

SENATE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; AMENDING DISTRIBUTIONS OF THE LIQUOR  
EXCISE TAX; CREATING A FLAT CORPORATE INCOME TAX RATE;  
REQUIRING ALL BUSINESS INCOME TO BE APPORTIONED BY THE SINGLE  
SALES FACTOR; REDUCING THE RATES OF THE GROSS RECEIPTS TAX AND  
COMPENSATING TAX; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR  
CERTAIN BUSINESS-TO-BUSINESS SERVICES; AMENDING MOTOR VEHICLE  
EXCISE TAX DISTRIBUTIONS; CONVERTING A DISTRIBUTION OF THE  
STATE GROSS RECEIPTS TAX TO MUNICIPALITIES TO A NEW MUNICIPAL  
LOCAL OPTION GROSS RECEIPTS TAX INCREMENT; AMENDING, REPEALING  
AND ENACTING SECTIONS OF THE NMSA 1978.

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

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

"7-1-6.40. DISTRIBUTION OF LIQUOR EXCISE TAX--LOCAL DWI  
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1 GRANT FUND--CERTAIN MUNICIPALITIES--DRUG COURT FUND.--

2 A. A distribution pursuant to Section 7-1-6.1 NMSA  
3 1978 in an amount equal to ~~[forty-five]~~ sixty percent of the  
4 net receipts attributable to the liquor excise tax shall be  
5 made to the local DWI grant fund.

6 B. A distribution pursuant to Section 7-1-6.1 NMSA  
7 1978 ~~[of twenty thousand seven hundred fifty dollars (\$20,750)~~  
8 ~~monthly from the net receipts attributable to the liquor excise~~  
9 ~~tax shall be made to a municipality that is located in a class~~  
10 ~~A county and that has a population according to the most recent~~  
11 ~~federal decennial census of more than thirty thousand but less~~  
12 ~~than sixty thousand and shall be used by the municipality only~~  
13 ~~for the provision of alcohol treatment and rehabilitation~~  
14 ~~services for street inebriates]~~ in an amount equal to thirty  
15 percent of the net receipts attributable to the liquor excise  
16 tax shall be made to the human services department to match  
17 federal funds for the state medicaid program and for no other  
18 purpose.

19 C. ~~[Beginning July 1, 2019]~~ A distribution pursuant  
20 to Section 7-1-6.1 NMSA 1978 in an amount equal to ~~[five]~~ ten  
21 percent of the net receipts attributable to the liquor excise  
22 tax shall be made to the drug court fund."

23 SECTION 2. Section 7-2A-5 NMSA 1978 (being Laws 1981,  
24 Chapter 37, Section 38, as amended) is amended to read:

25 "7-2A-5. CORPORATE INCOME TAX RATES.--The corporate

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1 income tax imposed on corporations by Section 7-2A-3 NMSA 1978  
2 shall be

3 ~~[If the taxable income is:~~                      ~~The tax shall be:~~  
4 ~~Not over \$500,000~~                                      ~~4.8% of taxable income~~  
5 ~~Over \$500,000~~                                      ~~\$24,000 plus 5.9% of excess~~  
6                                      ~~over \$500,000]~~  
7 five and nine-tenths percent of taxable income."

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

10                "7-4-10. APPORTIONMENT OF BUSINESS INCOME.--~~[A. Except~~  
11 ~~as provided in Subsections B and C of this section]~~ All  
12 business income shall be apportioned to this state by  
13 multiplying the income by ~~[a fraction, the numerator of which~~  
14 ~~is the property factor plus the payroll factor plus]~~ the sales  
15 factor ~~[and the denominator of which is three.~~

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

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

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

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

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

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

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

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

4 E. ~~For purposes of this section:~~

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

8 ~~(2) "headquarters operation" means:~~

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

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

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

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

7 ~~(a) construction;~~

8 ~~(b) farming;~~

9 ~~(c) power generation; provided that for~~  
10 ~~taxable years beginning prior to January 1, 2024,~~

