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SENATE BILL 144

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

John Arthur Smith

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR LOCAL OPTION COMPENSATING TAXES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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

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

A. "automated clearinghouse transaction" means an electronic credit or debit transmitted through an automated

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1 clearinghouse payable to the state treasurer and deposited with  
2 the fiscal agent of New Mexico;

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

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

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

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

19 F. "Internal Revenue Code" means the Internal  
20 Revenue Code of 1986, as amended;

21 G. "levy" means the lawful power, hereby invested  
22 in the secretary, to take into possession or to require the  
23 present or future surrender to the secretary or the secretary's  
24 delegate of any property or rights to property belonging to a  
25 delinquent taxpayer;

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1           H. "local option compensating tax" means a tax  
2 authorized to be imposed by a county or municipality upon the  
3 taxpayer's use of property, as the term "use" is defined in the  
4 Gross Receipts and Compensating Tax Act, and required to be  
5 collected by the department at the same time and in the same  
6 manner as the compensating tax; "local option compensating tax"  
7 includes the compensating taxes imposed pursuant to the  
8 Municipal Local Option Gross Receipts Taxes Act, Supplemental  
9 Municipal Gross Receipts Tax Act, County Local Option Gross  
10 Receipts Taxes Act, Local Hospital Gross Receipts Tax Act,  
11 County Correctional Facility Gross Receipts Tax Act and other  
12 acts that may be enacted authorizing counties or municipalities  
13 to impose taxes on the use of property, which taxes are to be  
14 collected by the department at the same time and in the same  
15 manner as it collects the compensating tax;

16           ~~[H.]~~ I. "local option gross receipts tax" means a  
17 tax authorized to be imposed by a county or municipality upon  
18 the taxpayer's gross receipts, as that term is defined in the  
19 Gross Receipts and Compensating Tax Act, and required to be  
20 collected by the department at the same time and in the same  
21 manner as the gross receipts tax; "local option gross receipts  
22 tax" includes the taxes imposed pursuant to the Municipal Local  
23 Option Gross Receipts Taxes Act, Supplemental Municipal Gross  
24 Receipts Tax Act, County Local Option Gross Receipts Taxes Act,  
25 Local Hospital Gross Receipts Tax Act, County Correctional

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1 Facility Gross Receipts Tax Act and such other acts [~~as~~] that  
2 may be enacted authorizing counties or municipalities to impose  
3 taxes on gross receipts, which taxes are to be collected by the  
4 department in the same time and in the same manner as it  
5 collects the gross receipts tax;

6 [~~F.~~] J. "managed audit" means a review and analysis  
7 conducted by a taxpayer under an agreement with the department  
8 to determine the taxpayer's compliance with a tax administered  
9 pursuant to the Tax Administration Act and the presentation of  
10 the results to the department for assessment of tax found to be  
11 due;

12 [~~J.~~] K. "net receipts" means the total amount of  
13 money paid by taxpayers to the department in a month pursuant  
14 to a tax or tax act less any refunds disbursed in that month  
15 with respect to that tax or tax act;

16 [~~K.~~] L. "overpayment" means an amount paid,  
17 pursuant to any law subject to administration and enforcement  
18 under the provisions of the Tax Administration Act, by a person  
19 to the department or withheld from the person in excess of tax  
20 due from the person to the state at the time of the payment or  
21 at the time the amount withheld is credited against tax due;

22 [~~L.~~] M. "paid" includes the term "paid over";

23 [~~M.~~] N. "pay" includes the term "pay over";

24 [~~N.~~] O. "payment" includes the term "payment over";

25 [~~O.~~] P. "person" means any individual, estate,

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1 trust, receiver, cooperative association, club, corporation,  
2 company, firm, partnership, limited liability company, limited  
3 liability partnership, joint venture, syndicate, other  
4 association or gas, water or electric utility owned or operated  
5 by a county or municipality; "person" also means, to the extent  
6 permitted by law, a federal, state or other governmental unit  
7 or subdivision, or an agency, department or instrumentality  
8 thereof; and "person", as used in Sections 7-1-72 through  
9 7-1-74 NMSA 1978, also includes an officer or employee of a  
10 corporation, a member or employee of a partnership or any  
11 individual who, as such, is under a duty to perform any act in  
12 respect of which a violation occurs;

13 [P-] Q. "property" means property or rights to  
14 property;

15 [Q-] R. "property or rights to property" means any  
16 tangible property, real or personal, or any intangible property  
17 of a taxpayer;

18 [R-] S. "secretary" means the secretary of taxation  
19 and revenue and, except for purposes of Subsection B of Section  
20 7-1-4 NMSA 1978 and Subsection E of Section 7-1-24 NMSA 1978,  
21 also includes the deputy secretary or a division director or  
22 deputy division director delegated by the secretary;

23 [S-] T. "secretary or the secretary's delegate"  
24 means the secretary or any employee of the department  
25 exercising authority lawfully delegated to that employee by the

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1 secretary;

2 [F.] U. "security" means money, property or rights  
3 to property or a surety bond;

4 [H.] V. "state" means any state of the United  
5 States, the District of Columbia, the commonwealth of Puerto  
6 Rico and any territory or possession of the United States;

7 [V.] W. "tax" means the total amount of each tax  
8 imposed and required to be paid, withheld and paid or collected  
9 and paid under provision of any law made subject to  
10 administration and enforcement according to the provisions of  
11 the Tax Administration Act and, unless the context otherwise  
12 requires, includes the amount of any interest or civil penalty  
13 relating thereto; "tax" also means any amount of any abatement  
14 of tax made or any credit, rebate or refund paid or credited by  
15 the department under any law subject to administration and  
16 enforcement under the provisions of the Tax Administration Act  
17 to any person contrary to law and includes, unless the context  
18 requires otherwise, the amount of any interest or civil penalty  
19 relating thereto;

20 [W.] X. "taxpayer" means a person liable for  
21 payment of any tax, a person responsible for withholding and  
22 payment or for collection and payment of any tax or a person to  
23 whom an assessment has been made, if the assessment remains  
24 unabated or the amount thereof has not been paid; and

25 [X.] Y. "tax return preparer" means a person who

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

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

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

14 (3) prepares as a trustee or other fiduciary  
15 an income tax return or claim for refund with respect to income  
16 tax for any person."

17 Section 2. Section 7-1-6.12 NMSA 1978 (being Laws 1983,  
18 Chapter 211, Section 17, as amended) is amended to read:

19 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION  
20 GROSS RECEIPTS TAXES--REVENUES FROM LOCAL OPTION COMPENSATING  
21 TAXES.--

22 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
23 shall be made to each municipality for which the department is  
24 collecting a local option gross receipts tax imposed by that  
25 municipality in an amount, subject to [~~any~~] an increase or

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1 decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to  
2 the net receipts attributable to the local option gross  
3 receipts tax imposed by that municipality, less any deduction  
4 for administrative [~~cost determined and made by the department~~  
5 ~~pursuant to the provisions of the act authorizing imposition by~~  
6 ~~that municipality of the local option gross receipts tax and~~  
7 ~~any additional administrative fee withheld pursuant to~~  
8 ~~Subsection C of Section 7-1-6.41 NMSA 1978]~~ fees withheld  
9 pursuant to this section and less disbursements for tax  
10 credits, refunds and payment of interest applicable to the tax.

11 B. A transfer pursuant to this section may be  
12 adjusted for a distribution made to a tax increment development  
13 district with respect to a portion of a gross receipts tax  
14 increment dedicated by a municipality pursuant to the Tax  
15 Increment for Development Act.

16 C. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
17 shall be made to a municipality for which the department is  
18 collecting a local option compensating tax imposed by that  
19 municipality in an amount, subject to increases or decreases  
20 occurring pursuant to Section 7-1-6.15 NMSA 1978, equal to the  
21 net receipts attributable to the local option compensating tax  
22 imposed by that municipality, less deductions for  
23 administrative fees due and less disbursements for tax credits,  
24 refunds and payment of interest applicable to the tax.

