

HOUSE FLOOR SUBSTITUTE FOR
HOUSE BILL 412

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

AN ACT

RELATING TO TAXATION; PROHIBITING A MUNICIPALITY FROM IMPOSING
AN EXCISE TAX ON FOOD AND BEVERAGES; CHANGING DISTRIBUTIONS OF
THE LIQUOR EXCISE TAX; DISTRIBUTING A PORTION OF THE MOTOR
VEHICLE EXCISE TAX TO THE STATE ROAD FUND AND THE LOCAL
GOVERNMENTS ROAD FUND; CREATING THE LOCAL GOVERNMENT
STABILIZATION FUND; MODIFYING CERTAIN TAX CREDITS SO THAT THE
CREDITS CANNOT BE APPLIED AGAINST MODIFIED COMBINED TAX
LIABILITIES; RENAMING THE GROSS RECEIPTS TAXES TO THE STATE
SALES TAX AND THE LOCAL OPTION SALES TAXES AND THE COMPENSATING
TAX TO THE USE TAX; BASING THE RATE OF THE STATE AND LOCAL
SALES TAXES ON A FORMULA USING ESTIMATES OF BASELINE AND
REVENUE PROJECTIONS; PROVIDING THAT A PERSON WITHOUT PHYSICAL
PRESENCE IN THIS STATE THAT HAS LESS THAN ONE HUNDRED THOUSAND
DOLLARS (\$100,000) IN GROSS RECEIPTS IS NOT ENGAGING IN
BUSINESS; PROVIDING ALTERNATIVE EVIDENCE OTHER THAN A

.207939.1

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

1 NONTAXABLE TRANSACTION CERTIFICATE TO ENTITLE PERSONS TO A
2 DEDUCTION FROM GROSS RECEIPTS; DE-EARMARKING CERTAIN LOCAL
3 OPTION TAXES; REQUIRING MUNICIPALITIES AND COUNTIES TO IMPOSE A
4 LOCAL OPTION USE TAX; NARROWING THE PREMIUM TAX IN-LIEU-OF
5 PROVISION TO REVENUE AND RECEIPTS FOR WHICH THE PREMIUM TAX IS
6 ASSESSED; PROVIDING THAT CHANGES OR REPEALS OF CERTAIN LOCAL
7 OPTION GROSS RECEIPTS TAXES SHALL NOT IMPAIR OUTSTANDING
8 REVENUE BONDS; PROVIDING A MORATORIUM ON NEW INCREMENTS OF
9 LOCAL OPTION GROSS RECEIPTS OR SALES TAXES; PROVIDING THAT
10 PREVIOUSLY DEDICATED REVENUE ATTRIBUTABLE TO A LOCAL OPTION
11 GROSS RECEIPTS TAX SHALL CONTINUE TO BE DEDICATED FOR THE SAME
12 PURPOSES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA
13 1978; PROVIDING A CIVIL PENALTY; MAKING AN APPROPRIATION.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 3-18-2 NMSA 1978 (being Laws 1972,
17 Chapter 26, Section 1, as amended) is amended to read:

18 "3-18-2. PROHIBITION ON MUNICIPAL TAXING POWER.--

19 A. Unless otherwise provided by law, no
20 municipality may impose:

21 [A.] (1) an income tax;

22 [B.] (2) a tax on property measured on an ad
23 valorem, per unit or other basis; or

24 [C.] (3) any excise tax, including [~~but not~~
25 ~~limited to~~]:

1 ~~[(1)]~~ (a) sales taxes;
 2 ~~[(2)]~~ (b) gross receipts taxes; and
 3 ~~[(3)]~~ (c) excise taxes on any incident
 4 relating to: ~~[(a)]~~ 1) tobacco; ~~[(b)]~~ 2) liquor; ~~[(c)]~~ 3) food
 5 or beverages; 4) motor fuels; and ~~[(d)]~~ 5) motor vehicles.

6 ~~[D.]~~ B. However, any municipality may impose excise
 7 taxes of the sales, gross receipts or any other type on
 8 specific products and services, other than those enumerated in
 9 Subparagraph (c) of Paragraph (3) of Subsection [E] A of this
 10 section, if the products and services taxed are each named
 11 specifically in the ordinance imposing the tax on them and if
 12 the ordinance is approved by a majority vote in the
 13 municipality.

14 ~~[E. Subsections C and D]~~ C. The provisions in
 15 Paragraph (3) of Subsection A and in Subsection B of this
 16 section shall not ~~[be construed to]~~ apply to ~~[or otherwise~~
 17 ~~affect any occupation tax imposed prior to or after the~~
 18 ~~effective date of this act under Sections 3-38-1 through~~
 19 ~~3-38-12 NMSA 1978, as those sections may be amended from time~~
 20 ~~to time; provided the provisions of this subsection shall not~~
 21 ~~apply to the sale of motor vehicles]~~ a license fee authorized
 22 pursuant to Section 3-38-1 NMSA 1978."

23 **SECTION 2.** Section 3-31-1 NMSA 1978 (being Laws 1973,
 24 Chapter 395, Section 3, as amended) is amended to read:

25 "3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF

.207939.1

underscored material = new
 [bracketed material] = delete

1 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

2 A. In addition to any other law and constitutional
3 home rule powers authorizing a municipality to issue revenue
4 bonds, a municipality may issue revenue bonds pursuant to
5 Chapter 3, Article 31 NMSA 1978 for the purposes specified in
6 this section. ~~[The term "pledged revenues", as used in Chapter~~
7 ~~3, Article 31 NMSA 1978, means the revenues, net income or net~~
8 ~~revenues authorized to be pledged to the payment of particular~~
9 ~~revenue bonds as specifically provided in Subsections A through~~
10 ~~J of this section.~~

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

21 ~~B.]~~ C. Joint utility revenue bonds may be issued
22 for acquiring, extending, enlarging, bettering, repairing or
23 otherwise improving joint water facilities, sewer facilities,
24 gas facilities or electric facilities or for any combination of
25 the foregoing purposes. The municipality may pledge

1 irrevocably any or all of the net revenues from the operation
 2 of these municipal utilities for the payment of the interest on
 3 and principal of the bonds. [~~These bonds are sometimes~~
 4 ~~referred to in Chapter 3, Article 31 NMSA 1978 as "joint~~
 5 ~~utility revenue bonds" or "joint utility bonds".~~

6 ~~C. For the purposes of this subsection, "gross~~
 7 ~~receipts tax revenue bonds" means gross receipts tax revenue~~
 8 ~~bonds or sales tax revenue bonds. Gross receipts]~~

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

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

17 ~~(2) acquiring or improving municipal or public~~
 18 ~~parking lots, structures or facilities or any combination of~~
 19 ~~the foregoing;~~

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

22 ~~(4) acquiring, extending, enlarging,~~
 23 ~~bettering, repairing, otherwise improving or maintaining storm~~
 24 ~~sewers and other drainage improvements, sanitary sewers, sewage~~
 25 ~~treatment plants or water utilities, including but not~~

.207939.1

1 necessarily limited to the acquisition of rights of way and
2 water and water rights, or any combination of the foregoing;

3 (5) ~~reconstructing, resurfacing, maintaining,~~
4 ~~repairing or otherwise improving existing alleys, streets,~~
5 ~~roads or bridges or any combination of the foregoing or laying~~
6 ~~off, opening, constructing or otherwise acquiring new alleys,~~
7 ~~streets, roads or bridges or any combination of the foregoing;~~
8 ~~provided that any of the foregoing improvements may include but~~
9 ~~are not limited to the acquisition of rights of way;~~

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

15 (7) ~~purchasing or otherwise acquiring or~~
16 ~~clearing land or for purchasing, otherwise acquiring and~~
17 ~~beautifying land for open space;~~

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

23 (9) ~~acquiring, constructing, extending,~~
24 ~~enlarging, bettering, repairing, otherwise improving or~~
25 ~~maintaining solid waste disposal equipment, equipment for~~

1 ~~operation and maintenance of sanitary landfills, sanitary~~
2 ~~landfills, solid waste facilities or any combination of the~~
3 ~~foregoing; and~~

4 ~~(10) acquiring, constructing, extending,~~
5 ~~bettering, repairing or otherwise improving a public transit~~
6 ~~system or regional transit systems or facilities. The]~~
7 municipal purpose. A municipality may pledge irrevocably any
8 or all of the [~~gross receipts~~] sales tax revenue received by
9 the municipality pursuant to Section [~~7-1-6.4 or~~] 7-1-6.12 NMSA
10 1978 to the payment of the interest on and principal of the
11 [~~gross receipts~~] sales tax revenue bonds [~~for any of the~~
12 ~~purposes authorized in this section or for specific purposes]~~
13 or for any area of municipal government services [~~including but~~
14 ~~not limited to those specified in Subsection C of Section~~
15 ~~7-19D-9 NMSA 1978, or for public purposes authorized by~~
16 ~~municipalities having constitutional home rule charters]. A~~
17 law that imposes or authorizes the imposition of a municipal
18 [~~gross receipts~~] sales tax or that affects the municipal [~~gross~~
19 ~~receipts~~] sales tax, or a law supplemental thereto or otherwise
20 appertaining thereto, shall not be repealed or amended or
21 otherwise directly or indirectly modified in such a manner as
22 to impair adversely any outstanding revenue bonds that may be
23 secured by a pledge of such municipal [~~gross receipts~~] sales
24 tax unless the outstanding revenue bonds have been discharged
25 in full or provision has been fully made therefor. Revenues in

.207939.1

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

9 ~~[D. As used in this section, the term "public~~
10 ~~building" includes but is not limited to fire stations, police~~
11 ~~buildings, municipal jails, regional jails or juvenile~~
12 ~~detention facilities, libraries, museums, auditoriums,~~
13 ~~convention halls, hospitals, buildings for administrative~~
14 ~~offices, city halls and garages for housing, repairing and~~
15 ~~maintaining city vehicles and equipment. As used in Chapter 3,~~
16 ~~Article 31 NMSA 1978, the term "gross receipts tax revenue~~
17 ~~bonds" means the bonds authorized in Subsection C of this~~
18 ~~section, and the term "gross receipts tax revenue" means the~~
19 ~~amount of money distributed to the municipality as authorized~~
20 ~~by Section 7-1-6.4 NMSA 1978 or the amount of money transferred~~
21 ~~to the municipality as authorized by Section 7-1-6.12 NMSA 1978~~
22 ~~for any municipal gross receipts tax imposed pursuant to the~~
23 ~~Municipal Local Option Gross Receipts Taxes Act. As used in~~
24 ~~Chapter 3, Article 31 NMSA 1978, the term "bond" means any~~
25 ~~obligation of a municipality issued under Chapter 3, Article 31~~

1 ~~NMSA 1978, whether designated as a bond, note, loan, warrant,~~
 2 ~~debenture, lease-purchase agreement or other instrument~~
 3 ~~evidencing an obligation of a municipality to make payments.]~~

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

12 ~~[As used in Chapter 3, Article 31 NMSA 1978, "gasoline tax~~
 13 ~~revenue bonds" means the bonds authorized in this subsection,~~
 14 ~~and "gasoline tax revenue" means all or portions of the amounts~~
 15 ~~of tax revenues distributed to municipalities pursuant to~~
 16 ~~Sections 7-1-6.9 and 7-1-6.27 NMSA 1978, as from time to time~~
 17 ~~amended and supplemented.]~~

18 F. Project revenue bonds may be issued for
 19 acquiring, extending, enlarging, bettering, repairing,
 20 improving, constructing, purchasing, furnishing, equipping and
 21 rehabilitating any revenue-producing project, including, where
 22 applicable, purchasing, otherwise acquiring or improving the
 23 ground therefor, including ~~[but not necessarily limited to]~~
 24 acquiring and improving parking lots, or for any combination of
 25 the foregoing purposes. The municipality may pledge

.207939.1

1 irrevocably any or all of the net revenues from the operation
2 of the revenue-producing project for which the particular
3 project revenue bonds are issued to the payment of the interest
4 on and principal of the project revenue bonds. The net
5 revenues of any revenue-producing project may not be pledged to
6 the project revenue bonds issued for a revenue-producing
7 project that clearly is unrelated in nature; but nothing in
8 this subsection shall prevent the pledge to such project
9 revenue bonds of any revenues received from existing, future or
10 disconnected facilities and equipment that are related to and
11 that may constitute a part of the particular revenue-producing
12 project. A general determination by the governing body that
13 any facilities or equipment is reasonably related to and
14 constitutes a part of a specified revenue-producing project
15 shall be conclusive if set forth in the proceedings authorizing
16 the project revenue bonds. ~~[As used in Chapter 3, Article 31~~
17 ~~NMSA 1978:~~

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

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

23 G. Fire district revenue bonds may be issued for
24 acquiring, extending, enlarging, bettering, repairing,
25 improving, constructing, purchasing, furnishing, equipping and

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

21 H. Law enforcement protection revenue bonds may be
22 issued for the repair and purchase of law enforcement apparatus
23 and equipment that meet nationally recognized standards. The
24 municipality may pledge irrevocably any or all of the revenues
25 received by the municipality from the law enforcement

.207939.1

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

4 ~~[I. Economic development gross receipts tax revenue~~
5 ~~bonds may be issued for the purpose of furthering economic~~
6 ~~development projects as defined in the Local Economic~~
7 ~~Development Act. The municipality may pledge irrevocably any~~
8 ~~or all of the revenue received from the municipal~~
9 ~~infrastructure gross receipts tax to the payment of the~~
10 ~~interest on and principal of the economic development gross~~
11 ~~receipts tax revenue bonds for any of the purposes authorized~~
12 ~~in this subsection. A law that imposes or authorizes the~~
13 ~~imposition of a municipal infrastructure gross receipts tax or~~
14 ~~that affects the municipal infrastructure gross receipts tax,~~
15 ~~or a law supplemental to or otherwise pertaining to the tax,~~
16 ~~shall not be repealed or amended or otherwise directly or~~
17 ~~indirectly modified in such a manner as to impair adversely any~~
18 ~~outstanding revenue bonds that may be secured by a pledge of~~
19 ~~the municipal infrastructure gross receipts tax unless the~~
20 ~~outstanding revenue bonds have been discharged in full or~~
21 ~~provision has been fully made for their discharge. As used in~~
22 ~~Chapter 3, Article 31 NMSA 1978, "economic development gross~~
23 ~~receipts tax revenue bonds" means the bonds authorized in this~~
24 ~~subsection, and "municipal infrastructure gross receipts tax~~
25 ~~revenue" means any or all of the revenue from the municipal~~

.207939.1

1 ~~infrastructure gross receipts tax transferred to the~~
 2 ~~municipality pursuant to Section 7-1-6.12 NMSA 1978.~~

3 ~~J. Municipal higher education facilities gross~~
 4 ~~receipts tax revenue bonds may be issued for the purpose of~~
 5 ~~acquisition, construction, renovation or improvement of~~
 6 ~~facilities of a four-year post-secondary public educational~~
 7 ~~institution located in the municipality and acquisition of or~~
 8 ~~improvements to land for those facilities. The municipality~~
 9 ~~may pledge irrevocably any or all of the revenue received from~~
 10 ~~the municipal higher education facilities gross receipts tax to~~
 11 ~~the payment of the interest on and principal of the municipal~~
 12 ~~higher education facilities gross receipts tax revenue bonds.~~
 13 ~~A law that imposes or authorizes the imposition of a municipal~~
 14 ~~higher education facilities gross receipts tax or that affects~~
 15 ~~the municipal higher education facilities gross receipts tax,~~
 16 ~~or a law supplemental to or otherwise pertaining to the tax,~~
 17 ~~shall not be repealed or amended or otherwise directly or~~
 18 ~~indirectly modified in such a manner as to impair adversely any~~
 19 ~~outstanding revenue bonds that may be secured by a pledge of~~
 20 ~~the municipal higher education facilities gross receipts tax~~
 21 ~~unless the outstanding revenue bonds have been discharged in~~
 22 ~~full or provision has been fully made for their discharge. As~~
 23 ~~used in Chapter 3, Article 31 NMSA 1978, "municipal higher~~
 24 ~~education facilities gross receipts tax revenue bonds" means~~
 25 ~~the bonds authorized in this subsection and "municipal higher~~

.207939.1

1 ~~education facilities gross receipts tax revenue" means any or~~
2 ~~all of the revenue from the municipal higher education~~
3 ~~facilities gross receipts tax transferred to the municipality~~
4 ~~pursuant to Section 7-1-6.12 NMSA 1978.~~

5 ~~K.]~~ I. Except for the purpose of refunding previous
6 revenue bond issues, no municipality may sell revenue bonds
7 payable from pledged revenues after the expiration of two years
8 from the date of the ordinance authorizing the issuance of the
9 bonds or, for bonds to be issued and sold to the New Mexico
10 finance authority as authorized in Subsection C of Section
11 3-31-4 NMSA 1978, after the expiration of two years from the
12 date of the resolution authorizing the issuance of the bonds.
13 However, any period of time during which a particular revenue
14 bond issue is in litigation shall not be counted in determining
15 the expiration date of that issue."