11 ~~"manufacturing" includes electricity generation at a facility~~  
12 ~~that does not require location approval and a certificate of~~  
13 ~~convenience and necessity prior to commencing construction or~~  
14 ~~operation of the facility pursuant to the Public Utility Act;~~

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

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

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

1           SECTION 4. Section 7-4-19 NMSA 1978 (being Laws 1965,  
2 Chapter 203, Section 19, as amended) is amended to read:

3           "7-4-19. EQUITABLE ADJUSTMENT OF STANDARD ALLOCATION OR  
4 APPORTIONMENT.--If the allocation and apportionment provisions  
5 of the Uniform Division of Income for Tax Purposes Act do not  
6 fairly represent the extent of the taxpayer's business activity  
7 in this state, the taxpayer may petition for, or the department  
8 may require, in respect to all or any part of the taxpayer's  
9 business activity, if reasonable:

10                   A. separate accounting;

11                   ~~[B. the exclusion of any one or more of the~~  
12 ~~factors;~~

13                   ~~C. the inclusion of one or more additional factors~~  
14 ~~which will fairly represent the taxpayer's business activity in~~  
15 ~~this state] or~~

16                   ~~[D.]~~ B. the employment of any other method to  
17 effectuate an equitable allocation and apportionment of the  
18 taxpayer's income."

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

21           "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
22 "GROSS RECEIPTS TAX".--

23                   A. For the privilege of engaging in business, an  
24 excise tax equal to ~~[the following percentages]~~ three and  
25 sixty-five hundredths percent of gross receipts is imposed on

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1 any person engaging in business in New Mexico.

2 [~~(1) prior to July 1, 2023, five percent; and~~  
3 ~~(2) beginning July 1, 2023, four and seven-~~  
4 ~~eighths percent, except as provided in Subsection C of this~~  
5 ~~section.~~]

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

8 [~~C. If, for any single fiscal year occurring after~~  
9 ~~fiscal year 2025 and prior to fiscal year 2030, gross receipts~~  
10 ~~tax revenues are less than ninety-five percent of the gross~~  
11 ~~receipts tax revenues for the previous fiscal year, as~~  
12 ~~determined by the secretary of finance and administration, the~~  
13 ~~rate of the gross receipts tax shall be five and one-eighth~~  
14 ~~percent beginning on the July 1 following the determination~~  
15 ~~made by the secretary of finance and administration.~~

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

25 ~~E.]~~ C. As used in this section, "gross receipts tax



1 revenues" means the net receipts attributable to the gross  
2 receipts tax and distributed to the general fund."

3 SECTION 6. Section 7-9-7 NMSA 1978 (being Laws 1966,  
4 Chapter 47, Section 7, as amended) is amended to read:

5 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
6 "COMPENSATING TAX".--

7 A. For the privilege of making taxable use of  
8 tangible personal property in New Mexico, there is imposed on  
9 the person using the property an excise tax equal to [five  
10 percent prior to July 1, 2023 and four and seven-eighths  
11 percent beginning July 1, 2023, except as provided in  
12 ~~Subsection G of this section~~] three and sixty-five hundredths  
13 percent of the value of tangible property that was:

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

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

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

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

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

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

1 pursuant to the Gross Receipts and Compensating Tax Act.

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

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

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

13 SECTION 7. A new section of the Gross Receipts and  
14 Compensating Tax Act is enacted to read:

15 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--CERTAIN  
16 BUSINESS-TO-BUSINESS SERVICES.--

17 A. Receipts from the sale of accounting services,  
18 engineering services, financial management services,  
19 information technology services, human resources services,  
20 legal services and temporary services may be deducted from  
21 gross receipts if:

22 (1) the sale is made to a sole proprietorship,  
23 a limited liability company, a partnership or a corporation;

24 (2) the sale is made to an entity with a New  
25 Mexico tax identification number or an equivalent tax

1 identification number from another state; or

2 (3) the purchaser presents to the seller a  
3 nontaxable transaction certificate or alternative evidence  
4 entitling a person to a deduction pursuant to Section 7-9-43  
5 NMSA 1978.