25 D. As a charge for administrative costs, the

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1 department shall deduct from the amounts to be transferred to a  
2 municipality pursuant to this section administrative fees in an  
3 amount equal to three percent of the net amount to be  
4 transferred after deduction or disbursements for tax credits,  
5 refunds and payment of interest applicable to the taxes but  
6 prior to deduction of the administrative fees deducted pursuant  
7 to this subsection."

8 Section 3. Section 7-1-6.13 NMSA 1978 (being Laws 1983,  
9 Chapter 211, Section 18, as amended) is amended to read:

10 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION  
11 GROSS RECEIPTS TAXES--REVENUES FROM COUNTY LOCAL OPTION  
12 COMPENSATING TAXES.--

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

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1 interest applicable to the tax.

2 B. A transfer pursuant to this section may be  
3 adjusted for a distribution made to a tax increment development  
4 district with respect to a portion of a gross receipts tax  
5 increment dedicated by a county pursuant to the Tax Increment  
6 for Development Act.

7 C. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
8 shall be made to a county for which the department is  
9 collecting a local option compensating tax imposed by that  
10 county in an amount, subject to increases or decreases  
11 occurring pursuant to Section 7-1-6.15 NMSA 1978, equal to the  
12 net receipts attributable to the local option compensating tax  
13 imposed by that county, less deductions for administrative fees  
14 withheld pursuant to this section and less disbursements for  
15 tax credits, refunds and payment of interest applicable to the  
16 tax.

17 D. As a charge for administrative costs, the  
18 department shall deduct from the amounts to be transferred to a  
19 county pursuant to this section administrative fees in an  
20 amount equal to three percent of the net amount to be  
21 transferred after deduction of disbursements for tax credits,  
22 refunds and payment of interest applicable to the taxes but  
23 prior to deduction of the administrative fees deducted pursuant  
24 to this subsection."

25 Section 4. Section 7-1-6.15 NMSA 1978 (being Laws 1983,

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1 Chapter 211, Section 20, as amended) is amended to read:

2 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO  
3 MUNICIPALITIES OR COUNTIES.--

4 A. The provisions of this section apply to:

5 (1) [~~any~~] a distribution to a municipality of  
6 gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or  
7 of interstate telecommunications gross receipts tax pursuant to  
8 Section 7-1-6.36 NMSA 1978;

9 (2) [~~any~~] a transfer to a municipality with  
10 respect to [~~any~~] a local option gross receipts tax or a local  
11 option compensating tax imposed by that municipality;

12 (3) [~~any~~] a transfer to a county with respect  
13 to [~~any~~] a local option gross receipts tax or a local option  
14 compensating tax imposed by that county;

15 (4) [~~any~~] a distribution to a county pursuant  
16 to Section 7-1-6.16 NMSA 1978;

17 (5) [~~any~~] a distribution to a municipality or  
18 a county of gasoline taxes pursuant to Section 7-1-6.9 NMSA  
19 1978;

20 (6) [~~any~~] a transfer to a county with respect  
21 to [~~any~~] a tax imposed in accordance with the Local Liquor  
22 Excise Tax Act;

23 (7) [~~any~~] a distribution to a municipality or  
24 a county of cigarette taxes pursuant to Sections 7-1-6.11,  
25 7-12-15 and 7-12-16 NMSA 1978;

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

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

6 (10) [~~any~~] a distribution to a municipality,  
7 county, school district or special district of oil and gas ad  
8 valorem production tax reduced as a result of a refund  
9 requested in December 1998 with respect to production of carbon  
10 dioxide.

11 B. If the secretary determines that [~~any~~] a prior  
12 distribution or transfer to a political subdivision was  
13 erroneous, the secretary shall increase or decrease the next  
14 distribution or transfer amount for that political subdivision  
15 after the determination, except as provided in Subsection C, D  
16 or E of this section, by the amount necessary to correct the  
17 error. Subject to the provisions of Subsection E of this  
18 section, the secretary shall notify the political subdivision  
19 of the amount of each increase or decrease.

20 C. No decrease shall be made to current or future  
21 distributions or transfers to a political subdivision for [~~any~~]  
22 an excess distribution or transfer made to that political  
23 subdivision more than one year prior to the calendar year in  
24 which the determination of the secretary was made.

25 D. The secretary, in lieu of recovery from the next

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1 distribution or transfer amount, may recover an excess  
2 distribution or transfer of one hundred dollars (\$100) or more  
3 to the political subdivision in installments from current and  
4 future distributions or transfers to that political subdivision  
5 pursuant to an agreement with the officials of the political  
6 subdivision whenever the amount of the distribution or transfer  
7 decrease for the political subdivision exceeds ten percent of  
8 the average distribution or transfer amount for that political  
9 subdivision for the twelve months preceding the month in which  
10 the secretary's determination is made; provided that for the  
11 purposes of this subsection, the "average distribution or  
12 transfer amount" shall be the arithmetic mean of the  
13 distribution or transfer amounts within the twelve months  
14 immediately preceding the month in which the determination is  
15 made.

16 E. Except for the provisions of this section, if  
17 the amount by which a distribution or transfer would be  
18 adjusted pursuant to Subsection B of this section is one  
19 hundred dollars (\$100) or less, no adjustment or notice need be  
20 made.

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

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

22 Section 5. A new section of the Tax Administration Act  
23 is enacted to read:

24 "[NEW MATERIAL] LOCATION OF USE.--

25 A. For compensating tax and local option

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1 compensating tax purposes, use of property occurs in the  
2 jurisdiction in which:

3 (1) the buyer's place of business is located  
4 if the buyer is engaging in business in New Mexico and uses  
5 the property in furtherance of that business;

6 (2) the buyer's principal office is located  
7 if the buyer is the state or a local government or an agency  
8 or instrumentality of the state or a local government; or

9 (3) the buyer's residence is located if the  
10 buyer is not engaging in business in New Mexico or does not  
11 use the property in furtherance of the buyer's business.

12 B. The department shall promulgate regulations to  
13 determine where use will be attributed when the buyer has  
14 more than one business in New Mexico."

15 Section 6. Section 7-9-7.1 NMSA 1978 (being Laws 1993,  
16 Chapter 45, Section 1, as amended) is amended to read:

17 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION  
18 ACTIONS WITH RESPECT TO CERTAIN COMPENSATING TAX  
19 LIABILITIES.--

20 A. The department shall take no action to enforce  
21 collection of compensating tax or local option compensating  
22 taxes due on purchases made by an individual if:

23 (1) the property is used only for  
24 nonbusiness purposes;

25 (2) the property is not a manufactured home;

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1 and

2 (3) the individual is not an agent for  
3 collection of compensating tax pursuant to Section 7-9-10  
4 NMSA 1978.

5 B. The prohibition in Subsection A of this  
6 section does not prevent the department from enforcing  
7 collection of compensating tax or local option compensating  
8 taxes on purchases from persons who are not individuals, who  
9 are agents for collection pursuant to Section 7-9-10 NMSA  
10 1978 or who use the property in the course of engaging in  
11 business in New Mexico or from enforcing collection of  
12 compensating tax or local option compensating taxes due on  
13 [~~purchase~~] purchases of manufactured homes."

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

16 "7-9-9. LIABILITY OF USER FOR PAYMENT [~~OF~~]  
17 COMPENSATING TAX--LOCAL OPTION COMPENSATING TAX.--

18 [~~Any~~] A. A person in New Mexico using property on  
19 the value of which compensating tax or local option  
20 compensating tax is payable but has not been paid is liable  
21 to the state for payment of the compensating tax [~~but this~~  
22 ~~liability is discharged if the buyer has paid the~~  
23 ~~compensating tax to the seller for payment over to the~~  
24 ~~department~~] and local option compensating tax due.

25 B. A person's compensating tax and local option

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1 compensating tax liability is discharged if the buyer has  
2 paid the compensating tax and local option compensating tax,  
3 if any is due, to the seller for payment over to the  
4 department."

