARE GROSS RECEIPTS TAX]~~ COUNTY TRANSFER TO COUNTY-SUPPORTED MEDICAID FUND.--

A. ~~[In the event a county does not enact an ordinance imposing a county health care gross receipts tax pursuant to Section 7-20D-3 NMSA 1978, the]~~ A county shall ~~[by~~

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1 ~~ordinance to be effective July 1, 1993]~~ dedicate to the
2 county-supported medicaid fund an amount equal to a [~~gross~~
3 ~~receipts]~~ county sales tax rate [~~of one-sixteenth of one~~
4 ~~percent]~~ as determined pursuant to Subsection I of Section 50
5 of this 2017 act applied to the taxable gross receipts
6 reported during the prior fiscal year by persons engaging in
7 business in the county. For purposes of this subsection, a
8 county may use funds from any existing authorized revenue
9 source of the county.

10 B. For each county, [~~that has in effect an~~
11 ~~ordinance enacted pursuant to Subsection A of this section on~~
12 ~~July 1 of each year]~~ the taxation and revenue department shall
13 certify to the county [~~by September 15, 1993 and]~~ by September
14 15 of each [~~subsequent]~~ fiscal year the amount of gross
15 receipts reported for the county [~~for purposes of the gross~~
16 ~~receipts tax]~~ during the prior fiscal year. Upon
17 certification by the taxation and revenue department, [~~any~~
18 ~~county enacting an ordinance pursuant to Subsection A of this~~
19 ~~section]~~ a county shall transfer one-fourth of the dedication
20 to the county-supported medicaid fund by the last day of
21 March, June, September and December of each year [~~an amount~~
22 ~~equal to a rate of one sixty-fourth of one percent applied to~~
23 ~~the certified amount.~~

24 C. ~~The requirements of an ordinance enacted~~
25 ~~pursuant to this section may be terminated for a county only~~

1 ~~on the effective date of an ordinance enacted by the county~~
2 ~~imposing the county health care gross receipts tax; provided~~
3 ~~that if the effective date of the ordinance imposing the tax~~
4 ~~is January 1, the termination does not apply to the payments~~
5 ~~required for September and December of that year]."~~

6 SECTION 131. Section 47-14-18 NMSA 1978 (being Laws
7 2009, Chapter 214, Section 18, as amended) is amended to read:

8 "47-14-18. PAYMENT--LIMITS--DISCLOSURE [~~NONTAXABLE~~
9 ~~TRANSACTION CERTIFICATE~~].--

10 A. The fees paid to an appraiser for completion of
11 the appraisal shall not include a fee for management of the
12 appraisal process or any activity other than the performance
13 of the appraisal.

14 B. An appraisal management company shall
15 separately state the fees paid to an appraiser for appraisal
16 services and the fees charged by the appraisal management
17 company for services associated with the management of the
18 appraisal process, including procurement of the appraiser's
19 services to the client, borrower and any other payor.

20 C. Appraisers shall not be prohibited by the
21 appraisal management company, client or other third party from
22 disclosing the fee paid to the appraiser for the performance
23 of the appraisal in the appraisal report.

24 D. As used in this section, "payor" means any
25 person or entity who is responsible for making payment for the

1 appraisal.

2 E. An appraisal management company shall, except
3 in cases of breach of contract or substandard performance of
4 services, make payment to an independent appraiser for the
5 completion of an appraisal or valuation assignment within
6 sixty days of the date on which the independent appraiser
7 transmits or otherwise provides the completed appraisal or
8 valuation study to the appraisal management company or its
9 assignee.

10 ~~[F. An appraisal management company shall provide~~
11 ~~an appraiser with the appropriate nontaxable transaction~~
12 ~~certificate pursuant to Section 7-9-48 NMSA 1978.]"~~

13 SECTION 132. Section 58-31-3 NMSA 1978 (being Laws
14 2005, Chapter 128, Section 3, as amended) is amended to read:

15 "58-31-3. DEFINITIONS.--As used in the Spaceport
16 Development Act:

17 A. "authority" means the spaceport authority;

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

23 C. "revenue" means municipal ~~[regional spaceport~~
24 ~~gross receipts tax]~~ and county ~~[regional spaceport gross~~
25 ~~receipts]~~ local option sales tax revenue dedicated by the

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1 municipality or county for the financing, planning, designing,
2 engineering and construction of a regional spaceport pursuant
3 to the Regional Spaceport District Act and received from a
4 regional spaceport district, revenue generated by a project
5 and any other legally available funds of the authority;

6 D. "space vehicle" means a vehicle capable of
7 being flown in space or launching a payload into space; and

8 E. "spaceport" means a facility in New Mexico at
9 which space vehicles may be launched or landed, including all
10 facilities and support infrastructure related to launch,
11 landing or payload processing."