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

9 C. As used in this section:

10 (1) "accounting services" means the systematic  
11 and comprehensive recording of financial transactions  
12 pertaining to a business entity and the process of summarizing,  
13 analyzing and reporting these transactions to oversight  
14 agencies or tax collection entities, including certified public  
15 auditing, attest services and preparing financial statements,  
16 bookkeeping, tax return preparation, advice and consulting and,  
17 where applicable, representing taxpayers before tax collection  
18 agencies. "Accounting services" does not include, except as  
19 provided with respect to financial management services,  
20 investment advice, wealth management advice or consulting or  
21 any tax return preparation, advice, counseling or  
22 representation for individuals, regardless of whether those  
23 individuals are owners of pass-through entities, such as  
24 partnerships, limited liability companies or S-corporations;

25 (2) "engineering services" means consultation,

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1 the production of a creative work, investigation, evaluation,  
2 planning and design, the performance of studies and reviewing  
3 planning documents when performed by, or under the supervision  
4 of, a licensed engineer, including the design, development and  
5 testing of mechanical, electrical, hydraulic, chemical,  
6 pneumatic or thermal machinery or equipment, industrial or  
7 commercial work systems or processes and military equipment.

8 "Engineering services" does not include medical or medical  
9 laboratory services, any engineering performed in connection  
10 with a construction service or the design and installation of  
11 computer or computer network infrastructure;

12 (3) "financial management services" means  
13 managing and directing the investments of, or providing  
14 investment advisory services to, a hedge fund, mutual fund or  
15 non-captive real estate investment trust;

16 (4) "hedge fund" means a private investment  
17 fund or pool, the assets of which are managed by a professional  
18 management firm that:

19 (a) trades or invests, through public  
20 market or private transactions, in securities, commodities,  
21 currencies, derivatives or similar classes of financial assets;  
22 or

23 (b) that is not an investment company  
24 under 15 U.S.C. 80a-3(c)(1) or 15 U.S.C. 80a-3(c)(7);

25 (5) "human resources services" means managing

1 and overseeing the recruitment, management or termination of a  
2 business's employees, including employee recruitment; managing  
3 employee relations; maintaining employment files; setting  
4 personnel policies; managing and administering employee  
5 payroll, benefits and compensation, including employee  
6 withholding; overseeing employee discipline and termination;  
7 and ensuring compliance with labor and antidiscrimination laws.

8 "Human resources services" does not include training or  
9 providing required certification to a business's employees or  
10 employee efficiency consulting;

11 (6) "information technology services" means  
12 separately stated services for installing and maintaining a  
13 business's computers and computer network, including performing  
14 computer network design; installing, repairing, maintaining or  
15 restoring computer networks, hardware or software; and  
16 performing custom software programming or making custom  
17 modifications to existing software programming. "Information  
18 technology services" does not include:

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

21 (b) computers, servers, chilling  
22 equipment and preprogrammed software;

23 (c) data processing services or the  
24 processing or storage of information to compile and produce  
25 records of transactions for retrieval or use, including data

1 entry, data retrieval, data searches and information  
2 compilation; or

3 (d) access to telecommunications or  
4 internet;

5 (7) "legal services" means services performed  
6 by a licensed attorney or under the supervision of a licensed  
7 attorney for a client, regardless of the attorney's form of  
8 business entity or whether the services are prepaid, including  
9 legal representation before courts or administrative agencies;  
10 drafting legal documents, such as contracts or patent  
11 applications; legal research; advising and counseling;  
12 arbitration; mediation; and notary public and other ancillary  
13 legal services performed for a client in conjunction with and  
14 under the supervision of a licensed attorney. "Legal services"  
15 does not include lobbying or government relations services,  
16 title insurance agent services, licensing or selling legal  
17 software or legal document templates, insurance investigation  
18 services or any legal representation involving financial crimes  
19 or tax evasion in New Mexico;