5 Section 8. Section 7-19-11 NMSA 1978 (being Laws 1979,  
6 Chapter 397, Section 2, as amended) is amended to read:

7 "7-19-11. DEFINITIONS.--As used in the Supplemental  
8 Municipal Gross Receipts Tax Act:

9 A. "department" or "division" means the taxation  
10 and revenue department, the secretary of taxation and revenue  
11 or any employee of the department exercising authority  
12 lawfully delegated to that employee by the secretary;

13 B. "governing body" means the city council or  
14 city commission of a municipality;

15 C. "municipality" means any incorporated city,  
16 town or village having previously qualified to impose and did  
17 impose the tax pursuant to the provisions of the Supplemental  
18 Municipal Gross Receipts Tax Act in effect prior to [~~this~~  
19 ~~1997 act~~] the enactment of Laws 1997, Chapter 219;

20 D. "person" means an individual or any other  
21 legal entity;

22 E. "refunding bonds" means bonds issued pursuant  
23 to the provisions of the Supplemental Municipal Gross  
24 Receipts Tax Act to refund supplemental municipal gross  
25 receipts tax bonds issued pursuant to the provisions of that

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1 act;

2 F. "state compensating tax" means the  
3 compensating tax imposed pursuant to the Gross Receipts and  
4 Compensating Tax Act;

5 [~~F-~~] G. "state gross receipts tax" means the  
6 gross receipts tax imposed under the Gross Receipts and  
7 Compensating Tax Act; [~~and~~]

8 H. "supplemental municipal compensating tax"  
9 means the use tax authorized to be imposed by the  
10 Supplemental Municipal Gross Receipts Tax Act; and

11 [~~G-~~] I. "supplemental municipal gross receipts  
12 tax" means the tax authorized to be imposed under the  
13 Supplemental Municipal Gross Receipts Tax Act."

14 Section 9. Section 7-19-12 NMSA 1978 (being Laws 1979,  
15 Chapter 397, Section 3, as amended) is amended to read:

16 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL  
17 MUNICIPAL GROSS RECEIPTS TAX AND SUPPLEMENTAL MUNICIPAL  
18 COMPENSATING TAX--AUTHORIZATION FOR ISSUANCE OF SUPPLEMENTAL  
19 MUNICIPAL GROSS RECEIPTS BONDS--ELECTION REQUIRED.--

20 A. The majority of the members elected to the  
21 governing body of a municipality may enact an ordinance  
22 imposing an excise tax on [~~any~~] a person engaging in business  
23 in the municipality for the privilege of engaging in business  
24 in the municipality. This tax is to be referred to as the  
25 "supplemental municipal gross receipts tax". The rate of the

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1 tax shall not exceed one percent of the gross receipts of the  
2 person engaging in business and shall be imposed in one-  
3 fourth percent increments if less than one percent.

4 B. An ordinance imposing a supplemental municipal  
5 gross receipts tax pursuant to this section shall also impose  
6 a tax for the privilege of using property in the municipality  
7 if the use is subject to the state compensating tax. The tax  
8 imposed pursuant to the provisions of this subsection may be  
9 referred to as the "supplemental municipal compensating tax".  
10 The rate of the supplemental municipal compensating tax  
11 imposed pursuant to this subsection shall be the same as the  
12 rate of the supplemental municipal gross receipts tax imposed  
13 pursuant to this section.

14 C. If, on July 1, 2007, a municipality has in  
15 effect a supplemental municipal gross receipts tax, a  
16 supplemental municipal compensating tax is hereby imposed,  
17 effective July 1, 2007, at the same rate as the supplemental  
18 municipal gross receipts tax.

19 ~~[B.]~~ D. The governing body of a municipality  
20 enacting an ordinance imposing the ~~[tax]~~ taxes authorized in  
21 ~~[Subsection A]~~ Subsections A and B of this section shall  
22 submit the question of imposing ~~[such tax]~~ the taxes and the  
23 question of the issuance of supplemental municipal gross  
24 receipts bonds in an amount not to exceed nine million  
25 dollars (\$9,000,000), for which the revenue from the

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1 supplemental municipal gross receipts tax and the  
2 supplemental municipal compensating tax is dedicated, to the  
3 qualified electors of the municipality at a regular or  
4 special election.

5 ~~[G.]~~ E. The ballot questions referred to in  
6 Subsection ~~[B]~~ D of this section shall be submitted to a vote  
7 of the qualified electors of the municipality as two separate  
8 ballot questions ~~[which]~~ and shall be substantially in the  
9 following form:

10 (1) "Shall the municipality be authorized to  
11 issue supplemental municipal gross receipts bonds in an  
12 amount of not exceeding \_\_\_\_\_ dollars for the  
13 purpose of constructing and equipping and otherwise acquiring  
14 a municipal water supply system?

15 For \_\_\_\_\_ Against \_\_\_\_\_"; and

16 (2) "Shall the municipality impose an excise  
17 tax for the privilege of engaging in business in the  
18 municipality, which shall be known as the "supplemental  
19 municipal gross receipts tax", and an excise tax on the use  
20 of property in the municipality, which shall be known as the  
21 "supplemental municipal compensating tax", both of which  
22 shall be imposed at a rate of \_\_\_\_\_ percent ~~[of the~~  
23 ~~gross receipts of the person engaging in business]~~, the  
24 proceeds of which are dedicated to the payment of  
25 supplemental municipal gross receipts bonds?

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1 For \_\_\_\_\_ Against \_\_\_\_\_".

2 [~~D.~~] F. Only those voters who are registered  
3 electors who reside within the municipality shall be  
4 permitted to vote on these two questions. The procedures for  
5 conducting the election shall be substantially the same as  
6 the applicable provisions in Sections 3-30-1, 3-30-6 and  
7 3-30-7 NMSA 1978 relating to municipal debt.

8 [~~E.~~] G. If at an election called pursuant to this  
9 section a majority of the voters voting on each of the two  
10 questions [~~vote~~] votes in the affirmative on each [~~such~~]  
11 question, [~~then~~] the ordinance imposing the supplemental  
12 municipal gross receipts tax and the supplemental municipal  
13 compensating tax shall be approved. If at [~~such~~] the  
14 election a majority of the voters voting on [~~such~~] the  
15 questions [~~fail~~] fails to approve [~~any~~] one of the questions,  
16 [~~then~~] the ordinance imposing the [~~tax~~] taxes shall be  
17 disapproved and the questions required to be submitted by  
18 [~~Subsection B of~~] this section shall not be submitted to the  
19 voters for a period of one year from the date of the  
20 election.

21 [~~F. Any~~] H. An ordinance enacted under the  
22 provisions of this section shall include an effective date of  
23 either July 1 or January 1, whichever date occurs first after  
24 the expiration of at least [~~five~~] three months from the date  
25 of the election. A certified copy of [~~any~~] an ordinance

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1 imposing a supplemental municipal gross receipts tax and a  
2 supplemental municipal compensating tax shall be mailed to  
3 the [~~division~~] department within five days after the  
4 ordinance is adopted by the approval by the electorate.  
5 [~~Any~~] An ordinance repealing the imposition of a tax under  
6 the provisions of the Supplemental Municipal Gross Receipts  
7 Tax Act shall become effective on either July 1 or January 1,  
8 after the expiration of at least [~~five~~] three months from the  
9 date the ordinance is repealed by the governing body.

10 [~~G-~~] I. Nothing in this section is intended to or  
11 does alter the effectiveness or validity of [~~any~~] actions  
12 taken in accordance with Subsection G of Section 80 of  
13 Chapter 20 of Laws 1986."

14 Section 10. Section 7-19-13 NMSA 1978 (being Laws 1979,  
15 Chapter 397, Section 4) is amended to read:

16 "7-19-13. ORDINANCE [~~MUST~~] SHALL CONFORM TO CERTAIN  
17 PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT AND  
18 REQUIREMENTS OF THE [~~DIVISION~~] DEPARTMENT.--

19 A. [~~Any~~] An ordinance imposing a supplemental  
20 municipal gross receipts tax and a supplemental municipal  
21 compensating tax shall adopt by reference the same  
22 definitions and the same provisions relating to exemptions  
23 and deductions as are contained in the Gross Receipts and  
24 Compensating Tax Act then in effect and as it may be amended  
25 from time to time.