16 **SECTION 3.** A new section of Chapter 3, Article 31 NMSA
17 1978 is enacted to read:

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

20 A. "bond" means any obligation of a municipality
21 issued under Chapter 3, Article 31 NMSA 1978, whether
22 designated as a bond, note, loan, warrant, debenture, lease-
23 purchase agreement or other instrument evidencing an obligation
24 of a municipality to make payments;

25 B. "gasoline tax revenue" means all or portions of

1 the amounts of tax revenues distributed to municipalities
 2 pursuant to Sections 7-1-6.9 and 7-1-6.27 NMSA 1978;

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

5 D. "joint utility revenue bonds" or "joint utility
 6 bonds" means the bonds authorized by Subsection C of Section
 7 3-31-1 NMSA 1978;

8 E. "pledged revenues" means the revenues, net
 9 income or net revenues authorized to be pledged to the payment
 10 of revenue bonds as specifically provided in Chapter 3, Article
 11 31 NMSA 1978;

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

14 G. "sales tax revenue" means the amount of money
 15 transferred to the municipality as authorized by Section
 16 7-1-6.12 NMSA 1978 for any municipal sales tax imposed pursuant
 17 to the Municipal Local Option Sales and Use Tax Act;

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

20 I. "utility revenue bonds" or "utility bonds" means
 21 the bonds authorized by Subsection B of Section 3-31-1 NMSA
 22 1978."

23 **SECTION 4.** Section 3-37A-2 NMSA 1978 (being Laws 1979,
 24 Chapter 284, Section 2, as amended) is amended to read:

25 "3-37A-2. DEFINITIONS.--As used in the Small Cities

.207939.1

1 Assistance Act:

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

6 B. "municipal share" means [~~one and thirty-five~~
7 ~~one-hundredths percent of~~] the rate determined pursuant to
8 Subsection A of Section 7-1-84 NMSA 1978 multiplied by the
9 taxable gross receipts as defined in the [~~Gross Receipts and~~
10 ~~Compensating~~] Sales and Use Tax Act reported annually for each
11 municipality to the taxation and revenue department during a
12 twelve-month period ending June 30;

13 C. "total municipal share" means the sum of all
14 municipal shares;

15 D. "statewide per capita average" means the
16 quotient of the total municipal share divided by the total
17 population in all municipalities;

18 E. "municipal per capita average" means the
19 quotient of the municipal share divided by the municipality's
20 population;

21 F. "population" means the most recent official
22 census or estimate determined by the United States census
23 bureau [~~of the census~~], or, if neither is available,
24 "population" means an estimate as determined by the local
25 government division of the department of finance and

1 administration;

2 G. "local tax effort" means the amount produced by
 3 ~~[a one-fourth of one percent municipal gross receipts tax]~~ the
 4 rate determined pursuant to Subsection B of Section 7-1-84 NMSA
 5 1978 in the previous fiscal year;

6 H. "qualifying municipality" means a municipality
 7 with a population of less than ten thousand that has enacted on
 8 or before the last day of the preceding fiscal year an
 9 ordinance or ordinances imposing a municipal ~~[gross receipts]~~
 10 sales tax ~~[pursuant to Section 7-19D-9 NMSA 1978]~~ at ~~[a rate of~~
 11 ~~one-fourth of one percent or more]~~ the rate determined pursuant
 12 to Subsection B of Section 7-1-84 NMSA 1978;

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

16 (1) for which no election has been called in
 17 the manner and within the time provided by Section 7-19D-9 NMSA
 18 1978; or

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

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

24 SECTION 5. Section 3-65-8 NMSA 1978 (being Laws 2001,
 25 Chapter 231, Section 8) is amended to read:

.207939.1

1 "3-65-8. AUTHORIZATION OF PROJECT.--

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

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

.207939.1

1 municipality to make the loan payments.

2 C. The legislature or a municipality shall not
3 repeal, amend or otherwise modify any law or ordinance that
4 adversely affects or impairs the stadium surcharge or any loan
5 from the authority secured by a pledge of the stadium surcharge
6 and [~~gross receipts~~] sales tax revenues, unless the loan has
7 been paid in full or provisions have been made for full
8 payment."

9 SECTION 6. Section 3-66-8 NMSA 1978 (being Laws 2005,
10 Chapter 351, Section 10) is amended to read:

11 "3-66-8. ISSUANCE OF BONDS.--

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

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

22 C. An action shall not be brought questioning the
23 legality of the pledge of event center revenues, event center
24 surcharge receipts or [~~gross receipts~~] sales tax revenues,
25 bonds issued pursuant to the Municipal Event Center Funding

.207939.1

1 Act, issuance of those bonds, an event center surcharge
2 included in a vendor contract or any other matter concerning
3 the bonds after thirty days from the date of publication of the
4 ordinance authorizing issuance of the bonds and the pledging of
5 event center receipts, event center surcharge receipts or
6 [~~gross receipts~~] sales tax revenues of a municipality to make
7 debt service payments.

8 D. The legislature or a municipality shall not
9 repeal, amend or otherwise modify any law or ordinance that
10 adversely affects or impairs the event center surcharge or any
11 bonds secured by a pledge of the event center revenues, event
12 center surcharge receipts or [~~gross receipts~~] sales tax
13 revenues, unless the bonds have been paid in full or provisions
14 have been made for full payment."

15 SECTION 7. Section 4-48B-12 NMSA 1978 (being Laws 1981,
16 Chapter 83, Section 12, as amended) is amended to read:

17 "4-48B-12. TAX LEVIES AUTHORIZED.--

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

.207939.1

1 (1) in class A counties as defined in Section
2 4-44-1 NMSA 1978, the mill levy shall not exceed a rate of six
3 dollars fifty cents (\$6.50), or any lower maximum amount
4 required by operation of the rate limitation provisions of
5 Section 7-37-7.1 NMSA 1978 upon a mill levy imposed pursuant to
6 this paragraph, on each one thousand dollars (\$1,000) of net
7 taxable value of property allocated to the county; however, if
8 the county uses any portion, not to exceed one dollar fifty
9 cents (\$1.50), of the rate authorized by this paragraph to meet
10 the requirement of Section 27-10-4 NMSA 1978, the provisions of
11 Section 7-37-7.1 NMSA 1978 do not apply to the portion of the
12 rate necessary to produce the revenues required; provided that
13 the portion of the rate does not exceed one dollar fifty cents
14 (\$1.50); and

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

22 B. The mill levies provided in Paragraphs (1) and
23 (2) of Subsection A of this section shall be made at the
24 direction of the county commissioners, but only to the extent
25 that the county commissioners deem it necessary to operate and

.207939.1

1 maintain county hospitals, to pay the amounts required in the
2 performance of any health care facilities contracts made
3 pursuant to the Hospital Funding Act and to provide for a class
4 A county's transfer to the county-supported medicaid fund
5 pursuant to Section 27-10-4 NMSA 1978.

6 C. In the event that the mill levy provided for in
7 Paragraph (1) of Subsection A of this section is not authorized
8 by the electorate or the resulting mill levy proceeds are not
9 remitted to the entity operating the hospital within a
10 reasonable time period, any lease for operation of the hospital
11 between a county and a state educational institution named in
12 Article 12, Section 11 of the constitution of New Mexico may,
13 at the option of the state educational institution, be
14 terminated immediately. Except as provided in Subsection D of
15 this section, in the event that the mill levy provided for in
16 Paragraph (1) of Subsection A of this section is authorized, an
17 amount not less than the amount that would be produced by a
18 mill levy at the rate of four dollars (\$4.00), or any lower
19 amount that would be required by operation of the rate
20 limitation provisions of Section 7-37-7.1 NMSA 1978 upon this
21 rate, on each one thousand dollars (\$1,000) of net taxable
22 value of property allocated to the county shall be provided
23 from the proceeds of the mill levy to the state educational
24 institution operating the hospital for hospital purposes unless
25 the institution determines that the amount is not necessary.

.207939.1

1 D. A class A county imposing the mill levy provided
 2 for in Paragraph (1) of Subsection A of this section may enter
 3 into a mutual agreement with a state educational institution
 4 named in Article 12, Section 11 of the constitution of New
 5 Mexico operating the hospital permitting the transfer to the
 6 county-supported medicaid fund by the county pursuant to
 7 Section 27-10-4 NMSA 1978 of not to exceed the amount that
 8 would be produced by a mill levy at a rate of one dollar fifty
 9 cents (\$1.50) applied to the net taxable value of property
 10 allocated to the county for the prior property tax year and
 11 also not to exceed the amount that would be produced by
 12 imposition of ~~[the county health care gross receipts tax]~~ the
 13 rate determined pursuant to Subsection C of Section 7-1-84 NMSA
 14 1978.

15 E. The distribution of the mill levy authorized at
 16 the rates specified in Subsection A of this section shall be
 17 made to county and contracting hospitals as authorized in the
 18 Hospital Funding Act."

19 **SECTION 8.** Section 4-61-2 NMSA 1978 (being Laws 1982,
 20 Chapter 44, Section 2, as amended) is amended to read:

21 "4-61-2. DEFINITIONS.--As used in the Small Counties
 22 Assistance Act:

23 A. "adjustment factor" means a fraction, the
 24 numerator of which is the net taxable value of the state for
 25 the property tax year prior to the year in which the amount of

.207939.1

1 small counties assistance is being determined and the
2 denominator of which is the net taxable value for property tax
3 year 2002; the adjustment factor shall be calculated without
4 reference to assessed value determined pursuant to the Oil and
5 Gas Ad Valorem Production Tax Act, assessed value determined
6 pursuant to the Oil and Gas Production Equipment Ad Valorem Tax
7 Act or taxable value determined pursuant to the Copper
8 Production Ad Valorem Tax Act;

9 B. "ceiling valuation" means,

10 [~~(1) for the 2002 property tax year, one~~
11 ~~billion four hundred million dollars (\$1,400,000,000); and~~
12 ~~(2)] for each [subsequent] property tax year,
13 an amount equal to the product obtained by multiplying one
14 billion four hundred million dollars (\$1,400,000,000) by the
15 adjustment factor for the year;~~

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

18 D. "inflation factor" means a fraction whose
19 numerator is the annual implicit price deflator index for state
20 and local government purchases of goods and services, as
21 published in the United States department of commerce monthly
22 publication entitled "Survey of Current Business" or any
23 successor publication prepared by an agency of the United
24 States and adopted by the department of finance and
25 administration, for the calendar year one year prior to the

1 year in which the distribution is to be made and whose
2 denominator is the annual index for calendar year 2004;
3 provided that, if the inflation factor is calculated to have a
4 value less than one, it shall be deemed to have a value of one;

5 E. "population" means the official population shown
6 by the most recent federal decennial census or, if there is a
7 change in boundaries after the date of the census, "population"
8 for each affected unit shall be the most current estimated
9 population for that unit provided in writing by the
10 demographer; provided that after five years from the first day
11 of the calendar year of the most recent federal decennial
12 census, that census shall not be used, and "population" for the
13 period from that date until the date when the next following
14 official final decennial census population data are available
15 shall be the most current estimated population provided in
16 writing by the demographer;

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

18 (1) for the property tax year in which any
19 distribution under the Small Counties Assistance Act is made to
20 the county, imposed a property tax rate for general county
21 purposes pursuant to Paragraph (1) of Subsection B of Section
22 7-37-7 NMSA 1978 as limited by Section 7-37-7.1 NMSA 1978 of at
23 least eight dollars eighty-five cents (\$8.85) per one thousand
24 dollars (\$1,000) of net taxable value;

25 (2) by July 1 of the property tax year in

.207939.1

1 which any distribution under the Small Counties Assistance Act
2 is made to the county, received a written certification from
3 the director of the property tax division of the taxation and
4 revenue department that the county assessor of that county has
5 implemented an acceptable program of maintaining current and
6 correct property values for property taxation purposes as
7 required by Section 7-36-16 NMSA 1978 or has submitted to the
8 director an acceptable plan for the implementation of such a
9 program;

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

13 (4) imposed county ~~[gross receipts]~~ sales tax
14 increments ~~[authorized pursuant to Section 7-20E-9 NMSA 1978~~
15 ~~totaling at least three-eighths percent]~~ at a rate of at least
16 the rate determined pursuant to Subsection D of Section 7-1-84
17 NMSA 1978 and has those increments in effect on July 1 of the
18 year in which a distribution is made; provided that this
19 paragraph does not apply to a county if the county's valuation
20 for property taxation purposes does not exceed the product of
21 two hundred thirty million dollars (\$230,000,000) multiplied by
22 the adjustment factor for the year; and

23 (5) a total valuation for the property tax
24 year preceding the year in which a distribution pursuant to the
25 Small Counties Assistance Act for that county is to be made

1 that is no greater than the ceiling valuation for that property
2 tax year;

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

8 H. "total valuation" means the sum for a
9 jurisdiction for a property tax year of the net taxable value
10 determined pursuant to the Property Tax Code, the assessed
11 value determined pursuant to the Oil and Gas Ad Valorem
12 Production Tax Act, the assessed value determined pursuant to
13 the Oil and Gas Production Equipment Ad Valorem Tax Act and the
14 taxable value determined pursuant to the Copper Production Ad
15 Valorem Tax Act."

16 SECTION 9. Section 4-61-3 NMSA 1978 (being Laws 1982,
17 Chapter 44, Section 3, as amended) is amended to read:

18 "4-61-3. SMALL COUNTIES ASSISTANCE FUND--
19 DISTRIBUTION.--

20 A. The "small counties assistance fund" is created
21 within the state treasury.

22 B. On or before September 1, 2003 and on or before
23 September 1 of each subsequent year, the demographer shall
24 certify in writing to the department of finance and
25 administration the population of the state and of each county

.207939.1

1 as of June 30 of the year.

2 C. On or before September 15, 2003 and on or before
3 September 15 of each subsequent year, the secretary of finance
4 and administration shall certify to the state treasurer with
5 respect to each qualifying county:

6 (1) its population as certified by the
7 demographer;

8 (2) its total valuation for the preceding
9 property tax year; and

10 (3) the distribution amount calculated for it.