20 (8) "mutual fund" means an entity registered  
21 pursuant to the federal Investment Company Act of 1940;

22 (9) "real estate investment trust" means an  
23 entity described in Section 856(a) of the Internal Revenue Code  
24 of 1986, as that section may be amended or renumbered, the  
25 investments of which are limited to interest in mortgages on

1 real property and shares of or transferable certificates of  
2 beneficial interest in an entity described in Section 856(a);  
3 provided that a real estate investment trust does not include a  
4 captive real estate investment trust as defined in the  
5 Corporate Income and Franchise Tax Act; and

6 (10) "temporary services" means an employment  
7 situation in which an employee is expected to remain in a  
8 position for a specified period of time. "Temporary services"  
9 includes services performed by a skilled or unskilled person  
10 replacing or supporting client company staff for business  
11 purposes. "Temporary services" does not include services  
12 performed by a temporary service provider that is not licensed  
13 as such by the state or subcontracted services."

14 SECTION 8. Section 7-14-10 NMSA 1978 (being Laws 1988,  
15 Chapter 73, Section 20, as amended) is amended to read:

16 "7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from  
17 the tax and any associated interest and penalties shall be  
18 deposited in the "motor vehicle suspense fund", hereby created  
19 in the state treasury. As of the end of each month, the net  
20 receipts attributable to the tax and associated penalties and  
21 interest shall be distributed as follows:

22 [~~A. fifty-nine and thirty-nine hundredths percent~~  
23 ~~to the general fund;~~

24 ~~B. twenty-one and eighty-six hundredths]~~ A. fifty  
25 percent to the state road fund; and

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1                   ~~[G. eighteen and seventy-five hundredths]~~ B. fifty  
2 percent to the transportation project fund."

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

5           "7-19D-9. MUNICIPAL GROSS RECEIPTS TAX--AUTHORITY TO  
6 IMPOSE RATE.--

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

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1 the purpose to which the revenue will be dedicated, and any  
2 revenue so dedicated shall be used by the municipality for that  
3 purpose unless a subsequent ordinance is adopted to change the  
4 purpose to which dedicated or to place the revenue in the  
5 general fund of the municipality.

6 B. The tax imposed pursuant to Subsection A of this  
7 section may be referred to as the "municipal gross receipts  
8 tax".

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

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

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

23 D. In addition to the tax rate increments that may  
24 be imposed pursuant to Subsection C of this section, there is  
25 imposed a tax rate of one and twenty-three hundredths percent

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1 of the gross receipts of any person engaging in business in a  
2 municipality. The revenue from the tax rate imposed pursuant  
3 to this subsection is dedicated to the payment of any  
4 outstanding bonds issued by the municipality to the extent that  
5 the municipality by ordinance pledged the revenue received from  
6 a distribution pursuant to Section 7-1-6.4 NMSA 1978 to the  
7 repayment of such bonds, until such time as the bonds are  
8 discharged in full or provision has been fully made therefor.  
9 If a municipality by ordinance dedicated revenue received from  
10 a distribution pursuant to Section 7-1-6.4 NMSA 1978 to a  
11 purpose other than repayment of bonds, the revenue from the tax  
12 rate imposed by this subsection is subject to such dedication;  
13 provided that the municipality may change the dedication at any  
14 time. If, as of the effective date of this 2023 act, revenue  
15 received from a distribution pursuant to Section 7-1-6.4 NMSA  
16 1978 is not dedicated to the repayment of bonds or for any  
17 other purpose, the revenue may be used for general purposes.