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1           B. The governing body of ~~[any]~~ a municipality  
2 imposing or increasing the supplemental municipal gross  
3 receipts tax ~~[must]~~ and the supplemental municipal  
4 compensating tax shall adopt the language of the model  
5 ordinance furnished to the municipality by the ~~[division]~~  
6 department for the portion of the ordinance relating to the  
7 ~~[tax]~~ taxes."

8           Section 11. A new section of the Supplemental Municipal  
9 Gross Receipts Tax Act, Section 7-19-14.1 NMSA 1978, is  
10 enacted to read:

11           "7-19-14.1. [NEW MATERIAL] SUPPLEMENTAL MUNICIPAL  
12 COMPENSATING TAX--ADDITIONAL EXEMPTION--TANGIBLE PERSONAL  
13 PROPERTY SUBJECT TO DEPRECIATION.--

14           A. Exempted from the supplemental municipal  
15 compensating tax is the use of tangible personal property  
16 that:

17                   (1) is subject to depreciation for federal  
18 income tax purposes; and

19                   (2) at the time of acquisition or  
20 introduction into New Mexico, could not be obtained from  
21 sources within New Mexico.

22           B. The department, by regulation or instruction,  
23 may prescribe one or more methods by which the user of the  
24 property may certify that the property meets the conditions  
25 of Paragraph (2) of Subsection A of this section."

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1           Section 12. Section 7-19-15 NMSA 1978 (being Laws 1979,  
2 Chapter 397, Section 6, as amended) is amended to read:

3           "7-19-15. COLLECTION BY DEPARTMENT--TRANSFER OF  
4 PROCEEDS--DEDUCTIONS.--

5           A. The department shall collect the supplemental  
6 municipal gross receipts tax in the same manner and at the  
7 same time it collects the state gross receipts tax. The  
8 department shall collect the supplemental municipal  
9 compensating tax in the same manner and at the same time it  
10 collects the state compensating tax.

11           B. The department shall withhold [~~an~~]  
12 administrative [~~fee pursuant to Section 1 of this 1997 act~~]  
13 fees of three percent of the net amount to be transferred  
14 after deductions or disbursements for tax credits, refunds  
15 and payment of interest applicable to the taxes but prior to  
16 deduction of the administrative fees that are required to be  
17 withheld pursuant to this section.

18           C. The department shall transfer to each  
19 municipality for which it is collecting a supplemental  
20 municipal gross receipts tax and a supplemental municipal  
21 compensating tax an amount equal to the amount of the [~~tax~~]  
22 taxes collected less the administrative fee withheld and less  
23 any disbursements for tax credits, refunds and the payment of  
24 interest applicable to the supplemental municipal gross  
25 receipts tax and the supplemental municipal compensating tax.

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1 Transfer of the [~~tax~~] taxes to a municipality shall be made  
2 within the month following the month in which the [~~tax is~~]  
3 taxes are collected pursuant to the provisions of Section  
4 7-1-6.12 NMSA 1978."

5 Section 13. Section 7-19-16 NMSA 1978 (being Laws 1979,  
6 Chapter 397, Section 7) is amended to read:

7 "7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND  
8 ENFORCEMENT OF [~~TAX~~] TAXES.--

9 A. The [~~division~~] department shall interpret the  
10 provisions of the Supplemental Municipal Gross Receipts Tax  
11 Act.

12 B. The [~~division~~] department shall administer and  
13 enforce the collection of the supplemental municipal gross  
14 receipts tax and the supplemental municipal compensating tax.  
15 The Tax Administration Act applies to the administration and  
16 enforcement of the [~~tax~~] taxes authorized to be imposed  
17 pursuant to the Supplemental Municipal Gross Receipts Tax  
18 Act."

19 Section 14. Section 7-19-18 NMSA 1978 (being Laws 1979,  
20 Chapter 397, Section 9, as amended) is amended to read:

21 "7-19-18. SUPPLEMENTAL MUNICIPAL GROSS RECEIPTS TAX AND  
22 SUPPLEMENTAL MUNICIPAL COMPENSATING TAX--USE OF PROCEEDS--  
23 RESTRICTION.--

24 A. The proceeds from the supplemental municipal  
25 gross receipts tax and the supplemental municipal

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1 compensating tax shall be deposited in a special improvement  
2 account of the municipality and shall be used only for:

3 (1) the payment of the principal of,  
4 interest on, any prior redemption premiums due in connection  
5 with and other expenses related to the supplemental municipal  
6 gross receipts bonds issued pursuant to the Supplemental  
7 Municipal Gross Receipts Tax Act;

8 (2) the funding of [~~any~~] reserves and other  
9 accounts in connection with [~~such~~] those bonds;

10 (3) refunding bonds; and

11 (4) to the extent not needed for those  
12 purposes, the improvement of the municipality's water system.

13 B. When [~~any~~] an issue of supplemental municipal  
14 gross receipts bonds is fully paid, the supplemental  
15 municipal gross receipts tax and the supplemental municipal  
16 compensating tax shall cease to be imposed for that issue,  
17 but may continue to be imposed for bonds enacted and approved  
18 pursuant to Section 7-19-12 NMSA 1978 and thereafter issued,  
19 or for refunding bonds issued pursuant to Section [~~4 of this~~  
20 ~~1997 act~~] 7-19-17.1 NMSA 1978. Any money remaining in a  
21 special improvement account after the obligations for  
22 supplemental municipal gross receipts bonds and refunding  
23 bonds are fully paid may be transferred to any other fund of  
24 the municipality."

25 Section 15. Section 7-19D-2 NMSA 1978 (being Laws 1993,

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1 Chapter 346, Section 2) is amended to read:

2 "7-19D-2. DEFINITIONS.--As used in the Municipal Local  
3 Option Gross Receipts Taxes Act:

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

8 B. "governing body" means the city council or  
9 city commission of a city, the board of trustees of a town or  
10 village and the board of county commissioners of H-class  
11 counties;

12 C. "local option gross receipts tax" means a  
13 gross receipts tax authorized to be imposed by a municipality  
14 pursuant to the Municipal Local Option Gross Receipts Taxes  
15 Act;

16 D. "local option municipal compensating tax"  
17 means a compensating tax authorized to be imposed by a  
18 municipality pursuant to the Municipal Local Option Gross  
19 Receipts Taxes Act;

20 [~~E.~~] E. "municipality" means any incorporated  
21 city, town or village, whether incorporated under general  
22 act, special act or special charter, and an H-class county;

23 [~~F.~~] F. "person" means an individual or any other  
24 legal entity; [~~and~~]

25 G. "state compensating tax" means the

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1 compensating tax imposed pursuant to the provisions of the  
2 Gross Receipts and Compensating Tax Act; and

3 ~~[E.]~~ H. "state gross receipts tax" means the  
4 gross receipts tax imposed ~~[under]~~ pursuant to the provisions  
5 of the Gross Receipts and Compensating Tax Act."

6 Section 16. Section 7-19D-3 NMSA 1978 (being Laws 1993,  
7 Chapter 346, Section 3) is amended to read:

8 "7-19D-3. MANDATORY ENACTMENT OF LOCAL OPTION MUNICIPAL  
9 COMPENSATING TAX WITH LOCAL OPTION GROSS RECEIPTS TAX

10 IMPOSITION--EFFECTIVE DATE OF ORDINANCE.--An ordinance  
11 imposing, amending or repealing a tax or an increment of tax  
12 authorized by the Municipal Local Option Gross Receipts Taxes  
13 Act shall:

14 A. also impose, amend or repeal a local option  
15 municipal compensating tax at the same rate as stated in the  
16 imposition, amendment or repeal of the local option gross  
17 receipts tax included in the ordinance;

18 B. be effective on July 1 or January 1, whichever  
19 date occurs first after the expiration of at least three  
20 months from the date the adopted ordinance is mailed or  
21 delivered to the department ~~[The ordinance shall];~~ and

22 C. include ~~[that]~~ the effective date of the  
23 ordinance and the taxes."

24 Section 17. A new section of the Municipal Local Option  
25 Gross Receipts Taxes Act, Section 7-19D-5.1 NMSA 1978, is

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1 enacted to read:

2 "7-19D-5.1. [NEW MATERIAL] LOCAL OPTION MUNICIPAL  
3 COMPENSATING TAXES--ADDITIONAL EXEMPTION.--

4 A. Exempted from local option municipal  
5 compensating taxes is the use of tangible personal property  
6 that:

7 (1) is subject to depreciation for federal  
8 income tax purposes; and

9 (2) at the time of acquisition or  
10 introduction into New Mexico, could not be obtained from  
11 sources within New Mexico.