11 D. The distribution amount for each qualifying
12 county shall be determined for 2003 and each subsequent year in
13 accordance with the following table; provided that the bracket
14 amounts in the first two columns of the table shall be adjusted
15 annually after 2003 by the adjustment factor. The bracket
16 amounts in the last column shall be adjusted annually after
17 2005 by the inflation factor, and, in 2011 [~~and subsequent~~
18 years] through 2018 shall also be adjusted by the tax rate
19 factor. The department of finance and administration may round
20 the results of the adjustments made pursuant to this subsection
21 to the nearest one thousand dollars (\$1,000).

22 If the county's total valuation for the preceding property
23 tax year is:

24 at least:	but less	and the county	then the distribution
25 than:		population is:	amount is:

.207939.1

underscored material = new
[bracketed material] = delete

1	\$	0	\$100,000,000	under	1,000	\$515,000
2	\$	0	\$100,000,000	at least	1,000	\$370,000
3				but under	4,000	
4	\$	0	\$100,000,000	at least	4,000	\$285,000
5	\$100,000,000	\$230,000,000		under	12,000	\$200,000
6	\$100,000,000	\$230,000,000		at least	12,000	\$145,000
7	\$230,000,000	\$1,400,000,000		under	48,000	\$ 85,000.

8 E. If the balance in the small counties assistance
9 fund as of the preceding August 31 exceeds the sum of the
10 distributions to be made to qualifying counties pursuant to
11 the provisions of Subsection D of this section, the department
12 of finance and administration shall increase the distribution
13 amount for each county receiving a distribution amount
14 pursuant to the provisions of Subsection D of this section by:

15 (1) fifty thousand dollars (\$50,000) if the
16 county has imposed and has in effect on July 1 of the year in
17 which the distribution is to be made, a county [~~correctional~~
18 ~~facility gross receipts~~] sales tax at a rate of at least [~~one-~~
19 ~~eighth percent~~] the rate determined pursuant to Subsection E
20 of Section 7-1-84 NMSA 1978 and the revenue from those
21 increments is dedicated as follows:

22 (a) for the purpose of operating,
23 maintaining, constructing, purchasing, furnishing, equipping,
24 rehabilitating, expanding or improving a judicial-correctional
25 or a county correctional facility or the grounds of a

underscored material = new
[bracketed material] = delete

1 judicial-correctional or county correctional facility,
2 including acquiring and improving parking lots, landscaping or
3 any combination of the foregoing;

4 (b) for the purpose of transporting or
5 extraditing prisoners; or

6 (c) to payment of principal and
7 interest on revenue bonds or refunding bonds issued for the
8 purposes described in Subparagraphs (a) and (b) of this
9 paragraph;

10 (2) twenty thousand dollars (\$20,000) if the
11 county has imposed and has in effect on July 1 of the year in
12 which the distribution is to be made, a county [~~gross~~
13 ~~receipts~~] sales tax increment of [~~one-sixteenth percent~~] the
14 rate determined pursuant to Subsection E of Section 7-1-84
15 NMSA 1978; or

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

19 F. If the balance in the small counties assistance
20 fund as of the preceding August 31 is less than the sum of the
21 distributions determined pursuant to Subsection D of this
22 section plus the distribution increases authorized pursuant to
23 Subsection E of this section, the distribution increases
24 pursuant to Subsection E of this section shall be
25 proportionately reduced.

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

10 H. Any interest accruing from the temporary
11 investment of the small counties assistance fund shall be
12 credited to the general fund.

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

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

.207939.1

1 SECTION 10. Section 4-62-1 NMSA 1978 (being Laws 1992,
2 Chapter 95, Section 1, as amended) is amended to read:

3 "4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF
4 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

5 A. In addition to any other law authorizing a
6 county to issue revenue bonds, a county may issue revenue
7 bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the
8 purposes specified in this section. [~~The term "pledged~~
9 ~~revenues", as used in Chapter 4, Article 62 NMSA 1978, means~~
10 ~~the revenues, net income or net revenues authorized to be~~
11 ~~pledged to the payment of particular revenue bonds as~~
12 ~~specifically provided in Subsections B through M of this~~
13 ~~section.~~]

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

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

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

25 (3) ~~purchasing, acquiring or rehabilitating~~

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

9 ~~(5) reconstructing, resurfacing, maintaining,~~
10 ~~repairing or otherwise improving existing alleys, streets,~~
11 ~~roads or bridges or any combination of the foregoing or laying~~
12 ~~off, opening, constructing or otherwise acquiring new alleys,~~
13 ~~streets, roads or bridges or any combination of the foregoing;~~
14 ~~provided that any of the foregoing improvements may include~~
15 ~~the acquisition of rights of way;~~

16 ~~(6) purchasing, acquiring, constructing,~~
17 ~~making additions to, enlarging, bettering, extending or~~
18 ~~equipping airport facilities or any combination of the~~
19 ~~foregoing, including without limitation the acquisition of~~
20 ~~land, easements or rights of way;~~

21 ~~(7) purchasing or otherwise acquiring or~~
22 ~~clearing land or purchasing, otherwise acquiring and~~
23 ~~beautifying land for open space;~~

24 ~~(8) acquiring, constructing, purchasing,~~
25 ~~equipping, furnishing, making additions to, renovating,~~

.207939.1

1 ~~rehabilitating, beautifying or otherwise improving public~~
2 ~~parks, public recreational buildings or other public~~
3 ~~recreational facilities or any combination of the foregoing;~~

4 ~~(9) acquiring, constructing, extending,~~
5 ~~enlarging, bettering, repairing or otherwise improving or~~
6 ~~maintaining solid waste disposal equipment, equipment for~~
7 ~~operation and maintenance of sanitary landfills, sanitary~~
8 ~~landfills, solid waste facilities or any combination of the~~
9 ~~foregoing; or~~

10 ~~(10) acquiring, constructing, extending,~~
11 ~~bettering, repairing or otherwise improving public transit~~
12 ~~systems or any regional transit systems or facilities] any~~
13 county purpose. A county may pledge irrevocably any or all of
14 the revenue [~~from the first one-eighth increment, the third~~
15 ~~one-eighth increment and the one-sixteenth increment of the~~
16 ~~county gross receipts tax and any increment of the county~~
17 ~~infrastructure gross receipts tax and county capital outlay~~
18 ~~gross receipts tax] received by the county pursuant to Section~~
19 7-1-6.13 NMSA 1978 for payment of principal and interest due
20 in connection with, and other expenses related to, [~~gross~~
21 ~~receipts] sales tax revenue bonds [~~for any of the purposes~~
22 ~~authorized in this section or specific purposes] or for any~~
23 area of county government services. If the revenue [~~from the~~
24 ~~first one-eighth increment, the third one-eighth increment or~~
25 ~~the one-sixteenth increment of the county gross receipts tax~~~~

.207939.1

1 ~~or any increment of the county infrastructure gross receipts~~
 2 ~~tax or county capital outlay gross receipts tax]~~ is pledged
 3 for payment of principal and interest as authorized by this
 4 subsection, the pledge shall require the revenues received
 5 ~~[from that increment of the county gross receipts tax or any~~
 6 ~~increment of the county infrastructure gross receipts tax or~~
 7 ~~county capital outlay gross receipts tax]~~ to be deposited into
 8 a special bond fund for payment of the principal, interest and
 9 expenses. At the end of each fiscal year, money remaining in
 10 the special bond fund after the annual obligations for the
 11 bonds are fully met may be transferred to any other fund of
 12 the county. Revenues in excess of the annual principal and
 13 interest due on ~~[gross receipts]~~ sales tax revenue bonds
 14 secured by a pledge of ~~[gross receipts]~~ sales tax revenue may
 15 be accumulated in a debt service reserve account. The
 16 governing body of the county may appoint a commercial bank
 17 trust department to act as trustee of the proceeds of the tax
 18 and to administer the payment of principal of and interest on
 19 the bonds.

20 ~~[C. Fire protection revenue bonds may be issued~~
 21 ~~for acquiring, extending, enlarging, bettering, repairing,~~
 22 ~~improving, constructing, purchasing, furnishing, equipping or~~
 23 ~~rehabilitating any independent fire district project or~~
 24 ~~facilities, including where applicable purchasing, otherwise~~
 25 ~~acquiring or improving the ground for the project, or any~~

.207939.1

1 ~~combination of such purposes. A county may pledge irrevocably~~
2 ~~any or all of the county fire protection excise tax revenue~~
3 ~~for payment of principal and interest due in connection with,~~
4 ~~and other expenses related to, fire protection revenue bonds.~~
5 ~~These bonds may be referred to in Chapter 4, Article 62 NMSA~~
6 ~~1978 as "fire protection revenue bonds".~~

7 ~~D. Environmental revenue bonds may be issued for~~
8 ~~the acquisition and construction of solid waste facilities,~~
9 ~~water facilities, wastewater facilities, sewer systems and~~
10 ~~related facilities. A county may pledge irrevocably any or~~
11 ~~all of the county environmental services gross receipts tax~~
12 ~~revenue for payment of principal and interest due in~~
13 ~~connection with, and other expenses related to, environmental~~
14 ~~revenue bonds. These bonds may be referred to in Chapter 4,~~
15 ~~Article 62 NMSA 1978 as "environmental revenue bonds".~~

16 ~~E.]~~ C. Gasoline tax revenue bonds may be issued
17 for the acquisition of rights of way for and the construction,
18 reconstruction, resurfacing, maintenance, repair or other
19 improvement of county roads and bridges. A county may pledge
20 irrevocably any or all of the county gasoline tax revenue for
21 payment of principal and interest due in connection with, and
22 other expenses related to, county gasoline tax revenue bonds.
23 ~~[These bonds may be referred to in Chapter 4, Article 62 NMSA~~
24 ~~1978 as "gasoline tax revenue bonds".~~

25 ~~F.]~~ D. Utility revenue bonds or joint utility

1 revenue bonds may be issued for acquiring, extending,
2 enlarging, bettering, repairing or otherwise improving water
3 facilities, sewer facilities, gas facilities or electric
4 facilities or for any combination of the foregoing purposes.
5 A county may pledge irrevocably any or all of the net revenues
6 from the operation of the utility or joint utility for which
7 the particular utility or joint utility bonds are issued to
8 the payment of principal and interest due in connection with,
9 and other expenses related to, utility or joint utility
10 revenue bonds. [~~These bonds may be referred to in Chapter 4,~~
11 ~~Article 62 NMSA 1978 as "utility revenue bonds" or "joint~~
12 ~~utility revenue bonds".~~

13 G.] E. Project revenue bonds may be issued for
14 acquiring, extending, enlarging, bettering, repairing,
15 improving, constructing, purchasing, furnishing, equipping or
16 rehabilitating any revenue-producing project, including, as
17 applicable, purchasing, otherwise acquiring or improving the
18 ground therefor and [~~including but not limited to~~] acquiring
19 and improving parking lots, or may be issued for any
20 combination of the foregoing purposes. The county may pledge
21 irrevocably any or all of the net revenues from the operation
22 of the revenue-producing project for which the particular
23 project revenue bonds are issued to the payment of the
24 interest on and principal of the project revenue bonds. The
25 net revenues of any revenue-producing project shall not be

.207939.1

1 pledged to the project revenue bonds issued for any other
2 revenue-producing project that is clearly unrelated in nature;
3 but nothing in this subsection prevents the pledge to any of
4 the project revenue bonds of the revenues received from
5 existing, future or disconnected facilities and equipment that
6 are related to and that may constitute a part of the
7 particular revenue-producing project. A general determination
8 by the governing body that facilities or equipment is
9 reasonably related to and constitutes a part of a specified
10 revenue-producing project shall be conclusive if set forth in
11 the proceedings authorizing the project revenue bonds. [~~As~~
12 ~~used in Chapter 4, Article 62 NMSA 1978:~~

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

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

18 H.] F. Fire district revenue bonds may be issued
19 for acquiring, extending, enlarging, bettering, repairing,
20 improving, constructing, purchasing, furnishing, equipping and
21 rehabilitating any fire district project, including, where
22 applicable, purchasing, otherwise acquiring or improving the
23 ground therefor, or for any combination of the foregoing
24 purposes. The county may pledge irrevocably any or all of the
25 revenues received by the fire district from the fire

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

16 ~~[I.]~~ G. Law enforcement protection revenue bonds
 17 may be issued for the repair and purchase of law enforcement
 18 apparatus and equipment that meet nationally recognized
 19 standards. The county may pledge irrevocably any or all of
 20 the revenues received by the county from the law enforcement
 21 protection fund distributions pursuant to the Law Enforcement
 22 Protection Fund Act to the payment of the interest on and
 23 principal of the law enforcement protection revenue bonds.

24 ~~[J. Hospital emergency gross receipts tax revenue~~
 25 ~~bonds may be issued for acquiring, equipping, remodeling or~~

.207939.1

1 ~~improving a county hospital or county health facility. A~~
2 ~~county may pledge irrevocably to the payment of the interest~~
3 ~~on and principal of the hospital emergency gross receipts tax~~
4 ~~revenue bonds any or all of the revenues received by the~~
5 ~~county from a county hospital emergency gross receipts tax~~
6 ~~imposed pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated~~
7 ~~to payment of bonds or a loan for acquiring, equipping,~~
8 ~~remodeling or improving a county hospital or county health~~
9 ~~facility.~~

10 ~~K. Economic development gross receipts tax revenue~~
11 ~~bonds may be issued for the purpose of furthering economic~~
12 ~~development projects as defined in the Local Economic~~
13 ~~Development Act. A county may pledge irrevocably any or all~~
14 ~~of the county infrastructure gross receipts tax to the payment~~
15 ~~of the interest on and principal of the economic development~~
16 ~~gross receipts tax revenue bonds for the purpose authorized in~~
17 ~~this subsection.~~

18 ~~L. County education gross receipts tax revenue~~
19 ~~bonds may be issued for public school or off-campus~~
20 ~~instruction program capital projects as authorized in Section~~
21 ~~7-20E-20 NMSA 1978. A county may pledge irrevocably any or~~
22 ~~all of the county education gross receipts tax revenue to the~~
23 ~~payment of interest on and principal of the county education~~
24 ~~gross receipts tax revenue bonds for the purpose authorized in~~
25 ~~this section.~~

1 ~~M.]~~ H. PILT revenue bonds may be issued by a
2 county to repay all or part of the principal and interest of
3 an outstanding loan owed by the county to the New Mexico
4 finance authority. A county may pledge irrevocably all or
5 part of PILT revenue to the payment of principal of and
6 interest on new loans or preexisting loans provided by the New
7 Mexico finance authority to finance a public project as
8 "public project" is defined in Subsection E of Section 6-21-3
9 NMSA 1978.

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

21 ~~O.]~~ J. No bonds may be issued by a county, other
22 than an H class county, a class B county as defined in Section
23 4-36-8 NMSA 1978 or a class A county as described in Section
24 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,
25 repair or construct a utility unless the utility is regulated

.207939.1

1 by the public regulation commission pursuant to the Public
2 Utility Act and the issuance of the bonds is approved by the
3 commission. For purposes of Chapter 4, Article 62 NMSA 1978,
4 a "utility" includes ~~[but is not limited to]~~ a water,
5 wastewater, sewer, gas or electric utility or joint utility
6 serving the public. H class counties shall obtain public
7 regulation commission approvals required by Section 3-23-3
8 NMSA 1978.