12 SECTION 133. Section 58-31-5 NMSA 1978 (being Laws
13 2005, Chapter 128, Section 5, as amended) is amended to read:

14 "58-31-5. AUTHORITY POWERS AND DUTIES.--

15 A. The authority shall:

16 (1) hire an executive director, who shall
17 employ the necessary professional, technical and clerical
18 staff to enable the authority to function efficiently and
19 shall direct the affairs and business of the authority,
20 subject to the direction of the authority;

21 (2) be located within fifty miles of a
22 southwest regional spaceport;

23 (3) advise the governor, the governor's
24 staff and the New Mexico finance authority oversight committee
25 on methods, proposals, programs and initiatives involving a

1 southwest regional spaceport that may further stimulate space-
2 related business and employment opportunities in New Mexico;

3 (4) initiate, develop, acquire, own,
4 construct, maintain and lease space-related projects;

5 (5) make and execute all contracts and other
6 instruments necessary or convenient to the exercise of its
7 powers and duties;

8 (6) create programs to expand high-
9 technology economic opportunities within New Mexico;

10 (7) create avenues of communication among
11 federal government agencies, the space industry, users of
12 space launch services and academia concerning space business;

13 (8) promote legislation that will further
14 the goals of the authority and development of space business;

15 (9) oversee and fund production of
16 promotional literature related to the authority's goals;

17 (10) identify science and technology trends
18 that are significant to space enterprise and the state and act
19 as a clearinghouse for space enterprise issues and
20 information;

21 (11) coordinate and expedite the involvement
22 of the state executive branch's space-related development
23 efforts; and

24 (12) perform environmental, transportation,
25 communication, land use and other technical studies necessary

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1 or advisable for projects and programs or to secure licensing
2 by appropriate United States agencies.

3 B. The authority may:

4 (1) advise and cooperate with
5 municipalities, counties, state agencies and organizations,
6 appropriate federal agencies and organizations and other
7 interested persons and groups;

8 (2) solicit and accept federal, state, local
9 and private grants of funds or property and financial or other
10 aid for the purpose of carrying out the provisions of the
11 Spaceport Development Act;

12 (3) adopt rules governing the manner in
13 which its business is transacted and the manner in which the
14 powers of the authority are exercised and its duties
15 performed;

16 (4) operate spaceport facilities, including
17 acquisition of real property necessary for spaceport
18 facilities and the filing of necessary documents with
19 appropriate agencies;

20 (5) construct, purchase, accept donations of
21 or lease projects located within the state;

22 (6) sell, lease or otherwise dispose of a
23 project upon terms and conditions acceptable to the authority
24 and in the best interests of the state;

25 (7) issue revenue bonds and borrow money for

1 the purpose of defraying the cost of acquiring a project by
2 purchase or construction and of securing the payment of the
3 bonds or repayment of a loan;

4 (8) enter into contracts with regional
5 spaceport districts and issue bonds on behalf of regional
6 spaceport districts for the purpose of financing the purchase,
7 construction, renovation, equipping or furnishing of a
8 regional spaceport or a spaceport-related project;

9 (9) refinance a project;

10 (10) contract with any competent private or
11 public organization or individual to assist in the fulfillment
12 of its duties;

13 (11) fix, alter, charge and collect tolls,
14 fees or rentals and impose any other charges for the use of or
15 for services rendered by any authority facility, program or
16 service; and

17 (12) contract with regional spaceport
18 districts to receive revenue from a municipal [~~spaceport gross~~
19 ~~receipts tax and~~] or county [~~regional spaceport gross~~
20 ~~receipts~~] local option sales tax [~~revenues~~].

21 C. The authority shall not:

22 (1) incur debt as a general obligation of
23 the state or pledge the full faith and credit of the state to
24 repay debt; or

25 (2) expend funds or incur debt for the

1 improvement, maintenance, repair or addition to property
2 unless it is owned by the authority, the state or a political
3 subdivision of the state."

4 **SECTION 134.** Section 58-31-6 NMSA 1978 (being Laws
5 2005, Chapter 128, Section 6, as amended) is amended to read:

6 "58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER
7 TO ISSUE REVENUE BONDS.--

8 A. The authority may issue revenue bonds on its
9 own behalf or on behalf of a regional spaceport district, for
10 regional spaceport purposes and spaceport-related projects.
11 Revenue bonds so issued may be considered appropriate
12 investments for the severance tax permanent fund or collateral
13 for the deposit of public funds if the bonds are rated not
14 less than "A" by a national rating service and both the
15 principal and interest of the bonds are fully and
16 unconditionally guaranteed by a lease agreement executed by an
17 agency of the United States government or by a corporation
18 organized and operating within the United States, that
19 corporation or the long-term debt of that corporation being
20 rated not less than "A" by a national rating service. All
21 bonds issued by the authority are legal and authorized
22 investments for banks, trust companies, savings and loan
23 associations and insurance companies.

24 B. The authority may pay from the bond proceeds
25 all expenses, premiums and commissions that the authority

1 deems necessary or advantageous in connection with the
2 authorization, sale and issuance of the bonds.