12 B. The department, by regulation or instruction,  
13 may prescribe one or more methods by which the user of  
14 property may certify that the property meets the conditions  
15 of Paragraph (2) of Subsection A of this section."

16 Section 18. Section 7-19D-7 NMSA 1978 (being Laws 1993,  
17 Chapter 346, Section 7, as amended) is amended to read:

18 "7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF  
19 PROCEEDS--DEDUCTIONS.--

20 A. The department shall collect each local option  
21 gross receipts tax imposed pursuant to the provisions of the  
22 Municipal Local Option Gross Receipts Taxes Act in the same  
23 manner and at the same time it collects the state gross  
24 receipts tax. The department shall collect each local option  
25 municipal compensating tax in each same manner and at the

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1 same time it collects the state compensating tax.

2 B. Except as provided in Subsection C of this  
3 section, the department shall withhold ~~[an]~~ administrative  
4 ~~[fee pursuant to Section 1 of this 1997 act]~~ fees of three  
5 percent of the net amount to be transferred after deductions  
6 or disbursements for tax credits, refunds and payment of  
7 interest applicable to the taxes but prior to deduction of  
8 the administrative fees that are required to be withheld  
9 pursuant to this section.

10 C. The department shall transfer to each  
11 municipality for which it is collecting a tax pursuant to the  
12 provisions of the Municipal Local Option Gross Receipts Taxes  
13 Act the amount of each tax collected for that municipality,  
14 less the administrative fee withheld and less any  
15 disbursements for tax credits, refunds and the payment of  
16 interest applicable to the tax ~~[The transfer to the~~  
17 ~~municipality shall be made within the month following the~~  
18 ~~month in which the tax is collected]~~ pursuant to the  
19 provisions of Section 7-1-6.12 NMSA 1978.

20 ~~[G.]~~ D. With respect to the municipal gross  
21 receipts tax imposed by a municipality pursuant to Section  
22 7-19D-9 NMSA 1978, the department shall withhold the  
23 administrative fee imposed pursuant to this section ~~[+of~~  
24 ~~this 1997 act]~~ only on that portion of the ~~[municipal]~~ local  
25 option gross receipts tax or local option municipal

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1 compensating tax arising from a municipal gross receipts tax  
2 rate or local option municipal compensating tax rate in  
3 excess of one-half of one percent."

4 Section 19. A new section of the Municipal Local Option  
5 Gross Receipts Taxes Act, Section 7-19D-16 NMSA 1978, is  
6 enacted to read:

7 "7-19D-16. [NEW MATERIAL] LOCAL OPTION MUNICIPAL  
8 COMPENSATING TAX--MANDATORY SIMULTANEOUS IMPOSITION--RATE.--

9 A. An ordinance imposing, increasing or repealing  
10 a local option gross receipts tax imposed by the Municipal  
11 Local Option Gross Receipts Taxes Act shall also impose,  
12 increase or repeal a tax for the privilege of using property  
13 in the municipality if the use of the property is subject to  
14 the state compensating tax. A use tax imposed pursuant to  
15 this section may be referred to as a "local option municipal  
16 compensating tax".

17 B. The rate of a local option municipal  
18 compensating tax imposed, increased or repealed shall be the  
19 same as the rate of the local option gross receipts tax with  
20 which the local option municipal compensating tax is  
21 simultaneously imposed, increased or repealed.

22 C. In an election on approval of the imposition,  
23 increase or repeal of a tax authorized to be imposed by the  
24 Municipal Local Option Gross Receipts Taxes Act, the ballot  
25 shall clearly indicate that the question concerns the

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1 simultaneous imposition, increase or repeal of a local option  
2 gross receipts tax and a local option municipal compensating  
3 tax. The specific local option gross receipts tax being  
4 imposed, increased or repealed shall be identified in the  
5 ballot question.

6 D. If, on July 1, 2007, a municipality has in  
7 effect a local option gross receipts tax authorized by the  
8 Municipal Local Option Gross Receipts Taxes Act, a local  
9 option municipal compensating tax is hereby imposed at the  
10 same rate as the existing local option gross receipts tax  
11 causing the automatic imposition of the local option  
12 municipal compensating tax. A local option municipal  
13 compensating tax imposed by this subsection is effective on  
14 July 1, 2007.

15 E. A local option municipal compensating tax  
16 imposed pursuant to the Municipal Local Option Gross Receipts  
17 Taxes Act shall be referred to individually by reference to  
18 the local option gross receipts tax with which the local  
19 option municipal compensating tax was simultaneously imposed  
20 or by reference to the local option gross receipts tax that  
21 was in effect on July 1, 2007 and caused the automatic  
22 imposition of the local option municipal compensating tax  
23 pursuant to Subsection D of this section."

24 Section 20. Section 7-20C-1 NMSA 1978 (being Laws 1991,  
25 Chapter 176, Section 1) is amended to read:

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1           "7-20C-1. SHORT TITLE.--~~[Sections 1 through 15 of this~~  
2 ~~act]~~ Chapter 7, Article 20C NMSA 1978 may be cited as the  
3 "Local Hospital Gross Receipts Tax Act"."

4           Section 21. Section 7-20C-2 NMSA 1978 (being Laws 1991,  
5 Chapter 176, Section 2, as amended) is amended to read:

6           "7-20C-2. DEFINITIONS.--As used in the Local Hospital  
7 Gross Receipts Tax Act:

8           A. "county" means:

9                   (1) a class B county having a population of  
10 less than twenty-five thousand according to the most recent  
11 federal decennial census and having a net taxable value for  
12 rate-setting purposes for the 1990 property tax year or any  
13 subsequent year of more than two hundred fifty million  
14 dollars (\$250,000,000);

15                   (2) a class B county having a population of  
16 less than forty-seven thousand but more than forty-four  
17 thousand according to the 1990 federal decennial census and  
18 having a net taxable value for rate-setting purposes for the  
19 1992 property tax year of more than three hundred million  
20 dollars (\$300,000,000) but less than six hundred million  
21 dollars (\$600,000,000);

22                   (3) a class B county having a population of  
23 less than ten thousand according to the most recent federal  
24 decennial census and having a net taxable value for rate-  
25 setting purposes for the 1990 property tax year or any

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1 subsequent year of more than one hundred million dollars  
2 (\$100,000,000);

3 (4) a class B county having a population of  
4 less than twenty-five thousand according to the 1990 federal  
5 decennial census and having a net taxable value for rate-  
6 setting purposes for the 1993 property tax year of more than  
7 ninety-one million dollars (\$91,000,000) but less than one  
8 hundred twenty-five million dollars (\$125,000,000);

9 (5) a class B county having a population of  
10 more than seventeen thousand but less than twenty thousand  
11 according to the 1990 federal decennial census and having a net  
12 taxable value for rate-setting purposes for the 1993 property  
13 tax year of more than one hundred fifty-three million dollars  
14 (\$153,000,000) but less than one hundred fifty-six million  
15 dollars (\$156,000,000);

16 (6) a class B county having a population of  
17 more than fifteen thousand according to the 1990 federal  
18 decennial census and having a net taxable value for rate-  
19 setting purposes for the 1996 property tax year of more than  
20 one hundred fifty million dollars (\$150,000,000) but less than  
21 one hundred seventy-five million dollars (\$175,000,000);

22 (7) an H class county; or

23 (8) a class A county having a population of  
24 less than one hundred fifteen thousand according to the 2000  
25 federal decennial census or any subsequent federal decennial