9 ~~[P.]~~ K. Any law that imposes or authorizes the
10 imposition of a county ~~[gross receipts tax, a county~~
11 ~~environmental services gross receipts tax, a county fire~~
12 ~~protection excise tax, a county infrastructure gross receipts~~
13 ~~tax, the county education gross receipts tax, a county capital~~
14 ~~outlay gross receipts tax, the gasoline tax or the county~~
15 ~~hospital emergency gross receipts tax, or that affects any of~~
16 ~~those taxes]~~ sales tax or that affects that tax shall not be
17 repealed or amended in such a manner as to impair outstanding
18 revenue bonds that are issued pursuant to Chapter 4, Article
19 62 NMSA 1978 and that may be secured by a pledge of ~~[those~~
20 ~~taxes]~~ that tax unless the outstanding revenue bonds have been
21 discharged in full or provision has been fully made therefor.

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

23 ~~(1) "county infrastructure gross receipts tax~~
24 ~~revenue" means the revenue from the county infrastructure~~
25 ~~gross receipts tax transferred to the county pursuant to~~

1 ~~Section 7-1-6.13 NMSA 1978;~~

2 ~~(2) "county capital outlay gross receipts tax~~
 3 ~~revenue" means the revenue from the county capital outlay~~
 4 ~~gross receipts tax transferred to the county pursuant to~~
 5 ~~Section 7-1-6.13 NMSA 1978;~~

6 ~~(3) "county education gross receipts tax~~
 7 ~~revenue" means the revenue from the county education gross~~
 8 ~~receipts tax transferred to the county pursuant to Section~~
 9 ~~7-1-6.13 NMSA 1978;~~

10 ~~(4) "county environmental services gross~~
 11 ~~receipts tax revenue" means the revenue from the county~~
 12 ~~environmental services gross receipts tax transferred to the~~
 13 ~~county pursuant to Section 7-1-6.13 NMSA 1978;~~

14 ~~(5) "county fire protection excise tax~~
 15 ~~revenue" means the revenue from the county fire protection~~
 16 ~~excise tax transferred to the county pursuant to Section~~
 17 ~~7-1-6.13 NMSA 1978;~~

18 ~~(6) "county gross receipts tax revenue" means~~
 19 ~~the revenue attributable to the first one-eighth increment,~~
 20 ~~the third one-eighth increment and the one-sixteenth increment~~
 21 ~~of the county gross receipts tax transferred to the county~~
 22 ~~pursuant to Section 7-1-6.13 NMSA 1978 and any distribution~~
 23 ~~related to the first one-eighth increment made pursuant to~~
 24 ~~Section 7-1-6.16 NMSA 1978;~~

25 ~~(7) "gasoline tax revenue" means the revenue~~

.207939.1

underscored material = new
 [bracketed material] = delete

1 ~~from that portion of the gasoline tax distributed to the~~
2 ~~county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;~~

3 ~~(8) "PILT revenue" means revenue received by~~
4 ~~the county from the federal government as payments in lieu of~~
5 ~~taxes; and~~

6 ~~(9) "public building" includes but is not~~
7 ~~limited to fire stations, police buildings, county or regional~~
8 ~~jails, county or regional juvenile detention facilities,~~
9 ~~libraries, museums, auditoriums, convention halls, hospitals,~~
10 ~~buildings for administrative offices, courthouses and garages~~
11 ~~for housing, repairing and maintaining county vehicles and~~
12 ~~equipment.~~

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

19 SECTION 11. A new section of Chapter 4, Article 62 NMSA
20 1978 is enacted to read:

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

23 A. "bond" means any obligation of a county issued
24 under Chapter 4, Article 62 NMSA 1978, whether designated as a
25 bond, note, loan, warrant, debenture, lease-purchase agreement

1 or other instrument evidencing an obligation of a county to
2 make payments;

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

5 C. "PILT revenue" means revenue received by the
6 county from the federal government as payments in lieu of
7 taxes;

8 D. "pledged revenue" means the revenue, net income
9 or net revenue authorized to be pledged to the payment of
10 particular revenue bond as specifically provided in Section
11 4-62-1 NMSA 1978;

12 E. "project revenues" means the net revenues of
13 revenue-producing projects that may be pledged to project
14 revenue bonds;

15 F. "sales tax revenue" means the revenue
16 attributable to the county sales tax transferred to the county
17 pursuant to Section 7-1-6.13 NMSA 1978 and any distribution
18 made pursuant to Section 7-1-6.16 NMSA 1978;

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

21 H. "utility revenue bonds" or "joint utility
22 revenue bonds" means the bonds authorized by Subsection D of
23 Section 4-62-1 NMSA 1978."

24 SECTION 12. Section 5-10-3 NMSA 1978 (being Laws 1993,
25 Chapter 297, Section 3, as amended) is amended to read:

.207939.1

1 "5-10-3. DEFINITIONS.--As used in the Local Economic
2 Development Act:

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

6 B. "cultural facility" means a facility that is
7 owned by the state, a county, a municipality or a qualifying
8 entity that serves the public through preserving, educating
9 and promoting the arts and culture of a particular locale,
10 including theaters, museums, libraries, galleries, cultural
11 compounds, educational organizations, performing arts venues
12 and organizations, fine arts organizations, studios and media
13 laboratories and live-work housing facilities;

14 C. "department" means the economic development
15 department;

16 D. "economic development project" or "project"
17 means the provision of direct or indirect assistance to a
18 qualifying entity by a local or regional government and
19 includes the purchase, lease, grant, construction,
20 reconstruction, improvement or other acquisition or conveyance
21 of land, buildings or other infrastructure; public works
22 improvements essential to the location or expansion of a
23 qualifying entity; payments for professional services
24 contracts necessary for local or regional governments to
25 implement a plan or project; the provision of direct loans or

1 grants for land, buildings or infrastructure; technical
 2 assistance to cultural facilities; loan guarantees securing
 3 the cost of land, buildings or infrastructure in an amount not
 4 to exceed the revenue that may be derived from [~~the municipal~~
 5 ~~infrastructure gross receipts tax or the county infrastructure~~
 6 ~~gross receipts tax~~] an increment of a local option sales tax
 7 imposed by a municipality or county that is dedicated for
 8 furthering or implementing economic development plans and
 9 projects as defined in the Local Economic Development Act or
 10 projects as defined in the Statewide Economic Development
 11 Finance Act; grants for public works infrastructure
 12 improvements essential to the location or expansion of a
 13 qualifying entity; grants or subsidies to cultural facilities;
 14 purchase of land for a publicly held industrial park or a
 15 publicly owned cultural facility; and the construction of a
 16 building for use by a qualifying entity;

17 E. "governing body" means the city council, city
 18 commission or board of trustees of a municipality or the board
 19 of county commissioners of a county;

20 F. "local government" means a municipality or
 21 county;

22 G. "municipality" means an incorporated city, town
 23 or village;

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

.207939.1

1 I. "qualifying entity" means a corporation,
2 limited liability company, partnership, joint venture,
3 syndicate, association or other person that is one or a
4 combination of two or more of the following:

5 (1) an industry for the manufacturing,
6 processing or assembling of agricultural or manufactured
7 products;

8 (2) a commercial enterprise for storing,
9 warehousing, distributing or selling products of agriculture,
10 mining or industry, but, other than as provided in Paragraph
11 (5), (6) or (9) of this subsection, not including any
12 enterprise for sale of goods or commodities at retail or for
13 distribution to the public of electricity, gas, water or
14 telephone or other services commonly classified as public
15 utilities;

16 (3) a business, including a restaurant or
17 lodging establishment, in which all or part of the activities
18 of the business involves the supplying of services to the
19 general public or to governmental agencies or to a specific
20 industry or customer, but, other than as provided in Paragraph
21 (5) or (9) of this subsection, not including businesses
22 primarily engaged in the sale of goods or commodities at
23 retail;

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

.207939.1

1 (5) a telecommunications sales enterprise
2 that makes the majority of its sales to persons outside
3 New Mexico;

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

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

9 (8) a cultural facility; and

10 (9) a retail business;

11 J. "regional government" means any combination of
12 municipalities and counties that enter into a joint powers
13 agreement to provide for economic development projects
14 pursuant to a plan adopted by all parties to the joint powers
15 agreement; and

16 K. "retail business" means a business that is
17 primarily engaged in the sale of goods or commodities at
18 retail and that is located in a municipality with a
19 population, according to the most recent federal decennial
20 census, of:

21 (1) ten thousand or less; or

22 (2) more than ten thousand but less than
23 thirty-five thousand if:

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

.207939.1

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

5 SECTION 13. Section 5-10-4 NMSA 1978 (being Laws 1993,
6 Chapter 297, Section 4, as amended) is amended to read:

7 "5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON
8 PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

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

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

22 (1) the value of any land or building
23 contributed to any project pursuant to a project participation
24 agreement;

25 (2) revenue generated through the imposition

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

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

24 (4) the proceeds of a revenue bond issue to
 25 which municipal ~~[infrastructure gross receipts]~~ sales tax

.207939.1

1 revenue that is dedicated for furthering or implementing
2 economic development plans and projects as defined in the
3 Local Economic Development Act or projects as defined in the
4 Statewide Economic Development Finance Act is pledged;

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

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

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

22 [~~D. In order to expend money from an economic~~
23 ~~development fund for arts and cultural district purposes,~~
24 ~~cultural facilities or retail businesses, the governing body~~
25 ~~of a municipality or county that has imposed a municipal or~~

~~1 county local option infrastructure gross receipts tax for
 2 furthering or implementing economic development plans and
 3 projects, as defined in the Local Economic Development Act, or
 4 projects, as defined in the Statewide Economic Development
 5 Finance Act, by referendum of the majority of the voters
 6 voting on the question approving the ordinance imposing the
 7 municipal or county infrastructure gross receipts tax before
 8 July 1, 2013 shall be required to adopt a resolution. The
 9 resolution shall call for an election to approve arts and
 10 cultural districts as a qualifying purpose and cultural
 11 facilities or retail businesses as a qualifying entity before
 12 any revenue generated by the municipal or county local option
 13 gross receipts tax for furthering or implementing economic
 14 development plans and projects, as defined in the Local
 15 Economic Development Act, or projects, as defined in the
 16 Statewide Economic Development Finance Act, can be expended
 17 from the economic development fund for arts and cultural
 18 district purposes, cultural facilities or retail businesses.~~

~~19 E. The governing body shall adopt a resolution
 20 calling for an election within seventy-five days of the date
 21 the ordinance is adopted on the question of approving arts and
 22 cultural districts as a qualifying purpose and cultural
 23 facilities or retail businesses as a qualifying entity
 24 eligible to utilize revenue generated by the Municipal Local
 25 Option Gross Receipts Taxes Act or the County Local Option~~

.207939.1

1 ~~Gross Receipts Taxes Act for furthering or implementing~~
2 ~~economic development plans and projects as defined in the~~
3 ~~Local Economic Development Act or projects as defined in the~~
4 ~~Statewide Economic Development Finance Act.~~

5 ~~F. The question shall be submitted to the voters~~
6 ~~of the municipality or county as a separate question at a~~
7 ~~regular municipal or county election or at a special election~~
8 ~~called for that purpose by the governing body. A special~~
9 ~~municipal election shall be called, conducted and canvassed as~~
10 ~~provided in the Municipal Election Code. A special county~~
11 ~~election shall be called, conducted and canvassed in~~
12 ~~substantially the same manner as provided by law for general~~
13 ~~elections.~~

14 ~~G. If a majority of the voters voting on the~~
15 ~~question approves the ordinance adding arts and cultural~~
16 ~~districts and cultural facilities or retail businesses as an~~
17 ~~approved use of the local option municipal or county economic~~
18 ~~development infrastructure gross receipts tax fund, the~~
19 ~~ordinance shall become effective on July 1 or January 1,~~
20 ~~whichever date occurs first after the expiration of three~~
21 ~~months from the date of the adopted ordinance. The ordinance~~
22 ~~shall include the effective date.]"~~

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

25 "5-15-3. DEFINITIONS.--As used in the Tax Increment for

.207939.1

1 Development Act:

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

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

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

19 B. "base property taxes" means:

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

.207939.1

underscored material = new
 [bracketed material] = delete

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

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

15 C. "county [~~option gross receipts~~] sales taxes"
16 means gross receipts or sales taxes imposed by counties
17 [~~pursuant to the County Local Option Gross Receipts Taxes Act~~]
18 and designated by the governing body of the county to be
19 available as part of the [~~gross receipts~~] sales tax increment;

20 D. "district" means a tax increment development
21 district;

22 E. "district board" means a board formed in
23 accordance with the provisions of the Tax Increment for
24 Development Act to govern a [~~tax increment development~~]
25 district;

1 F. "enhanced services" means public services
2 provided by a municipality or county within the district at a
3 higher level or to a greater degree than otherwise available
4 to the land located in the district from the municipality or
5 county, including such services as public safety, fire
6 protection, street or sidewalk cleaning or landscape
7 maintenance in public areas; provided that "enhanced services"
8 does not include the basic operation and maintenance related
9 to infrastructure improvements financed by the district
10 pursuant to the Tax Increment for Development Act;

11 G. "governing body" means the city council or city
12 commission of a city, the board of trustees or council of a
13 town or village or the board of county commissioners of a
14 county;

15 ~~[H. "gross receipts tax increment" means the gross~~
16 ~~receipts taxes collected within a tax increment development~~
17 ~~district in excess of the base gross receipts taxes collected~~
18 ~~for the duration of the existence of a tax increment~~
19 ~~development district and distributed to the district in the~~
20 ~~same manner as distributions are made under the provisions of~~
21 ~~the Tax Administration Act;~~

22 ~~I. "gross receipts tax increment bonds" means~~
23 ~~bonds issued by a district in accordance with the Tax~~
24 ~~Increment for Development Act, the pledged revenue for which~~
25 ~~is a gross receipts tax increment;~~

.207939.1

1 ~~J.~~ H. "local government" means a municipality or
2 county;

3 ~~K.~~ I. "municipal ~~[option gross receipts]~~ sales
4 taxes" means ~~[those]~~ gross receipts or sales taxes imposed by
5 municipalities ~~[pursuant to the Municipal Local Option Gross~~
6 ~~Receipts Taxes Act]~~ and designated by the governing body of
7 the municipality to be available as part of the ~~[gross~~
8 ~~receipts]~~ sales tax increment;

9 ~~L.~~ J. "municipality" means an incorporated city,
10 town or village;

11 ~~M.~~ K. "owner" means a person owning real
12 property within the boundaries of a district;

13 ~~N.~~ L. "person" means an individual, corporation,
14 association, partnership, limited liability company or other
15 legal entity;

16 ~~O.~~ M. "project" means a tax increment
17 development project;

18 ~~P.~~ N. "property tax increment" means all
19 property tax collected on real property within the designated
20 tax increment development area that is in excess of the base
21 property tax until termination of the district and distributed
22 to the district in the same manner as distributions are made
23 under the provisions of the Tax Administration Act;

24 ~~Q.~~ O. "property tax increment ~~[bonds]~~ bond"
25 means ~~[bonds]~~ a bond issued by a district in accordance with

1 the Tax Increment for Development Act, the pledged revenue for
2 which is a property tax increment;

3 ~~[R.]~~ P. "public improvements" means on-site
4 improvements and off-site improvements that directly or
5 indirectly benefit a ~~[tax increment development]~~ district or
6 facilitate development within a tax increment development area
7 and that are dedicated to the governing body in which the
8 district lies. "Public improvements" ~~[include]~~ includes:

9 (1) sanitary sewage systems, including
10 collection, transport, treatment, dispersal, effluent use and
11 discharge;

12 (2) drainage and flood control systems,
13 including collection, transport, storage, treatment,
14 dispersal, effluent use and discharge;

15 (3) water systems for domestic, commercial,
16 office, hotel or motel, industrial, irrigation, municipal or
17 fire protection purposes, including production, collection,
18 storage, treatment, transport, delivery, connection and
19 dispersal;

20 (4) highways, streets, roadways, bridges,
21 crossing structures and parking facilities, including all
22 areas for vehicular use for travel, ingress, egress and
23 parking;

24 (5) trails and areas for pedestrian,
25 equestrian, bicycle or other non-motor vehicle use for travel,

.207939.1

1 ingress, egress and parking;

2 (6) pedestrian and transit facilities, parks,
3 recreational facilities and open space areas for the use of
4 members of the public for entertainment, assembly and
5 recreation;

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

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

10 (9) electrical generation, transmission and
11 distribution facilities;

12 (10) natural gas distribution facilities;

13 (11) lighting systems;

14 (12) cable or other telecommunications lines
15 and related equipment;

16 (13) traffic control systems and devices,
17 including signals, controls, markings and signage;

18 (14) school sites and facilities with the
19 consent of the governing board of the public school district
20 for which the facility is to be acquired, constructed or
21 renovated;

22 (15) library and other public educational or
23 cultural facilities;

24 (16) equipment, vehicles, furnishings and
25 other personal property related to the items listed in this

1 subsection;

2 (17) inspection, construction management,
 3 planning and program management and other professional
 4 services costs incidental to the project;

5 (18) workforce housing; and

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

8 ~~[S.]~~ Q. "resident qualified elector" means a
 9 person who resides within the boundaries of a ~~[tax increment~~
 10 ~~development]~~ district or proposed ~~[tax increment development]~~
 11 district and who is qualified to vote in the general elections
 12 held in the state pursuant to Section 1-1-4 NMSA 1978;

13 R. "sales tax increment" means the sales taxes
 14 collected within a district in excess of the base sales taxes
 15 collected for the duration of the existence of a district and
 16 distributed to the district in the same manner as
 17 distributions are made under the provisions of the Tax
 18 Administration Act;

19 S. "sales tax increment bonds" means bonds issued
 20 by a district in accordance with the Tax Increment for
 21 Development Act, the pledged revenue for which is a sales tax
 22 increment;

23 T. "state ~~[gross receipts]~~ sales tax" means ~~[the]~~
 24 gross receipts or state sales tax imposed pursuant to the
 25 ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act but

.207939.1

underscored material = new
 [bracketed material] = delete

1 does not include that portion distributed to municipalities
2 pursuant to [~~Sections 7-1-6.4 and~~] Section 7-1-6.46 NMSA 1978
3 or to counties pursuant to Section 7-1-6.47 NMSA 1978;

4 U. "sustainable development" means land
5 development that achieves sustainable economic and social
6 goals in ways that can be supported for the long term by
7 conserving resources, protecting the environment and ensuring
8 human health and welfare using mixed-use, pedestrian-oriented,
9 multimodal land use planning;

10 V. "tax increment development area" means the land
11 included within the boundaries of a [~~tax increment~~
12 ~~development~~] district;

13 W. "tax increment development district" means a
14 district formed for the purposes of carrying out [~~tax~~
15 ~~increment development~~] projects;

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

18 Y. "tax increment development project" means
19 activities undertaken within a tax increment development area
20 to enhance the sustainability of the local, regional or
21 statewide economy; to support the creation of jobs, schools
22 and workforce housing; and to generate tax revenue for the
23 provision of public improvements and may include:

24 (1) acquisition of land within a designated
25 tax increment development area or a portion of that tax

1 increment development area;

2 (2) demolition and removal of buildings and
 3 improvements and installation, construction or reconstruction
 4 of streets, utilities, parks, playgrounds and improvements
 5 necessary to carry out the objectives of the Tax Increment for
 6 Development Act;

7 (3) installation, construction or
 8 reconstruction of streets, water utilities, sewer utilities,
 9 parks, playgrounds and other public improvements necessary to
 10 carry out the objectives of the Tax Increment for Development
 11 Act;

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

17 (5) payments for professional services
 18 contracts necessary to implement a tax increment development
 19 plan or project;

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

25 (7) grants for public improvements essential

.207939.1

underscored material = new
 [bracketed material] = delete

1 to the location or expansion of a business;

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

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

16 (1) determination of mortgage amounts and
17 payments are to be based on down payment rates and interest
18 rates generally available to lower- and moderate-income
19 households; and

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

25 SECTION 15. Section 5-15-15 NMSA 1978 (being Laws 2006,

.207939.1

1 Chapter 75, Section 15, as amended) is amended to read:

2 "5-15-15. TAX INCREMENT FINANCING--~~[GROSS RECEIPTS]~~

3 SALES TAX INCREMENT--

4 A. Notwithstanding any law to the contrary, but in
 5 accordance with the provisions of the Tax Increment for
 6 Development Act, a tax increment development plan, as
 7 originally approved or as later modified, may contain a
 8 provision that a portion of certain ~~[gross receipts]~~ sales tax
 9 increments collected within the tax increment development area
 10 after the effective date of approval of the tax increment
 11 development plan may be dedicated for the purpose of securing
 12 ~~[gross receipts]~~ sales tax increment bonds pursuant to the Tax
 13 Increment for Development Act.

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

24 (1) municipal ~~[gross receipts]~~ sales tax
 25 authorized pursuant to the Municipal Local Option ~~[Gross~~

.207939.1

underscored material = new
 [bracketed material] = delete

1 ~~Receipts Taxes~~] Sales and Use Tax Act;

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

5 ~~(3) municipal infrastructure gross receipts~~
6 ~~tax authorized pursuant to the Municipal Local Option Gross~~
7 ~~Receipts Taxes Act~~;

8 ~~(4) municipal capital outlay gross receipts~~
9 ~~tax authorized pursuant to the Municipal Local Option Gross~~
10 ~~Receipts Taxes Act~~;

11 ~~(5) municipal regional transit gross receipts~~
12 ~~tax authorized pursuant to the Municipal Local Option Gross~~
13 ~~Receipts Taxes Act~~;

14 ~~(6)]~~ (2) an amount distributed to
15 municipalities pursuant to [~~Sections 7-1-6.4 and~~] Section
16 7-1-1-6.46 NMSA 1978; and

17 ~~[(7)]~~ (3) the state [~~gross receipts~~] sales
18 tax.

19 C. As to a district formed by a county, all or a
20 portion of any of the following [~~gross receipts~~] sales tax
21 increments may be paid by the state directly into a special
22 fund of the district to pay the principal of, the interest on
23 and any premium due in connection with the bonds of, loans or
24 advances to or any indebtedness incurred by, whether funded,
25 refunded, assumed or otherwise, the district for financing or

underscored material = new
[bracketed material] = delete

1 refinancing, in whole or in part, a [~~tax increment~~
 2 ~~development~~] project within the tax increment development
 3 area:

4 (1) county [~~gross receipts~~] sales tax
 5 authorized pursuant to the County Local Option [~~Gross Receipts~~
 6 ~~Taxes~~] Sales and Use Tax Act;

7 [~~(2) county environmental services gross~~
 8 ~~receipts tax authorized pursuant to the County Local Option~~
 9 ~~Gross Receipts Taxes Act;~~

10 [~~(3) county infrastructure gross receipts tax~~
 11 ~~authorized pursuant to the County Local Option Gross Receipts~~
 12 ~~Taxes Act;~~

13 [~~(4) county capital outlay gross receipts tax~~
 14 ~~authorized pursuant to the County Local Option Gross Receipts~~
 15 ~~Taxes Act;~~

16 [~~(5) county regional transit gross receipts~~
 17 ~~tax authorized pursuant to the County Local Option Gross~~
 18 ~~Receipts Taxes Act;~~

19 ~~(6)]~~ (2) the amount distributed to counties
 20 pursuant to Section 7-1-6.47 NMSA 1978; and

21 [~~(7)]~~ (3) the state [~~gross receipts~~] sales
 22 tax.

23 [~~D. The gross receipts tax increment generated by~~
 24 ~~the imposition of municipal or county local option gross~~
 25 ~~receipts taxes specified by statute for particular purposes~~

.207939.1

underscored material = new
 [bracketed material] = delete

1 ~~may nonetheless be dedicated for the purposes of the Tax~~
2 ~~Increment for Development Act if intent to do so is set forth~~
3 ~~in the tax increment development plan approved by the~~
4 ~~governing body, if the purpose for which the increment is~~
5 ~~intended to be used is consistent with the purposes set forth~~
6 ~~in the statute authorizing the municipal or county local~~
7 ~~option gross receipts tax.~~

8 ~~E.~~ D. An imposition of a [~~gross receipts~~] sales
9 tax increment attributable to the imposition of a [~~gross~~
10 ~~receipts~~] sales tax by a taxing entity may be dedicated for
11 the purpose of securing [~~gross receipts~~] sales tax increment
12 bonds with the agreement of the taxing entity, evidenced by a
13 resolution adopted by a majority vote of that taxing entity.
14 A taxing entity shall not agree to dedicate for the purposes
15 of securing [~~gross receipts~~] sales tax increment bonds more
16 than seventy-five percent of its [~~gross receipts~~] sales tax
17 increment attributable to the imposition of [~~gross receipts~~]
18 sales taxes by the taxing entity. A resolution of the taxing
19 entity to dedicate a [~~gross receipts~~] sales tax increment or
20 to increase the dedication of a [~~gross receipts~~] sales tax
21 increment shall become effective only on January 1 or July 1
22 of the calendar year.

23 ~~[F.]~~ E. An imposition of a [~~gross receipts~~] sales
24 tax increment attributable to the imposition of the state
25 [~~gross receipts~~] sales tax within a district [~~less the~~

1 ~~distributions made pursuant to Section 7-1-6.4 NMSA 1978~~ may
 2 be dedicated for the purpose of securing [~~gross receipts~~]
 3 sales tax increment bonds with the agreement of the state
 4 board of finance, evidenced by a resolution adopted by a
 5 majority vote of the state board of finance. The state board
 6 of finance shall not agree to dedicate more than seventy-five
 7 percent of the [~~gross receipts~~] sales tax increment
 8 attributable to the imposition of the state [~~gross receipts~~]
 9 sales tax within the district. The resolution of the state
 10 board of finance shall become effective only on January 1 or
 11 July 1 of the calendar year and shall find that:

12 (1) the state board of finance has reviewed
 13 the request for the use of the state [~~gross receipts~~] sales
 14 tax;

15 (2) based upon review by the state board of
 16 finance of the applicable tax increment development plan, the
 17 dedication by the state board of finance of a portion of the
 18 [~~gross receipts~~] sales tax increment attributable to the
 19 imposition of the state [~~gross receipts~~] sales tax within the
 20 district for use in meeting the required goals of the tax
 21 increment plan is reasonable and in the best interest of the
 22 state; and

23 (3) the use of the state [~~gross receipts~~]
 24 sales tax is likely to stimulate the creation of jobs,
 25 economic opportunities and general revenue for the state

.207939.1

1 through the addition of new businesses to the state and the
2 expansion of existing businesses within the state.

3 [G.] F. The governing body of the jurisdiction in
4 which a [~~tax increment development~~] district has been
5 established shall timely notify the assessor of the county in
6 which the district has been established, the taxation and
7 revenue department and the local government division of the
8 department of finance and administration when:

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

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

14 (3) the purposes of the district have
15 otherwise been achieved."

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

18 "5-16-3. DEFINITIONS.--As used in the Regional Spaceport
19 District Act:

20 A. "authority" means the spaceport authority
21 created pursuant to the Spaceport Development Act;

22 B. "board" means the board of directors of a
23 district;

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

1 ~~D.~~ C. "combination" means two or more
2 governmental units that exercise joint authority;

3 ~~E.~~ D. "district" means a regional spaceport
4 district that is a political subdivision of the state created
5 pursuant to the Regional Spaceport District Act;

6 ~~F.~~ E. "governmental unit" means the state, a
7 county or a municipality of the state or an Indian nation,
8 tribe or pueblo located within the boundaries of the state;

9 ~~G.~~ F. "project" means any land, building or
10 other improvements acquired as part of a spaceport or
11 associated with a spaceport or to aid commerce in connection
12 with a spaceport and all real and personal property deemed
13 necessary in connection with the spaceport;

14 ~~H.~~ G. "revenues" means municipal [~~regional~~
15 ~~spaceport gross receipts tax revenues~~] and county [~~regional~~
16 ~~spaceport gross receipts~~] sales tax revenues dedicated to a
17 district for the financing, planning, designing, engineering
18 and construction of a regional spaceport pursuant to the
19 Regional Spaceport District Act; and

20 ~~I.~~ H. "spaceport" means any facility in New
21 Mexico at which space vehicles may be launched or landed,
22 including all facilities and support infrastructure related to
23 launch, landing or payload processing."

24 SECTION 17. Section 5-16-13 NMSA 1978 (being Laws 2006,
25 Chapter 15, Section 13) is amended to read:

.207939.1

1 "5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.--Each
2 governmental unit that is a county or municipality and is a
3 member of a combination shall have enacted a municipal
4 [~~regional spaceport gross receipts tax~~] or [a] county
5 [~~regional spaceport gross receipts~~] sales tax prior to
6 December 31, 2008 that is dedicated to a district for the
7 financing, planning, designing, engineering and construction
8 of a regional spaceport pursuant to the Regional Spaceport
9 District Act. At least seventy-five percent of the dedicated
10 municipal [~~regional spaceport gross receipts tax~~] or county
11 [~~regional spaceport gross receipts~~] sales tax revenues
12 received by each governmental unit must be used by the
13 district for the financing, planning, designing, engineering
14 and construction of a regional spaceport. No more than
15 twenty-five percent of the dedicated municipal [~~regional~~
16 ~~spaceport gross receipts tax~~] or county [~~regional spaceport~~
17 ~~gross receipts~~] sales tax revenues may be used by the
18 governmental unit enacting the tax for spaceport-related
19 projects as approved by resolution of the governmental unit."

20 SECTION 18. Section 6-6A-3 NMSA 1978 (being Laws 1985,
21 Chapter 214, Section 3) is amended to read:

22 "6-6A-3. LEASEHOLD COMMUNITY ASSISTANCE FUND--
23 CREATION--~~[DISPOSITION]~~ DISPOSITION.--

24 A. There is created in the state treasury the
25 "leasehold community assistance fund". The purpose of the

1 fund is to provide leasehold communities with assistance in
2 meeting their operating budgets.