3 C. Authority revenue bonds:

4 (1) may have interest or appreciated
5 principal value or any part thereof payable at intervals
6 determined by the authority;

7 (2) may be subject to prior redemption or
8 mandatory redemption at the authority's option at the time and
9 upon such terms and conditions with or without the payment of
10 a premium as may be provided by resolution of the authority;

11 (3) may mature at any time not exceeding
12 twenty years after the date of issuance if secured by revenue
13 from ~~[the]~~ a county or municipal ~~[regional spaceport gross~~
14 ~~receipts]~~ sales tax or thirty years if secured by revenue from
15 other sources;

16 (4) may be serial in form and maturity; may
17 consist of one or more bonds payable at one time or in
18 installments; or may be in such other form as determined by
19 the authority;

20 (5) may be in registered or bearer form or
21 in book-entry form through facilities of a securities
22 depository either as to principal or interest or both;

23 (6) shall be sold for cash at, above or
24 below par and at a price that results in a net effective
25 interest rate that conforms to the Public Securities Act; and

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1 (7) may be sold at public or negotiated
2 sale.

3 D. Subject to the approval of the state board of
4 finance, the authority may enter into other financial
5 arrangements if it determines that the arrangements will
6 assist the authority."

7 SECTION 135. TEMPORARY PROVISION--REFERENCES IN LAW.--

8 A. References in law to the compensating tax shall
9 be deemed to be references to the use tax.

10 B. References in law to the county gross receipts
11 tax shall be deemed to be references to county sales tax.

12 C. References in law to a county local option
13 gross receipts tax shall be deemed to be references to a
14 county sales tax.

15 D. References in law to the County Local Option
16 Gross Receipts Taxes Act shall be deemed to be references to
17 the County Local Option Sales Tax Act.

18 E. References in law to the governmental gross
19 receipts tax shall be deemed to be references to the
20 governmental sales tax.

21 F. References in law to the Gross Receipts and
22 Compensating Tax Act shall be deemed to be references to the
23 Sales and Use Tax Act.

24 G. References in law to the gross receipts tax
25 shall be deemed to be references to the state sales tax.

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1 H. References in law to the interstate
2 telecommunications gross receipts tax shall be deemed to be
3 references to the interstate telecommunications sales tax.

4 I. References in law to the Interstate
5 Telecommunications Gross Receipts Tax Act shall be deemed to
6 be references to the Interstate Telecommunications Sales Tax
7 Act.

8 J. References in law to the leased vehicle gross
9 receipts tax shall be deemed to be references to the leased
10 vehicle sales tax.

11 K. References in law to the Leased Vehicle Gross
12 Receipts Tax Act shall be deemed to be references to the
13 Leased Vehicle Sales Tax Act.

14 L. References in law to a local option gross
15 receipts tax shall be deemed to be references to a local
16 option sales tax.

17 M. References in law to the municipal gross
18 receipts tax shall be deemed to be references to the municipal
19 sales tax.

20 N. References in law to the state gross receipts
21 tax shall be deemed to be references to the state sales tax.

22 **SECTION 136. TEMPORARY PROVISION--MORATORIUM OF**
23 **ENACTMENT OF ADDITIONAL LOCAL OPTION GROSS RECEIPTS TAXES.--**
24 **Notwithstanding the provisions of the Municipal Local Option**
25 **Gross Receipts Taxes Act or the County Local Option Gross**

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1 Receipts Taxes Act, on and after the effective date of this
2 act, a municipality or county shall not impose any local
3 option gross receipts tax increments in addition to those in
4 effect on the effective date of this act.

5 SECTION 137. TEMPORARY PROVISION--OUTSTANDING REVENUE
6 BONDS.--

7 A. The repeal of and changes to certain taxes made
8 in this act shall not impair outstanding bonds that are
9 secured by a pledge of those taxes.

10 B. If a municipality or county has issued a
11 revenue bond that is secured by a pledge of any tax being
12 amended by Sections 119 or 128 of this act, or being repealed
13 by Section 139 of this act, the municipality or county shall,
14 on or before July 1, 2018:

15 (1) enact an ordinance imposing an increment
16 of the municipal or county sales tax, as applicable, that will
17 produce revenue in an amount equal to the amount of revenue of
18 the tax that was previously pledged to secure the revenue
19 bond; and

20 (2) pledge the increment imposed pursuant to
21 Paragraph (1) of this subsection to the payment of the revenue
22 bond until the revenue bond has been discharged in full or
23 provision has been fully made therefor.

24 SECTION 138. TEMPORARY PROVISION--PREVIOUSLY IMPOSED
25 LOCAL OPTION GROSS RECEIPTS TAXES--DEDICATIONS.--If a

1 municipality or county has dedicated any amount of revenue
2 attributable to a local option gross receipts tax, the
3 municipality or county shall continue to dedicate the same
4 amount of local option sales tax revenue until the ordinance
5 dedicating the revenue expires.

6 SECTION 139. REPEAL.--

7 A. To be determined.

8 SECTION 140. APPLICABILITY.--

9 A. To be determined.

10 SECTION 141. EFFECTIVE DATE.--To be determined.

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