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1 census and having a net taxable value for rate-setting purposes  
2 for the 2001 property tax year or any subsequent year of more  
3 than three billion dollars (\$3,000,000,000);

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

8 C. "governing body" means the board of county  
9 commissioners of a county;

10 D. "health care facilities contract" means an  
11 agreement between a hospital or health clinic not owned by the  
12 county and a county imposing the tax authorized by the Local  
13 Hospital Gross Receipts Tax Act that obligates the county to  
14 pay to the hospital revenue generated by the tax authorized in  
15 that act as consideration for the agreement by the hospital or  
16 health clinic to use the funds only for nonsectarian purposes  
17 and to make health care services available for the benefit of  
18 the county;

19 E. "hospital facility revenues" means all or a  
20 portion of the revenues derived from a lease of a hospital  
21 facility acquired, constructed or equipped pursuant to and  
22 operated in accordance with the Local Hospital Gross Receipts  
23 Tax Act;

24 F. "local hospital compensating tax" means the tax  
25 on the use of property authorized to be imposed under the Local

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1 Hospital Gross Receipts Tax Act;

2           ~~[F-]~~ G. "local hospital gross receipts tax" means  
3 the gross receipts tax authorized to be imposed under the Local  
4 Hospital Gross Receipts Tax Act;

5           ~~[G-]~~ H. "person" means an individual or any other  
6 legal entity; ~~[and]~~

7           I. "state compensating tax" means the compensating  
8 tax imposed under the Gross Receipts and Compensating Tax Act;  
9 and

10           ~~[H-]~~ J. "state gross receipts tax" means the gross  
11 receipts tax imposed under the Gross Receipts and Compensating  
12 Tax Act."

13           Section 22. A new section of the Local Hospital  
14 Compensating Tax Act, Section 7-20C-3.1 NMSA 1978, is enacted  
15 to read:

16           "7-20C-3.1. [NEW MATERIAL] LOCAL HOSPITAL COMPENSATING  
17 TAX--MANDATORY SIMULTANEOUS IMPOSITION.--

18           A. An ordinance imposing, increasing or repealing a  
19 local hospital gross receipts tax authorized by the Local  
20 Hospital Gross Receipts Tax Act shall also impose, increase or  
21 repeal a tax for the privilege of using property in the county  
22 if the use of the property is subject to the state compensating  
23 tax. The tax imposed by this section may be referred to as the  
24 "local hospital compensating tax".

25           B. The rate of the local hospital compensating tax  
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1 imposed, increased or repealed shall be the same as the rate of  
2 the local hospital gross receipts tax with which the local  
3 hospital compensating tax is simultaneously imposed, increased  
4 or repealed.

5 C. In an election on the approval of the  
6 imposition, increase or repeal of a tax authorized to be  
7 imposed by the provisions of the Local Hospital Gross Receipts  
8 Tax Act, the ballot shall clearly indicate that the question  
9 concerns the simultaneous imposition, increase or repeal of  
10 both a local hospital gross receipts tax and a local hospital  
11 compensating tax.

12 D. If, on July 1, 2007, a county has in effect a  
13 local hospital gross receipts tax, a local hospital  
14 compensating tax is hereby imposed at the same rate as the  
15 existing local hospital gross receipts tax. The local hospital  
16 compensating tax is effective on July 1, 2007."

17 Section 23. A new section of the Local Hospital Gross  
18 Receipts Tax Act, Section 7-20C-5.1 NMSA 1978, is enacted to  
19 read:

20 "7-20C-5.1. [NEW MATERIAL] LOCAL HOSPITAL COMPENSATING  
21 TAXES--ADDITIONAL EXEMPTION.--

22 A. Exempted from a local hospital compensating tax  
23 is the use of tangible personal property that:

24 (1) is subject to depreciation for federal  
25 income tax purposes; and

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1 (2) at the time of acquisition or introduction  
2 into New Mexico, could not be obtained from sources within New  
3 Mexico.

4 B. The department, by regulation or instruction,  
5 may prescribe one or more methods by which the user of property  
6 may certify that the property meets the conditions of Paragraph  
7 (2) of Subsection A of this section."

8 Section 24. Section 7-20C-6 NMSA 1978 (being Laws 1991,  
9 Chapter 176, Section 6, as amended) is amended to read:

10 "7-20C-6. COLLECTION BY DEPARTMENT--TRANSFER OF  
11 PROCEEDS--DEDUCTIONS.--

12 A. The department shall collect the local hospital  
13 gross receipts tax in the same manner and at the same time it  
14 collects the state gross receipts tax. The department shall  
15 collect the local hospital compensating tax in the same manner  
16 and at the same time it collects the state compensating tax.

17 B. The department shall withhold [~~an~~]  
18 administrative [~~fee pursuant to Section 7-1-6.41 NMSA 1978~~]  
19 fees of three percent of the net amount to be transferred after  
20 deductions or disbursements for tax credits, refunds and  
21 payment of interest applicable to the taxes but prior to  
22 deduction of the administrative fees that are required to be  
23 withheld pursuant to this section. The department shall  
24 transfer to each county for which it is collecting [~~such tax~~]  
25 taxes imposed pursuant to the Local Hospital Gross Receipts Tax

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1 Act the amount of the [~~tax~~] taxes collected less the  
2 administrative [~~fee~~] fees withheld and less any disbursements  
3 for tax credits, refunds and the payment of interest applicable  
4 to the [~~tax~~] taxes. Transfer of the [~~tax~~] taxes to a county  
5 shall be made within the month following the month in which the  
6 [~~tax-is~~] taxes are collected pursuant to the provisions of  
7 Section 7-1-6.13 NMSA 1978."

8 Section 25. Section 7-20E-2 NMSA 1978 (being Laws 1993,  
9 Chapter 354, Section 2, as amended by Laws 1994, Chapter 93,  
10 Section 1 and also by Laws 1994, Chapter 97, Section 1) is  
11 amended to read:

12 "7-20E-2. DEFINITIONS.--As used in the County Local  
13 Option Gross Receipts Taxes Act:

14 A. "county" means, unless specifically defined  
15 otherwise in the County Local Option Gross Receipts Taxes Act,  
16 a county, including an H class county;

17 B. "county area" means that portion of a county  
18 located outside the boundaries of any municipality, except that  
19 for H class counties, "county area" means the entire county;

20 C. "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 D. "governing body" means the county commission of  
25 the county or the county council of an H class county;

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1           E. "local option county compensating tax" means a  
2 compensating tax authorized to be imposed by a county pursuant  
3 to the County Local Option Gross Receipts Taxes Act;

4           F. "local option county gross receipts tax" means  
5 the county gross receipts tax, the county emergency gross  
6 receipts tax, the county hospital emergency gross receipts tax,  
7 the special county hospital gross receipts tax, the county fire  
8 protection excise tax, the county environmental services gross  
9 receipts tax, the county health care gross receipts tax, the  
10 county infrastructure gross receipts tax, the county education  
11 gross receipts tax, the county capital outlay gross receipts  
12 tax, the county emergency communications and emergency medical  
13 services tax, the county regional transit gross receipts tax,  
14 the quality of life gross receipts tax, the county regional  
15 spaceport gross receipts tax or any other gross receipts tax  
16 that is authorized to be imposed pursuant to the provisions of  
17 the Local Option County Gross Receipts Taxes Act;

18           [~~E.~~] G. "person" means an individual or any other  
19 legal entity; [~~and~~]

20           H. "state compensating tax" means the compensating  
21 tax imposed pursuant to the provisions of the Gross Receipts  
22 and Compensating Tax Act; and

23           [~~F.~~] I. "state gross receipts tax" means the gross  
24 receipts tax imposed under the Gross Receipts and Compensating  
25 Tax Act."