3 B. The leasehold community assistance fund shall
4 be administered by the local government division of the
5 department of finance and administration. The division shall
6 determine the funds the leasehold community is eligible to
7 receive from the fund by calculating the amount of money a
8 municipality of similar size receives under all appropriate
9 state laws. Such sources shall include [~~but not be limited~~
10 ~~to~~]:

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

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

.207939.1

1 (1) require each leasehold community to
2 furnish and file with the division, on or before June 1 of
3 each year, a proposed budget for the next fiscal year;

4 (2) examine each proposed budget and, on or
5 before July 1 of each year, approve and certify to each
6 leasehold community an operating budget for use pending
7 approval of a final budget;

8 (3) hold public hearings on proposed budgets;

9 (4) make corrections, revisions and
10 amendments to the proposed budgets as may be necessary to meet
11 the requirements of law;

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

16 (6) require periodic financial reports of
17 leasehold communities. The reports shall contain the
18 pertinent details regarding applications for federal money or
19 federal grants-in-aid or regarding federal money or federal
20 grants-in-aid received, including [~~but not limited to~~] details
21 of programs, matching funds, personnel requirements, salary
22 provisions and program numbers, as indicated in the catalog of
23 federal domestic assistance, of the federal funds applied for
24 and of those received;

25 (7) with written approval of the secretary of

1 finance and administration and the attorney general, increase
 2 the total budget of any leasehold community in the event the
 3 leasehold community undertakes an activity, service, project
 4 or construction program [~~which~~] that was not contemplated at
 5 the time the final budget was adopted and approved and which
 6 activity, service, project or construction program will
 7 produce sufficient revenue to cover the increase in the budget
 8 or the leasehold community has surplus funds on hand not
 9 necessary to meet the expenditures provided for in the budget
 10 with which to cover the increase in the budget;

11 (8) supervise the disbursement of funds to
 12 the end that expenditures will not be made in excess of
 13 budgeted items or for items not budgeted and that there will
 14 not be illegal expenditures;

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

17 (10) with the approval of the secretary of
 18 finance and administration, make rules and regulations
 19 relating to budgets, records, reports, handling and
 20 disbursement of public funds or in any manner relating to the
 21 financial affairs of the leasehold communities."

22 SECTION 19. Section 6-14-2 NMSA 1978 (being Laws 1970,
 23 Chapter 10, Section 2, as amended) is amended to read:

24 "6-14-2. DEFINITIONS.--As used in the Public Securities
 25 Act:

.207939.1

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

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

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

- 21 (1) the Industrial Revenue Bond Act;
- 22 (2) the County Improvement District Act;
- 23 (3) Sections 3-33-1 through 3-33-43 NMSA
24 1978;
- 25 (4) the Pollution Control Revenue Bond Act;

.207939.1

1 (5) the County Pollution Control Revenue Bond
 2 Act;
 3 (6) the County Industrial Revenue Bond Act;
 4 (7) the Metropolitan Redevelopment Code;
 5 [~~(8) the Supplemental Municipal Gross~~
 6 ~~Receipts Tax Act;~~
 7 ~~(9)~~ (8) the Hospital Equipment Loan Act; or
 8 [~~(10)~~ (9) the New Mexico Finance Authority
 9 Act."

10 SECTION 20. Section 6-22-2 NMSA 1978 (being Laws 1992,
 11 Chapter 105, Section 2) is amended to read:

12 "6-22-2. DEFINITIONS.--As used in the State Aid
 13 Intercept Act:

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

17 B. "local government" means a municipality or
 18 county;

19 C. "local revenue bond" means a bond issued after
 20 July 1, 1992 pursuant to Sections 3-33-1 through 3-33-43 NMSA
 21 1978 or Chapter 4, Article 62 NMSA 1978;

22 D. "qualified local revenue bond" means a local
 23 revenue bond for which a state distributions intercept
 24 authorization has been granted pursuant to this section;

25 E. "secretary" means the secretary of finance and

1 administration; and

2 F. "state distributions" means any or all of the
3 funds distributed to local governments pursuant to Section
4 ~~[7-1-6.4]~~ 7-1-6.9 ~~[and Subsection B of Section 7-1-6.11]~~ NMSA
5 1978."

6 SECTION 21. Section 6-25-7 NMSA 1978 (being Laws 2003,
7 Chapter 349, Section 7, as amended) is amended to read:

8 "6-25-7. PROJECT REVENUE BONDS.--

9 A. The authority may issue project revenue bonds
10 on behalf of an eligible entity to provide funds for a
11 project. Project revenue bonds issued pursuant to the
12 Statewide Economic Development Finance Act shall not be a
13 general obligation of the authority or the state within the
14 meaning of any provision of the constitution of New Mexico and
15 shall never give rise to a pecuniary liability of the
16 authority or the state or a charge against the general credit
17 or taxing powers of the state. Project revenue bonds shall be
18 payable from the revenue derived from a project being financed
19 by the bonds and from other revenues pledged by an eligible
20 entity and may be secured in such manner as provided in the
21 Statewide Economic Development Finance Act and as determined
22 by the authority. Project revenue bonds may be executed and
23 delivered at any time, may be in such form and denominations,
24 may be payable in installments and at times not exceeding
25 thirty years from their date of delivery, may bear or accrete

.207939.1

1 interest at a rate or rates and may contain such provisions
2 not inconsistent with the Statewide Economic Development
3 Finance Act, all as provided in the resolution and proceedings
4 of the authority authorizing issuance of the bonds. Project
5 revenue bonds issued by the authority pursuant to the
6 Statewide Economic Development Finance Act may be sold at
7 public or private sale in such manner and from time to time as
8 may be determined by the authority, and the authority may pay
9 all expenses that the authority may determine necessary in
10 connection with the authorization, sale and issuance of the
11 bonds. All project revenue bonds issued pursuant to the
12 Statewide Economic Development Finance Act shall be
13 negotiable.

14 B. The principal of and interest on project
15 revenue bonds issued pursuant to the Statewide Economic
16 Development Finance Act shall be secured by a pledge of the
17 revenues of the project being financed with the proceeds of
18 the bonds, may be secured by a mortgage of all or a part of
19 the project being financed or other collateral pledged by an
20 eligible entity and may be secured by the lease of such
21 project, which collateral and lease may be assigned, in whole
22 or in part, by the department to the authority or to third
23 parties to carry out the purposes of the Statewide Economic
24 Development Finance Act. The resolution of the authority
25 pursuant to which the project revenue bonds are authorized to

.207939.1

1 be issued or any such mortgage may contain any agreement and
2 provisions customarily contained in instruments securing
3 bonds, including provisions respecting the fixing and
4 collection of all revenues from any project to which the
5 resolution or mortgage pertains, the terms to be incorporated
6 in the lease of the project, the maintenance and insurance of
7 the project, the creation and maintenance of special funds
8 from the revenues of the project and the rights and remedies
9 available in event of default to the bondholders or to the
10 trustee under a mortgage, all as determined by the authority
11 or the department and as shall not be in conflict with the
12 Statewide Economic Development Finance Act; provided, however,
13 that, in making any such agreements or provisions, the
14 authority and the department may not obligate themselves
15 except with respect to the project and application of the
16 revenues from the project, and except as expressly permitted
17 by the Statewide Economic Development Finance Act, and shall
18 not have the power to incur a pecuniary liability or a charge
19 or to pledge the general credit or taxing power of the state.
20 The resolution authorizing the issuance of project revenue
21 bonds may provide procedures and remedies in the event of
22 default in payment of the principal of or interest on the
23 bonds or in the performance of any agreement. No breach of
24 any such agreement shall impose any pecuniary liability upon
25 the authority, the department or the state or any charge

.207939.1

1 against the general credit or taxing powers of the state.

2 C. The authority may arrange for such other
3 guarantees, insurance or other credit enhancements or
4 additional security provided by an eligible entity as
5 determined by the authority for the project revenue bonds and
6 may provide for the payment of the costs from the proceeds of
7 the bonds or may require payment of the costs by the eligible
8 entity on whose behalf the bonds are issued.

9 D. Project revenue bonds issued to finance a
10 project may also be secured by pledging a portion of the
11 qualifying municipal or county [~~infrastructure gross receipts~~]
12 sales tax revenues by the municipality or county in which the
13 project is located, as permitted by the Local Economic
14 Development Act.

15 E. The project revenue bonds and the income from
16 the bonds, all mortgages or other instruments executed as
17 security for the bonds, all lease agreements made pursuant to
18 the provisions of the Statewide Economic Development Finance
19 Act and revenue derived from any sale or lease of a project
20 shall be exempt from all taxation by the state or any
21 political subdivision of the state. The authority may issue
22 project revenue bonds the interest on which is exempt from
23 taxation under federal law.

24 F. In any calendar year, no more than fifteen
25 percent of the state ceiling allocated pursuant to the Private

.207939.1

1 Activity Bond Act may be used for projects financed pursuant
2 to the Statewide Economic Development Finance Act."

3 SECTION 22. Section 7-1-2 NMSA 1978 (being Laws 1965,
4 Chapter 248, Section 2, as amended) is amended to read:

5 "7-1-2. APPLICABILITY.--The Tax Administration Act
6 applies to and governs:

7 A. the administration and enforcement of the
8 following taxes or tax acts as they now exist or may hereafter
9 be amended:

10 (1) Income Tax Act;
11 (2) Withholding Tax Act;
12 (3) Venture Capital Investment Act;
13 (4) [~~Gross Receipts and Compensating~~] Sales
14 and Use Tax Act, [and any state gross receipts tax] Interstate
15 Telecommunications Sales Tax Act and Leased Vehicle Sales Tax
16 Act;

17 (5) Liquor Excise Tax Act;
18 (6) Local Liquor Excise Tax Act;
19 (7) any municipal local option [~~gross~~
20 ~~receipts~~] sales or use tax;

21 (8) any county local option [~~gross receipts~~]
22 sales or use tax;

23 (9) Special Fuels Supplier Tax Act;

24 (10) Gasoline Tax Act;

25 (11) petroleum products loading fee, which

1 fee shall be considered a tax for the purpose of the Tax
2 Administration Act;

3 (12) Alternative Fuel Tax Act;

4 (13) Cigarette Tax Act;

5 (14) Estate Tax Act;

6 (15) Railroad Car Company Tax Act;

7 (16) [~~Investment Credit Act~~] rural job tax
8 credit, Laboratory Partnership with Small Business Tax Credit
9 Act, Technology Jobs and Research and Development Tax Credit
10 Act, Film Production Tax Credit Act and Affordable Housing Tax
11 Credit Act [~~and high-wage jobs tax credit~~];

12 (17) Corporate Income and Franchise Tax Act;

13 (18) Uniform Division of Income for Tax
14 Purposes Act;

15 (19) Multistate Tax Compact;

16 (20) Tobacco Products Tax Act; and

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

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

24 (1) Resources Excise Tax Act;

25 (2) Severance Tax Act;

.207939.1

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

1 tax for purposes of the Tax Administration Act;

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

3 (4) 911 emergency surcharge and the network
4 and database surcharge, which surcharges shall be considered
5 taxes for purposes of the Tax Administration Act;

6 (5) the solid waste assessment fee authorized
7 by the Solid Waste Act, which fee shall be considered a tax
8 for purposes of the Tax Administration Act;

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

12 (7) the gaming tax imposed pursuant to the
13 Gaming Control Act; and

14 D. the administration and enforcement of all other
15 laws, with respect to which the department is charged with
16 responsibilities pursuant to the Tax Administration Act, but
17 only to the extent that the other laws do not conflict with
18 the Tax Administration Act."

19 **SECTION 23.** Section 7-1-3 NMSA 1978 (being Laws 1965,
20 Chapter 248, Section 3, as amended) is amended to read:

21 "7-1-3. DEFINITIONS.--Unless the context clearly
22 indicates a different meaning, the definitions of words and
23 phrases as they are stated in this section are to be used, and
24 whenever in the Tax Administration Act these words and phrases
25 appear, the singular includes the plural and the plural

.207939.1

1 includes the singular:

2 A. "automated clearinghouse transaction" means an
3 electronic credit or debit transmitted through an automated
4 clearinghouse payable to the state treasurer and deposited
5 with the fiscal agent of New Mexico;

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

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

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

20 E. "financial institution" means any state or
21 federally chartered, federally insured depository institution;

22 F. "hearing officer" means a person who has been
23 designated by the chief hearing officer to serve as a hearing
24 officer and who is:

25 (1) the chief hearing officer;

1 (2) an employee of the administrative
 2 hearings office; or

3 (3) a contractor of the administrative
 4 hearings office;

5 G. "Internal Revenue Code" means the Internal
 6 Revenue Code of 1986, as that code may be amended or its
 7 sections renumbered;

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

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

.207939.1

underscored material = new
 [bracketed material] = delete

1 authorizing counties or municipalities to impose taxes on
2 gross receipts, which taxes are to be collected by the
3 department in the same time and in the same manner as it
4 collects the [~~gross receipts~~] sales tax;

5 J. "local option use tax" means a municipal use
6 tax imposed pursuant to the Municipal Local Option Sales and
7 Use Tax Act or a county use tax imposed pursuant to the County
8 Local Option Sales and Use Tax Act;

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

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

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

1 ~~[M.]~~ N. "paid" includes the term "paid over";

2 ~~[N.]~~ O. "pay" includes the term "pay over";

3 ~~[O.]~~ P. "payment" includes the term "payment
4 over";

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

18 ~~[Q.]~~ R. "property" means property or rights to
19 property;

20 ~~[R.]~~ S. "property or rights to property" means any
21 tangible property, real or personal, or any intangible
22 property of a taxpayer;

23 ~~[S.]~~ T. "return" means any tax or information
24 return, declaration of estimated tax or claim for refund,
25 including any amendments or supplements to the return,

.207939.1

1 required or permitted pursuant to a law subject to
2 administration and enforcement pursuant to the Tax
3 Administration Act and filed with the secretary or the
4 secretary's delegate by or on behalf of any person;

5 ~~[F.]~~ U. "return information" means a taxpayer's
6 name, address, government-issued identification number and
7 other identifying information; any information contained in or
8 derived from a taxpayer's return; any information with respect
9 to any actual or possible administrative or legal action by an
10 employee of the department concerning a taxpayer's return,
11 such as audits, managed audits, denial of credits or refunds,
12 assessments of tax, penalty or interest, protests of
13 assessments or denial of refunds or credits, levies or liens;
14 or any other information with respect to a taxpayer's return
15 or tax liability that was not obtained from public sources or
16 that was created by an employee of the department; but "return
17 information" does not include statistical data or other
18 information that cannot be associated with or directly or
19 indirectly identify a particular taxpayer;

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

25 ~~[V.]~~ W. "secretary or the secretary's delegate"

1 means the secretary or any employee of the department
2 exercising authority lawfully delegated to that employee by
3 the secretary;

4 ~~[W.]~~ X. "security" means money, property or rights
5 to property or a surety bond;

6 ~~[X.]~~ Y. "state" means any state of the United
7 States, the District of Columbia, the commonwealth of Puerto
8 Rico and any territory or possession of the United States;

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

22 ~~[Z.]~~ AA. "tax return preparer" means a person who
23 prepares for others for compensation or who employs one or
24 more persons to prepare for others for compensation any return
25 of income tax, a substantial portion of any return of income

.207939.1

1 tax, any claim for refund with respect to income tax or a
2 substantial portion of any claim for refund with respect to
3 income tax; provided that a person shall not be a "tax return
4 preparer" merely because such person:

5 (1) furnishes typing, reproducing or other
6 mechanical assistance;

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

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

15 [~~AA.~~] BB. "taxpayer" means a person liable for
16 payment of any tax; a person responsible for withholding and
17 payment or for collection and payment of any tax; a person to
18 whom an assessment has been made, if the assessment remains
19 unabated or the amount thereof has not been paid; or a person
20 who entered into a special agreement to assume the liability
21 of [~~gross receipts~~] sales tax or governmental [~~gross receipts~~]
22 sales tax of another person and the special agreement was
23 approved by the secretary pursuant to the Tax Administration
24 Act."