18           ~~[D-]~~ E. An election shall be called on the  
19 questions of disapproval or approval of any ordinance enacted  
20 pursuant to Subsection C of this section or any ordinance  
21 amending such ordinance:

22                   (1) if the governing body chooses to provide  
23 in the ordinance that it shall not be effective until the  
24 ordinance is approved by the majority of the registered voters  
25 voting on the question at an election to be held pursuant to

1 the provisions of the Local Election Act; or

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

6 (a) pursuant to the requirements of a  
7 referendum provision contained in a municipal home-rule charter  
8 and signed by the number of registered voters in the  
9 municipality equal to the number of registered voters required  
10 in its charter to seek a referendum; or

11 (b) in all other municipalities, with  
12 the municipal clerk within thirty days after the adoption of  
13 such ordinance and the petition has been signed by a number of  
14 registered voters in the municipality equal to at least five  
15 percent of the number of the voters in the municipality who  
16 were registered to vote in the most recent regular municipal  
17 election.

18 [~~E.~~] F. The signatures on the petition filed in  
19 accordance with Subsection [~~D~~] E of this section shall be  
20 verified by the municipal clerk. If the petition is verified  
21 by the municipal clerk as containing the required number of  
22 signatures of registered voters, the governing body shall adopt  
23 an election resolution calling for the holding of a special  
24 election on the question of approving or disapproving the  
25 ordinance unless the ordinance is repealed before the adoption

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1 of the election resolution. An election held pursuant to  
2 Subparagraph (a) or (b) of Paragraph (2) of Subsection [D] E of  
3 this section shall be called, conducted and canvassed as  
4 provided in the Local Election Act, and the election shall be  
5 held within seventy-five days after the date the petition is  
6 verified by the municipal clerk or it may be held in  
7 conjunction with a regular local election if such election  
8 occurs within seventy-five days after the date of verification  
9 by the municipal clerk.

10 [F-] G. If at an election called pursuant to  
11 Subsection [D] E of this section a majority of the registered  
12 voters voting on the question approves the ordinance imposing  
13 the tax, the ordinance shall become effective in accordance  
14 with the provisions of the Municipal Local Option Gross  
15 Receipts and Compensating Taxes Act. If at such an election a  
16 majority of the registered voters voting on the question  
17 disapproves the ordinance, the ordinance imposing the tax shall  
18 be deemed repealed and the question of imposing any increment  
19 of the municipal gross receipts tax authorized in this section  
20 shall not be considered again by the governing body for a  
21 period of one year from the date of the election.

22 [G-] H. Any law that imposes or authorizes the  
23 imposition of a municipal gross receipts tax or that affects  
24 the municipal gross receipts tax, or any law supplemental  
25 thereto or otherwise appertaining thereto, shall not be

1 repealed or amended or otherwise directly or indirectly  
2 modified in such a manner as to impair adversely any  
3 outstanding revenue bonds that may be secured by a pledge of  
4 such municipal gross receipts tax unless such outstanding  
5 revenue bonds have been discharged in full or provision has  
6 been fully made therefor."

7 SECTION 10. REPEAL.--Section 7-1-6.4 NMSA 1978 (being  
8 Laws 1983, Chapter 211, Section 9, as amended) is repealed.

9 SECTION 11. ADDITIONAL REPEAL.--Sections 7-4-11 through  
10 7-4-15 NMSA 1978 (being Laws 1965, Chapter 203, Sections 11  
11 through 15, as amended) are repealed.

12 SECTION 12. APPLICABILITY.--

13 A. The provisions of Sections 3 and 4 of this act  
14 apply to taxable years beginning on or after January 1, 2023.

15 B. The provisions of Section 2 of this act apply to  
16 taxable years beginning on or after January 1, 2024.

17 SECTION 13. EFFECTIVE DATE.--

18 A. The effective date of the provisions of Sections  
19 1 and 5 through 10 of this act is July 1, 2023.

20 B. The effective date of the provisions of Section  
21 2 of this act is January 1, 2024.