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1 Section 26. A new section of the County Local Option  
2 Gross Receipts Taxes Act, Section 7-20E-5.1 NMSA 1978, is  
3 enacted to read:

4 "7-20E-5.1. [NEW MATERIAL] LOCAL OPTION COUNTY  
5 COMPENSATING TAXES--ADDITIONAL EXEMPTION.--

6 A. Exempted from a local option county compensating  
7 tax is the use of tangible personal property that:

8 (1) is subject to depreciation for federal  
9 income tax purposes; and

10 (2) at the time of acquisition or introduction  
11 into New Mexico, could not be obtained from sources within New  
12 Mexico.

13 B. The department, by regulation or instruction,  
14 may prescribe one or more methods by which the user of property  
15 may certify that the property meets the conditions of Paragraph  
16 (2) of Subsection A of this section."

17 Section 27. Section 7-20E-7 NMSA 1978 (being Laws 1993,  
18 Chapter 354, Section 7, as amended) is amended to read:

19 "7-20E-7. COLLECTION BY DEPARTMENT--TRANSFER OF  
20 PROCEEDS--DEDUCTIONS.--

21 A. The department shall collect each local option  
22 county gross receipts tax imposed pursuant to the provisions of  
23 the County Local Option Gross Receipts Taxes Act in the same  
24 manner and at the same time it collects the state gross  
25 receipts tax. The department shall collect each local option

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1 county compensating tax in the same manner and at the same time  
2 it collects the state compensating tax.

3 B. The department shall withhold [~~an~~]  
4 administrative [~~fee pursuant to Section 1 of this 1997 act~~]  
5 fees of three percent of the net amount to be transferred after  
6 deductions or disbursements for tax credits, refunds and  
7 payment of interest applicable to the taxes but prior to  
8 deduction of the administrative fees that are required to be  
9 withheld pursuant to this section. The department shall  
10 transfer to each county for which it is collecting a tax  
11 pursuant to the provisions of the County Local Option Gross  
12 Receipts Taxes Act the amount of each tax collected for that  
13 county, less the administrative fee withheld and less any  
14 disbursements for tax credits, refunds and the payment of  
15 interest applicable to the tax. The transfer to the county  
16 shall be made within the month following the month in which the  
17 tax is collected pursuant to the provisions of Section 7-1-6.13  
18 NMSA 1978."

19 Section 28. A new section of the County Local Option  
20 Gross Receipts Taxes Act, Section 7-20E-8.1 NMSA 1978, is  
21 enacted to read:

22 "7-20E-8.1. [NEW MATERIAL] LOCAL OPTION COUNTY  
23 COMPENSATING TAX--MANDATORY SIMULTANEOUS IMPOSITION.--

24 A. An ordinance imposing, increasing or repealing a  
25 local option county gross receipts tax authorized by the County  
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1 Local Option Gross Receipts Taxes Act shall also impose,  
2 increase or repeal a tax for the privilege of using property in  
3 the county if the use of the property is subject to the state  
4 compensating tax. A use tax imposed by this section may be  
5 referred to as the "local option county compensating tax".

6 B. The rate of the local option county compensating  
7 tax imposed, increased or repealed shall be the same as the  
8 rate of the local option county gross receipts tax with which  
9 the local option county compensating tax is simultaneously  
10 imposed, increased or repealed.

11 C. In an election on the approval of the  
12 imposition, increase or repeal of a tax authorized to be  
13 imposed by the provisions of the County Local Option Gross  
14 Receipts Taxes Act, the ballot shall clearly indicate that the  
15 question concerns the simultaneous imposition, increase or  
16 repeal of a local option county gross receipts tax and a local  
17 option county compensating tax. The specific local option  
18 county gross receipts tax being imposed, increased or repealed  
19 shall be identified in the ballot question.

20 D. If, on July 1, 2007, a county has in effect a  
21 local option county gross receipts tax imposed pursuant to the  
22 County Local Option Gross Receipts Taxes Act, a local option  
23 county compensating tax is hereby imposed at the same rate as  
24 the existing local option county gross receipts tax causing the  
25 automatic imposition of the local option county compensating

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1 tax. A local option county compensating tax imposed by this  
2 subsection is effective on July 1, 2007.

3 E. A local option county compensating tax imposed  
4 pursuant to the County Local Option Gross Receipts Taxes Act  
5 shall be referred to individually by reference to the local  
6 option county gross receipts tax with which the local option  
7 county compensating tax was simultaneously imposed or by  
8 reference to the local option county gross receipts tax that  
9 was in effect on July 1, 2007 and caused the automatic  
10 imposition of the local option county compensating tax pursuant  
11 to Subsection D of this section."

12 Section 29. Section 7-20F-1 NMSA 1978 (being Laws 1993,  
13 Chapter 303, Section 1) is amended to read:

14 "7-20F-1. SHORT TITLE.--~~[Sections 3 through 14 of this~~  
15 ~~act]~~ Chapter 7, Article 20F NMSA 1978 may be cited as the  
16 "County Correctional Facility Gross Receipts Tax Act"."

17 Section 30. Section 7-20F-2 NMSA 1978 (being Laws 1993,  
18 Chapter 303, Section 2, as amended) is amended to read:

19 "7-20F-2. DEFINITIONS.--As used in the County  
20 Correctional Facility Gross Receipts Tax Act:

21 A. "county" means a county of New Mexico;

22 B. "county board" means the board of county  
23 commissioners of a county;

24 C. "department" means the taxation and revenue  
25 department, the secretary of taxation and revenue or any

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1 employee of the department exercising authority lawfully  
2 delegated to that employee by the secretary;

3 D. "judicial-correctional facility" means a  
4 facility for housing and use by judicial and corrections  
5 agencies, including housing for persons confined in county  
6 correctional facilities; however, none of the facilities are  
7 required to be located on the same or contiguous parcels of  
8 land;

9 E. "municipality" means any incorporated city, town  
10 or village, whether incorporated under general act, special act  
11 or special charter;

12 F. "person" means an individual or any other legal  
13 entity;

14 G. "pledged revenues" means the revenue, net income  
15 or net revenues authorized to be pledged to the payment of  
16 revenue bonds issued pursuant to the provisions of the County  
17 Correctional Facility Gross Receipts Tax Act;

18 H. "refunding bond" means a refunding revenue bond  
19 issued pursuant to the provisions of the County Correctional  
20 Facility Gross Receipts Tax Act to refund revenue bonds issued  
21 pursuant to the provisions of that act; [~~and~~]

22 I. "revenue bond" means a county correctional  
23 facility gross receipts tax revenue bond;

24 J. "state compensating tax" means the compensating  
25 tax imposed pursuant to the provisions of the Gross Receipts

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1 and Compensating Tax Act; and

2 K. "state gross receipts tax" means the gross  
3 receipts tax imposed pursuant to the provisions of the Gross  
4 Receipts and Compensating Tax Act."

5 Section 31. Section 7-20F-3 NMSA 1978 (being Laws 1993,  
6 Chapter 303, Section 3, as amended) is amended to read:

7 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX  
8 AND COUNTY CORRECTIONAL FACILITY COMPENSATING TAX--AUTHORITY  
9 [~~TO IMPOSE~~] FOR SIMULTANEOUS IMPOSITION--RATE--ORDINANCE  
10 REQUIREMENTS--REFERENDUM.--

11 A. The majority of the members elected to the  
12 county board may enact an ordinance imposing on a countywide  
13 basis an excise tax not to exceed a rate of one-eighth percent  
14 of the gross receipts of any person engaging in business in the  
15 county, including all municipalities within the county.

16 B. The tax imposed pursuant to Subsection A of this  
17 section may be referred to as the "county correctional facility  
18 gross receipts tax".