25 SECTION 24. Section 7-1-6.2 NMSA 1978 (being Laws 1983,

.207939.1

1 Chapter 211, Section 7, as amended) is amended to read:

2 "7-1-6.2. DISTRIBUTION--SMALL CITIES ASSISTANCE FUND.--A
 3 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
 4 made to the small cities assistance fund in an amount equal to
 5 fifteen percent of the net receipts attributable to the
 6 [~~compensating~~] use tax pursuant to Section 7-9-7 NMSA 1978."

7 SECTION 25. Section 7-1-6.5 NMSA 1978 (being Laws 1983,
 8 Chapter 211, Section 10 and Laws 1983, Chapter 214, Section 6,
 9 as amended) is amended to read:

10 "7-1-6.5. DISTRIBUTION--SMALL COUNTIES ASSISTANCE
 11 FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978
 12 shall be made to the small counties assistance fund in an
 13 amount equal to ten percent of the net receipts attributable
 14 to the [~~compensating~~] use tax pursuant to Section 7-9-7 NMSA
 15 1978."

16 SECTION 26. Section 7-1-6.7 NMSA 1978 (being Laws 1994,
 17 Chapter 5, Section 2, as amended) is amended to read:

18 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

19 A. A distribution pursuant to Section 7-1-6.1 NMSA
 20 1978 shall be made to the state aviation fund in an amount
 21 equal to four and seventy-nine hundredths percent of the
 22 taxable gross receipts attributable to the sale of fuel
 23 specially prepared and sold for use in turboprop or jet-type
 24 engines as determined by the department.

25 B. A distribution pursuant to Section 7-1-6.1 NMSA

.207939.1

underscored material = new
 [bracketed material] = delete

1 1978 shall be made to the state aviation fund in an amount
2 equal to twenty-six hundredths percent of gasoline taxes,
3 exclusive of penalties and interest, collected pursuant to the
4 Gasoline Tax Act.

5 C. From July 1, 2013 through June 30, 2021, a
6 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
7 made to the state aviation fund in an amount equal to [~~forty-~~
8 ~~six thousandths percent of~~] the rate determined pursuant to
9 Subsection F of Section 7-1-84 NMSA 1978 multiplied by the net
10 receipts attributable to the [~~gross receipts~~] state sales tax
11 distributable to the general fund.

12 D. A distribution pursuant to Section 7-1-6.1 NMSA
13 1978 shall be made to the state aviation fund from the net
14 receipts attributable to the [~~gross receipts~~] state sales tax
15 distributable to the general fund in an amount equal to

16 [~~(1) eighty thousand dollars (\$80,000)~~
17 ~~monthly from July 1, 2007 through June 30, 2008;~~

18 [~~(2) one hundred sixty seven thousand dollars~~
19 ~~(\$167,000) monthly from July 1, 2008 through June 30, 2009;~~

20 and

21 [~~(3)~~] two hundred fifty thousand dollars
22 (\$250,000) [~~monthly after July 1, 2009~~]."

23 SECTION 27. Section 7-1-6.12 NMSA 1978 (being Laws 1983,
24 Chapter 211, Section 17, as amended) is amended to read:

25 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL

1 OPTION [~~GROSS RECEIPTS~~] SALES AND USE TAXES.--

2 A. A transfer pursuant to Section 7-1-6.1 NMSA
 3 1978 shall be made to each municipality for which the
 4 department is collecting a local option [~~gross receipts~~] sales
 5 or use tax imposed by that municipality in an amount, subject
 6 to any increase or decrease made pursuant to Section 7-1-6.15
 7 NMSA 1978, equal to the net receipts attributable to the local
 8 option [~~gross receipts~~] sales or use tax imposed by that
 9 municipality, less any deduction for administrative cost
 10 determined and made by the department pursuant to the
 11 provisions of the act authorizing imposition by that
 12 municipality of the local option [~~gross receipts~~] sales or use
 13 tax and any additional administrative fee withheld pursuant to
 14 Subsection C of Section 7-1-6.41 NMSA 1978.

15 B. A transfer pursuant to this section may be
 16 adjusted for a distribution made to a tax increment
 17 development district with respect to a portion of a [~~gross~~
 18 ~~receipts~~] sales tax increment dedicated by a municipality
 19 pursuant to the Tax Increment for Development Act."

20 SECTION 28. Section 7-1-6.13 NMSA 1978 (being Laws 1983,
 21 Chapter 211, Section 18, as amended) is amended to read:

22 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
 23 [~~GROSS RECEIPTS~~] SALES AND USE TAXES.--

24 A. Except as provided in Subsection B of this
 25 section, a transfer pursuant to Section 7-1-6.1 NMSA 1978

.207939.1

underscored material = new
 [bracketed material] = delete

1 shall be made to each county for which the department is
2 collecting a local option [~~gross receipts~~] sales or use tax
3 imposed by that county in an amount, subject to any increase
4 or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal
5 to the net receipts attributable to the local option [~~gross~~
6 ~~receipts~~] sales or use tax imposed by that county, less any
7 deduction for administrative cost determined and made by the
8 department pursuant to the provisions of the act authorizing
9 imposition by that county of the local option [~~gross receipts~~]
10 sales or use tax and any additional administrative fee
11 withheld pursuant to Subsection C of Section 7-1-6.41 NMSA
12 1978.

13 B. A transfer pursuant to this section may be
14 adjusted for a distribution made to a tax increment
15 development district with respect to a portion of a [~~gross~~
16 ~~receipts~~] sales tax increment dedicated by a county pursuant
17 to the Tax Increment for Development Act."

18 SECTION 29. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
19 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,
20 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended
21 to read:

22 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
23 MUNICIPALITIES OR COUNTIES.--

24 A. The provisions of this section apply to:

25 (1) any distribution to a municipality

1 pursuant to Section ~~[7-1-6.4]~~ 7-1-6.36 or 7-1-6.46 NMSA 1978;

2 (2) any transfer to a municipality with
 3 respect to any local option ~~[gross receipts]~~ sales or use tax
 4 imposed by that municipality;

5 (3) any transfer to a county with respect to
 6 any local option ~~[gross receipts]~~ sales or use tax imposed by
 7 that county;

8 (4) any distribution to a county pursuant to
 9 Section 7-1-6.16 or 7-1-6.47 NMSA 1978;

10 (5) any distribution to a municipality or a
 11 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA
 12 1978;

13 (6) any transfer to a county with respect to
 14 any tax imposed in accordance with the Local Liquor Excise Tax
 15 Act;

16 (7) any distribution to a county from the
 17 county government road fund pursuant to Section 7-1-6.26 NMSA
 18 1978; and

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

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

23 B. Before making a distribution or transfer
 24 specified in Subsection A of this section to a municipality or
 25 county for the month, amounts comprising the net receipts

.207939.1

underscored material = new
 [bracketed material] = delete

1 shall be segregated into two mutually exclusive categories.
2 One category shall be for amounts relating to the current
3 month, and the other category shall be for amounts relating to
4 prior periods. The total of each category for a municipality
5 or county shall be reported each month to that municipality or
6 county. If the total of the amounts relating to prior periods
7 is less than zero and its absolute value exceeds the greater
8 of one hundred dollars (\$100) or an amount equal to twenty
9 percent of the average distribution or transfer amount for
10 that municipality or county, then the following procedures
11 shall be carried out:

12 (1) all negative amounts relating to any
13 period prior to the three calendar years preceding the year of
14 the current month, net of any positive amounts in that same
15 time period for the same taxpayers to which the negative
16 amounts pertain, shall be excluded from the total relating to
17 prior periods. Except as provided in Paragraph (2) of this
18 subsection, the net receipts to be distributed or transferred
19 to the municipality or county shall be adjusted to equal the
20 amount for the current month plus the revised total for prior
21 periods; and

22 (2) if the revised total for prior periods
23 determined pursuant to Paragraph (1) of this subsection is
24 negative and its absolute value exceeds the greater of one
25 hundred dollars (\$100) or an amount equal to twenty percent of

1 the average distribution or transfer amount for that
2 municipality or county, the revised total for prior periods
3 shall be excluded from the distribution or transfers and the
4 net receipts to be distributed or transferred to the
5 municipality or county shall be equal to the amount for the
6 current month.

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

11 D. Prior to or concurrently with the distribution
12 or transfer to the municipality or county of the adjusted net
13 receipts, the department shall notify the municipality or
14 county whose distribution or transfer has been adjusted
15 pursuant to Paragraph (2) of Subsection B of this section:

16 (1) that the department has made such an
17 adjustment, that the department has determined that a
18 specified amount is recoverable from the municipality or
19 county and that the department intends to recover that amount
20 from future distributions or transfers to the municipality or
21 county;

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

25 (3) that if the municipality or county takes

.207939.1

1 no action within the ninety-day period, the department will
2 recover the amount from the next six distributions or
3 transfers following the expiration of the ninety days; and

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

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

13 (1) the department may collect the
14 recoverable amount by:

15 (a) decreasing distributions or
16 transfers to the municipality or county in accordance with a
17 repayment agreement entered into with the municipality or
18 county; or

19 (b) except as provided in Paragraphs
20 (2) and (3) of this subsection, if the municipality or county
21 fails to act within the ninety days, decreasing the amount of
22 the next six distributions or transfers to the municipality or
23 county following expiration of the ninety-day period in
24 increments as nearly equal as practicable and sufficient to
25 recover the amount;

1 (2) if, pursuant to Subsection B of this
2 section, the secretary determines that the recoverable amount
3 is more than fifty percent of the average distribution or
4 transfer of net receipts for that municipality or county, the
5 secretary:

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

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

12 (3) if, after application of a refund claim,
13 audit adjustment, correction of a mistake by the department or
14 other adjustment of a prior period, but prior to any recovery
15 of the department pursuant to this section, the total net
16 receipts of a municipality or county for the twelve-month
17 period beginning with the current month are reduced or are
18 projected to be reduced to less than fifty percent of the
19 average distribution or transfer of net receipts, the
20 secretary may waive recovery of any portion of the recoverable
21 amount, subject to approval by the state board of finance.

22 F. No later than ninety days from the date notice
23 pursuant to Subsection D of this section is given, the
24 department shall provide the municipality or county adequate
25 opportunity to review an application for a claim for refund

.207939.1

1 that gave rise to the recoverable amount, exclusive of any
2 amended returns that may be attached to the application,
3 pursuant to Section 7-1-8.9 NMSA 1978.

4 G. On or before September 1 of each year beginning
5 in 2016, the secretary shall report to the state board of
6 finance and the legislative finance committee the total
7 recoverable amount waived pursuant to Subparagraph (b) of
8 Paragraph (2) and Paragraph (3) of Subsection E of this
9 section for each municipality and county in the prior fiscal
10 year.

11 H. The secretary is authorized to decrease a
12 distribution or transfer to a municipality or county upon
13 being directed to do so by the secretary of finance and
14 administration pursuant to the State Aid Intercept Act or to
15 redirect a distribution or transfer to the New Mexico finance
16 authority pursuant to an ordinance or a resolution passed by
17 the county or municipality and a written agreement of the
18 municipality or county and the New Mexico finance authority.
19 Upon direction to decrease a distribution or transfer or
20 notice to redirect a distribution or transfer to a
21 municipality or county, the secretary shall decrease or
22 redirect the next designated distribution or transfer, and
23 succeeding distributions or transfers as necessary, by the
24 amount of the state distributions intercept authorized by the
25 secretary of finance and administration pursuant to the State

1 Aid Intercept Act or by the amount of the state distribution
2 intercept authorized pursuant to an ordinance or a resolution
3 passed by the county or municipality and a written agreement
4 with the New Mexico finance authority. The secretary shall
5 transfer the state distributions intercept amount to the
6 municipal or county treasurer or other person designated by
7 the secretary of finance and administration or to the New
8 Mexico finance authority pursuant to written agreement to pay
9 the debt service to avoid default on qualified local revenue
10 bonds or meet other local revenue bond, loan or other debt
11 obligations of the municipality or county to the New Mexico
12 finance authority. A decrease to or redirection of a
13 distribution or transfer pursuant to this subsection that
14 arose:

15 (1) prior to an adjustment of a distribution
16 or transfer of net receipts creating a recoverable amount owed
17 to the department takes precedence over any collection of any
18 recoverable amount pursuant to Paragraph (2) of Subsection B
19 of this section, which may be made only from the net amount of
20 the distribution or transfer remaining after application of
21 the decrease or redirection pursuant to this subsection; and

22 (2) after an adjustment of a distribution or
23 transfer of net receipts creating a recoverable amount owed to
24 the department shall be subordinate to any collection of any
25 recoverable amount pursuant to Paragraph (2) of Subsection B

.207939.1

1 of this section.

2 I. Upon the direction of the secretary of finance
3 and administration pursuant to Section 9-6-5.2 NMSA 1978, the
4 secretary shall temporarily withhold the balance of a
5 distribution to a municipality or county, net of any decrease
6 or redirected amount pursuant to Subsection H of this section
7 and any recoverable amount pursuant to Paragraph (2) of
8 Subsection B of this section, that has failed to submit an
9 audit report required by the Audit Act or a financial report
10 required by Subsection F of Section 6-6-2 NMSA 1978. The
11 amount to be withheld, the source of the withheld distribution
12 and the number of months that the distribution is to be
13 withheld shall be as directed by the secretary of finance and
14 administration. A distribution withheld pursuant to this
15 subsection shall remain in the tax administration suspense
16 fund until distributed to the municipality or county and shall
17 not be distributed to the general fund. An amount withheld
18 pursuant to this subsection shall be distributed to the
19 municipality or county upon direction of the secretary of
20 finance and administration.

21 J. As used in this section:

22 (1) "amounts relating to the current month"
23 means any amounts included in the net receipts of the current
24 month that represent payment of tax due for the current month,
25 correction of amounts processed in the current month that

.207939.1

1 relate to the current month or that otherwise relate to
2 obligations due for the current month;

3 (2) "amounts relating to prior periods" means
4 any amounts processed during the current month that adjust
5 amounts processed in a period or periods prior to the current
6 month regardless of whether the adjustment is a correction of
7 a department error or due to the filing of amended returns,
8 payment of department-issued assessments, filing or approval
9 of claims for refund, audit adjustments or other cause;

10 (3) "average distribution or transfer amount"
11 means the following amounts; provided that a distribution or
12 transfer that is negative shall not be used in calculating the
13 amounts:

14 (a) the annual average of the total
15 amount distributed or transferred to a municipality or county
16 in each of the three twelve-month periods preceding the
17 current month;

18 (b) if a distribution or transfer to a
19 municipality or county has been made for less than three
20 years, the total amount distributed or transferred in the year
21 preceding the current month; or

22 (c) if a municipality or county has not
23 received distributions or transfers of net receipts for twelve
24 or more months, the monthly average of net receipts
25 distributed or transferred to the municipality or county

.207939.1

1 preceding the current month multiplied by twelve;

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

4 (5) "repayment agreement" means an agreement
5 between the department and a municipality or county under
6 which the municipality or county agrees to allow the
7 department to recover an amount determined pursuant to
8 Paragraph (2) of Subsection B of this section by decreasing
9 distributions or transfers to the municipality or county for
10 one or more months beginning with the distribution or transfer
11 to be made with respect to a designated month. No interest
12 shall be charged."