19 C. An ordinance imposing a county correctional  
20 facility gross receipts tax shall also impose a tax on the use  
21 of property in the county if the use of the property is subject  
22 to the state compensating tax and:

23 (1) the tax imposed pursuant to the provisions  
24 of this subsection:

25 (a) may be referred to as the "county

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1 correctional facility compensating tax"; and

2 (b) shall be imposed at a rate that is  
3 the same as the rate of the county correctional facility gross  
4 receipts tax with which the county correctional facility  
5 compensating tax is simultaneously imposed;

6 (2) in an election held to approve the  
7 imposition, increase or repeal of a tax imposed by the County  
8 Correctional Facility Gross Receipts Tax Act, the ballot shall  
9 clearly indicate that the ballot question concerns the  
10 simultaneous imposition, increase or repeal of both a county  
11 correctional facility gross receipts tax and a county  
12 correctional facility compensating tax; and

13 (3) if, on July 1, 2007, a county has in  
14 effect a county correctional facility gross receipts tax, a  
15 county correctional facility compensating tax is hereby imposed  
16 at a rate equal to the rate of the existing county correctional  
17 facility gross receipts tax, and the county correctional  
18 facility compensating tax automatically imposed by this  
19 subsection is effective on July 1, 2007.

20 ~~[C. Any]~~ D. An ordinance imposing a county  
21 correctional facility gross receipts tax and a county  
22 correctional facility compensating tax pursuant to this section  
23 shall:

24 (1) impose the ~~[tax]~~ taxes in any number of  
25 increments of one-sixteenth percent not to exceed an aggregate

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1 amount of one-eighth percent, provided that the rates of the  
2 two taxes are the same;

3 (2) specify that the imposition of the [~~tax~~  
4 ~~will begin~~] taxes begins on either July 1 or January 1,  
5 whichever occurs first after the expiration of at least three  
6 months from the date that the department is notified personally  
7 or by mail by the county of adoption of the ordinance; and

8 (3) dedicate the revenue from the county  
9 correctional facility gross receipts tax and the county  
10 correctional facility compensating tax:

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

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

20 (c) to payment of principal and interest  
21 on revenue bonds or refunding bonds issued pursuant to the  
22 provisions of the County Correctional Facility Gross Receipts  
23 Tax Act.

24 [~~D.~~] E. An ordinance imposing a county correctional  
25 facility gross receipts tax and a county correctional facility

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1 compensating tax pursuant to this section shall be subject to  
2 optional referendum selection by the governing body, as  
3 provided in Subsection A of Section 7-20E-3 NMSA 1978.

4 ~~[E.]~~ F. If the county has pledged the revenue from  
5 imposition of the county correctional facilities gross receipts  
6 tax and the county correctional facility compensating tax to  
7 the repayment of bonds or other indebtedness, revenue produced  
8 by the imposition of a county correctional facility gross  
9 receipts tax and the county correctional facility compensating  
10 tax that is in excess of the annual principal and interest due  
11 on bonds secured by a pledge of the county correctional  
12 facility gross receipts tax and the county correctional  
13 facility compensating tax may be accumulated in a debt service  
14 reserve account until an amount equal to the maximum amount  
15 permitted pursuant to the provisions of the United States  
16 treasury regulations is accumulated in the debt service reserve  
17 account. After the debt service reserve account requirements  
18 have been met, the excess revenue shall be accumulated in an  
19 extraordinary mandatory redemption fund and annually used to  
20 redeem the bonds prior to their stated maturity date.

21 ~~[F.]~~ G. If the county has pledged the revenue from  
22 imposition of the county correctional [~~facilities~~] facility  
23 gross receipts tax and the county correctional facility  
24 compensating tax to the repayment of bonds or other  
25 indebtedness, when all outstanding bonds have been paid,

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1 whether from the debt service reserve, the redemption fund or  
2 maturity, the ordinance shall be repealed if the county  
3 correctional facility gross receipts tax revenue [~~is~~] and the  
4 county correctional facility compensating tax revenue are no  
5 longer required for the purposes for which [~~it~~] that revenue  
6 may be used pursuant to the provisions of the County  
7 Correctional Facility Gross Receipts Tax Act.

8 [~~G.~~] H. The repeal of an ordinance imposing a  
9 county correctional facility gross receipts tax and a county  
10 correctional facility compensating tax shall state that the  
11 repeal shall be effective on January 1 or July 1, whichever  
12 occurs first following the date the department is notified  
13 personally or by mail by the county of the repeal."

14 Section 32. Section 7-20F-5 NMSA 1978 (being Laws 1993,  
15 Chapter 303, Section 5) is amended to read:

16 "7-20F-5. COLLECTION BY DEPARTMENT--TRANSFER OF  
17 PROCEEDS--DEDUCTIONS.--

18 A. The department shall collect the county  
19 correctional facility gross receipts tax in the same manner and  
20 at the same time it collects the state gross receipts tax. The  
21 department shall collect the county correctional facility  
22 compensating tax in the same manner and at the same time it  
23 collects the state compensating tax.

24 B. The department shall remit to each county for  
25 which it is collecting a county correctional facility gross

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1 receipts tax and a county correctional facility compensating  
2 tax the amount of the tax collected, less any disbursement for  
3 tax credits, refunds and the payment of interest applicable to  
4 the county correctional facility gross receipts tax and less  
5 administrative fees of three percent of the net amount to be  
6 transferred by the department after deductions or disbursements  
7 for tax credits, refunds and payment of interest applicable to  
8 the taxes but prior to deduction of the administrative fees  
9 that are required to be withheld pursuant to this section.

10 Transfer of the [~~tax~~] taxes to a county shall be made within  
11 the month following the month in which the [~~tax is~~] taxes are  
12 collected pursuant to the provisions of Section 7-1-6.13 NMSA  
13 1978."

14 Section 33. A new section of the County Correctional  
15 Facility Gross Receipts Tax Act, Section 7-20F-6.1 NMSA 1978,  
16 is enacted to read:

17 "7-20F-6.1. [NEW MATERIAL] COUNTY CORRECTIONAL FACILITY  
18 COMPENSATING TAX--ADDITIONAL EXEMPTION.--

19 A. Exempted from the county correctional facility  
20 compensating tax is the use of tangible personal property that:

21 (1) is subject to depreciation for federal  
22 income tax purposes; and

23 (2) at the time of acquisition or introduction  
24 into New Mexico, could not be obtained from sources within New  
25 Mexico.

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1           B. The department, by regulation or instruction,  
2 may prescribe one or more methods by which the user of property  
3 may certify that the property meets the conditions of Paragraph  
4 (2) of Subsection A of this section."

5           Section 34. Section 7-20F-7 NMSA 1978 (being Laws 1993,  
6 Chapter 303, Section 7) is amended to read:

7           "7-20F-7. REVENUE BONDS--AUTHORITY TO ISSUE--ORDINANCE  
8 AUTHORIZING ISSUE--PLEDGE OF REVENUE.--

9           A. In addition to any other law authorizing a  
10 county to issue revenue bonds, a county may issue revenue bonds  
11 pursuant to the County Correctional Facility Gross Receipts Tax  
12 Act for the purposes specified in that act. Revenue bonds  
13 issued pursuant to the County Correctional Facility Gross  
14 Receipts Tax Act may be referred to as "county correctional  
15 facility gross receipts tax revenue bonds".

16           B. A county board, by majority vote, may adopt an  
17 ordinance providing for issuance of revenue bonds pursuant to  
18 the provisions of the County Correctional Facility Gross  
19 Receipts Tax Act, the principal and interest of which shall be  
20 paid from the revenue derived by the county from the county  
21 correctional facility gross receipts tax and the county  
22 correctional facility compensating tax and any other revenue  
23 that the county may dedicate to the payment of the revenue  
24 bonds.

25           C. Revenue bonds or refunding revenue bonds issued

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1 as authorized pursuant to the County Correctional Facility  
2 Gross Receipts Tax Act are:  
3 (1) not general obligations of the county; and  
4 (2) collectible only from the county  
5 correctional facility gross receipts tax, the county  
6 correctional facility compensating tax and, if authorized,  
7 other properly pledged revenues, and each bond shall be payable  
8 solely from the properly pledged revenues and the bondholders  
9 shall not look to any other county fund for the payment of the  
10 interest and principal of the bonds."

11 Section 35. REPEAL.--Section 7-1-6.41 NMSA 1978 (being  
12 Laws 1997, Chapter 125, Section 1) is repealed.

13 Section 36. APPLICABILITY.--The provisions of this act  
14 are applicable to use of tangible personal property on or after  
15 July 1, 2007.

16 Section 37. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2007.