13 SECTION 30. Section 7-1-6.16 NMSA 1978 (being Laws 1983,
14 Chapter 213, Section 27, as amended) is amended to read:

15 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

16 A. [~~Beginning on September 15, 1989 and~~] On
17 September 15 of each year [~~thereafter~~], the department shall
18 distribute to any county that has imposed or continued in
19 effect during the [~~state's~~] preceding fiscal year a county
20 [~~gross receipts~~] sales tax pursuant to Section 7-20E-9 NMSA
21 1978 an amount equal to:

22 (1) the product of a fraction, the numerator
23 of which is the county's population and the denominator of
24 which is the state's population, multiplied by the annual sum
25 for the county; less

.207939.1

1 (2) the net receipts received by the
 2 department during the report year, including any increase or
 3 decrease made pursuant to Section 7-1-6.15 NMSA 1978,
 4 attributable to the county [~~gross receipts~~] sales tax at [~~a~~
 5 ~~rate of one-eighth percent~~] the rate determined pursuant to
 6 Subsection G of Section 7-1-84 NMSA 1978; provided that for
 7 any month in the report year, if no county [~~gross receipts~~]
 8 sales tax was in effect in the county in the previous month,
 9 the net receipts, for the purposes of this section, for that
 10 county for that month shall be zero.

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

14 C. As used in this section:

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

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

21 ~~(a)]~~ two and forty-four hundredths
 22 percent of the net receipts received by the department in the
 23 month attributable to the state [~~gross receipts tax plus five~~
 24 ~~percent of the total amount of deductions claimed pursuant to~~
 25 ~~Section 7-9-92 NMSA 1978 for the month plus five percent of~~

.207939.1

1 ~~the total amount of deductions claimed pursuant to Section~~
2 ~~7-9-93 NMSA 1978 for the month; and~~

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

7 (3) "population" means the most recent
8 official census or estimate determined by the United States
9 census bureau for the unit or, if neither is available, the
10 most current estimated population for the unit provided in
11 writing by the bureau of business and economic research at the
12 university of New Mexico; and

13 (4) "report year" means the twelve-month
14 period ending on the July 31 immediately preceding the date
15 upon which a distribution pursuant to this section is required
16 to be made."

17 SECTION 31. Section 7-1-6.36 NMSA 1978 (being Laws 1992,
18 Chapter 50, Section 13 and also Laws 1992, Chapter 67, Section
19 12) is amended to read:

20 "7-1-6.36. DISTRIBUTION--INTERSTATE TELECOMMUNICATIONS
21 [~~GROSS RECEIPTS~~] SALES TAX.--A distribution pursuant to
22 Section 7-1-6.1 NMSA 1978 shall be made to each municipality
23 in an amount, subject to any increase or decrease made
24 pursuant to Section 7-1-6.15 NMSA 1978, equal to [~~the product~~
25 ~~of the quotient of one and thirty-five hundredths percent~~

.207939.1

1 ~~divided by the tax rate imposed by the Interstate~~
 2 ~~Telecommunications Gross Receipts Tax Act times] thirty-one~~
 3 ~~and seventy-seven hundredths percent of the net receipts for~~
 4 the month attributable to the interstate telecommunications
 5 [~~gross receipts] sales tax from business locations:~~

6 A. within that municipality;

7 B. on land owned by the state, commonly known as
 8 the "state fairgrounds", within the exterior boundaries of
 9 that municipality;

10 C. outside the boundaries of any municipality on
 11 land owned by that municipality; and

12 D. on an Indian reservation or pueblo grant in an
 13 area that is contiguous to that municipality and in which the
 14 municipality performs services pursuant to a contract between
 15 the municipality and the Indian tribe or Indian pueblo if:

16 (1) the contract describes an area in which
 17 the municipality is required to perform services and requires
 18 the municipality to perform services that are substantially
 19 the same as the services the municipality performs for itself;
 20 and

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

23 SECTION 32. Section 7-1-6.38 NMSA 1978 (being Laws 1994,
 24 Chapter 145, Section 1, as amended) is amended to read:

25 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL [~~GROSS RECEIPTS]~~

.207939.1

underscored material = new
 [bracketed material] = delete

1 SALES TAX.--

2 A. A distribution pursuant to Section 7-1-6.1 NMSA
3 1978 shall be made to the public project revolving fund
4 administered by the New Mexico finance authority in an amount
5 equal to seventy-five percent of the net receipts attributable
6 to the governmental [~~gross receipts~~] sales tax.

7 B. A distribution pursuant to Section 7-1-6.1 NMSA
8 1978 shall be made to the energy, minerals and natural
9 resources department in an amount equal to twenty-four percent
10 of the net receipts attributable to the governmental [~~gross~~
11 ~~receipts~~] sales tax. Forty-one and two-thirds percent of the
12 distribution is appropriated to the energy, minerals and
13 natural resources department to implement the provisions of
14 the New Mexico Youth Conservation Corps Act and fifty-eight
15 and one-third percent of the distribution is appropriated to
16 the energy, minerals and natural resources department for
17 state [~~park and recreation area~~] parks capital improvements,
18 including the costs of planning, engineering, design,
19 construction, renovation, repair, equipment and furnishings.

20 C. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made to the [~~office of~~] cultural affairs
22 department in an amount equal to one percent of the net
23 receipts attributable to the governmental [~~gross receipts~~]
24 sales tax for capital improvements at state museums and
25 monuments administered by the [~~office of~~] cultural affairs

1 department.

2 D. The state pledges to and agrees with the
3 holders of any bonds or notes issued by the New Mexico finance
4 authority or by the energy, minerals and natural resources
5 department and payable from the net receipts attributable to
6 the governmental [~~gross receipts~~] sales tax distributed to the
7 New Mexico finance authority or the energy, minerals and
8 natural resources department pursuant to this section that the
9 state will not limit, reduce or alter the distribution of the
10 net receipts attributable to the governmental [~~gross receipts~~]
11 sales tax to the New Mexico finance authority or the energy,
12 minerals and natural resources department or limit, reduce or
13 alter the rate of imposition of the governmental [~~gross~~
14 ~~receipts~~] sales tax until the bonds or notes together with the
15 interest thereon are fully met and discharged. The New Mexico
16 finance authority and the energy, minerals and natural
17 resources department are authorized to include this pledge and
18 agreement of the state in any agreement with the holders of
19 the bonds or notes."

20 SECTION 33. Section 7-1-6.40 NMSA 1978 (being Laws 1997,
21 Chapter 182, Section 1, as amended) is amended to read:

22 "7-1-6.40. DISTRIBUTION OF LIQUOR EXCISE TAX--LOCAL DWI
23 GRANT FUND--CERTAIN MUNICIPALITIES--LOTTERY TUITION FUND.--

24 A. Except as provided in Subsection F of this
25 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978

.207939.1

1 shall be made to the local DWI grant fund in an amount equal
2 to the following percentages of the net receipts attributable
3 to the liquor excise tax:

4 (1) prior to July 1, ~~[2015, forty-one and~~
5 ~~one-half]~~ 2018, forty-six percent;

6 (2) ~~[from July 1, 2015 through June 30, 2018,~~
7 ~~forty-six percent; and]~~ beginning July 1, 2018 and prior to
8 July 1, 2019, fifty percent;

9 (3) beginning July 1, 2019 and prior to July
10 1, 2020, fifty-two percent;

11 (4) beginning July 1, 2020 and prior to July
12 1, 2021, fifty-four percent;

13 (5) beginning July 1, 2021 and prior to July
14 1, 2022, fifty-eight percent; and

15 ~~[⁽³⁾]~~ (6) on and after July 1, ~~[2018, forty-~~
16 ~~one and one-half]~~ 2022, sixty percent.

17 B. A distribution pursuant to Section 7-1-6.1
18 NMSA 1978 of twenty thousand seven hundred fifty dollars
19 (\$20,750) monthly from the net receipts attributable to the
20 liquor excise tax shall be made to a municipality that is
21 located in a class A county and that has a population
22 according to the most recent federal decennial census of more
23 than thirty thousand but less than sixty thousand. The
24 distribution pursuant to this subsection shall be used by the
25 municipality only for the provision of alcohol treatment and

1 rehabilitation services for street inebriates.

2 C. ~~[From July 1, 2015 through June 30, 2017]~~

3 Except as provided in Subsection F of this section, a
 4 distribution pursuant to Section 7-1-6.1 NMSA 1978 of ~~[thirty-~~
 5 ~~nine percent]~~ the following percentages of the net receipts
 6 attributable to the liquor excise tax shall be made to the
 7 lottery tuition fund:

8 (1) prior to July 1, 2017, thirty-nine
 9 percent;

10 (2) beginning July 1, 2017 and prior to July
 11 1, 2018, thirty-four percent;

12 (3) beginning July 1, 2018 and prior to July
 13 1, 2019, twenty-eight percent;

14 (4) beginning July 1, 2019 and prior to July
 15 1, 2020, twenty-two percent;

16 (5) beginning July 1, 2020 and prior to July
 17 1, 2021, sixteen percent;

18 (6) beginning July 1, 2021 and prior to July
 19 1, 2022, eight percent; and

20 (7) on and after July 1, 2022, zero percent.

21 D. Except as provided in Subsection F of this
 22 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
 23 shall be made to the administrative office of the courts to
 24 support drug court programs in an amount equal to the
 25 following percentages of the net receipts attributable to the

.207939.1

1 liquor excise tax:

2 (1) beginning July 1, 2018 and prior to July
3 1, 2019, four percent;

4 (2) beginning July 1, 2019 and prior to July
5 1, 2020, six percent;

6 (3) beginning July 1, 2020 and prior to July
7 1, 2022, eight percent; and

8 (4) beginning July 1, 2022 and prior to July
9 1, 2023, ten percent.

10 E. Except as provided in Subsection F of this
11 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
12 shall be made to the county-supported medicaid fund in an
13 amount equal to the following percentages of the net receipts
14 attributable to the liquor excise tax, less the amount
15 distributed pursuant to Subsection B of this section:

16 (1) beginning July 1, 2018 and prior to July
17 1, 2019, eighteen percent;

18 (2) beginning July 1, 2019 and prior to July
19 1, 2020, twenty percent;

20 (3) beginning July 1, 2020 and prior to July
21 1, 2021, twenty-two percent;

22 (4) beginning July 1, 2021 and prior to July
23 1, 2022, twenty-six percent; and

24 (5) beginning July 1, 2022 and prior to July
25 1, 2023, thirty percent.

1 F. If, on or before March 1, 2019, the secretary
 2 of finance and administration certifies to the secretary of
 3 taxation and revenue that revenue attributable to the state
 4 sales tax and distributed to the general fund since July 1,
 5 2018 is projected to be less for fiscal year 2019 than the
 6 amount of estimated state sales tax revenue, as that term is
 7 defined in Section 7-9-4 NMSA 1978, than the amount of
 8 baseline revenue, as that term is used in Section 7-9-4 NMSA
 9 1978, the distributions pursuant to Subsections A and C
 10 through E of this section shall not be made beginning July 1,
 11 2019 and prior to January 1, 2020."

12 SECTION 34. Section 7-1-6.53 NMSA 1978 (being Laws 2005,
 13 Chapter 176, Section 11) is amended to read:

14 "7-1-6.53. DISTRIBUTION--ENERGY EFFICIENCY AND RENEWABLE
 15 ENERGY BONDING FUND--~~[GROSS RECEIPTS]~~ STATE SALES TAX--A
 16 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
 17 made to the energy efficiency and renewable energy bonding
 18 fund from the net receipts attributable to the [~~gross~~
 19 ~~receipts~~] state sales tax imposed by the [~~Gross Receipts and~~
 20 ~~Compensating~~] Sales and Use Tax Act in an amount necessary to
 21 make the required bond debt service payments pursuant to the
 22 Energy Efficiency and Renewable Energy Bonding Act as
 23 determined by the New Mexico finance authority. The
 24 distribution shall be made:

25 ~~[A. after the required distribution pursuant to~~

.207939.1

1 ~~Section 7-1-6.4 NMSA 1978;~~

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

6 ~~[C.]~~ B. prior to any other distribution of net
7 receipts attributable to the [~~gross receipts~~] state sales
8 tax."

9 **SECTION 35.** Section 7-1-6.54 NMSA 1978 (being Laws 2006,
10 Chapter 75, Section 29) is amended to read:

11 "7-1-6.54. DISTRIBUTIONS--TAX INCREMENT DEVELOPMENT
12 DISTRICTS.--A distribution to a tax increment development
13 district shall be made by the department in accordance with a
14 notice that is filed pursuant to the Tax Increment for
15 Development Act with respect to a taxing entity's dedication
16 of a portion of a [~~gross receipts~~] sales tax increment to the
17 tax increment development district."

18 **SECTION 36.** A new section of the Tax Administration Act,
19 Section 7-1-6.61 NMSA 1978, is enacted to read:

20 "7-1-6.61. [NEW MATERIAL] DISTRIBUTION--STATE SALES TAX
21 TO LOCAL GOVERNMENT TAX STABILIZATION FUND.--

22 A. Prior to July 1, 2020, a distribution pursuant
23 to Section 7-1-6.1 NMSA 1978 shall be made to the local
24 government tax stabilization fund in an amount equal to one-
25 twelfth of the excess state sales tax revenue.

1 B. As used in this section, "excess state sales
2 tax revenue" means that amount of revenue above:

3 (1) for fiscal year 2019, the fiscal year
4 2019 baseline revenue, as that term is defined in Section
5 7-9-4 NMSA 1978; and

6 (2) for fiscal year 2020, the fiscal year
7 2019 baseline revenue, as that term is defined in Section
8 7-9-4 NMSA 1978, multiplied by one hundred three percent."

9 SECTION 37. A new section of the Tax Administration Act,
10 Section 7-1-6.62 NMSA 1978, is enacted to read:

11 "7-1-6.62. [NEW MATERIAL] LOCAL GOVERNMENT TAX
12 STABILIZATION FUND--DISTRIBUTION TO MUNICIPALITIES AND
13 COUNTIES.--

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

21 B. A distribution from the local government tax
22 stabilization fund shall be made to each municipality and
23 county in January 2019, July 2019 and January 2020 in an
24 amount equal to the municipality's or county's monthly
25 baseline revenue multiplied by the number of months that have

.207939.1

1 passed since July 1, 2018, less the transfers made pursuant to
2 Section 7-1-6.12 or 7-1-6.13 NMSA 1978, less the distributions
3 made pursuant to Sections 7-1-6.46 and 7-1-6.47 NMSA 1978, as
4 appropriate, since July 1, 2018, less all prior distributions
5 made pursuant to this section. The department shall adjust
6 the amount of distributions made pursuant to this section in
7 proportion to the actual money available in the fund.

8 C. Immediately after all distributions pursuant to
9 this section have been made, money in the local government tax
10 stabilization fund shall revert to the state road fund.

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

15 SECTION 38. Section 7-1-8.8 NMSA 1978 (being Laws 2009,
16 Chapter 243, Section 10, as amended) is amended to read:

17 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER
18 STATE AGENCIES.--An employee of the department may reveal to:

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

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

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

5 D. the secretary of human services or the
 6 secretary's delegate:

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

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

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

22 (b) the names and addresses of
 23 low-income taxpayers for the limited purpose of outreach to
 24 those taxpayers; provided that the human services department
 25 shall pay the department for expenses incurred by the taxation

.207939.1

1 and revenue department to derive the information requested by
2 the human services department if the information requested is
3 not readily available in reports for which the taxation and
4 revenue department's information systems are programmed;

5 E. the department of information technology, by
6 electronic media, a database updated quarterly that contains
7 the names, addresses, county of address and taxpayer
8 identification numbers of New Mexico personal income tax
9 filers, but only for the purpose of producing the random jury
10 list for the selection of petit or grand jurors for the state
11 courts pursuant to Section 38-5-3 NMSA 1978;

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

15 G. the director of the New Mexico department of
16 agriculture or the director's authorized representative, upon
17 request of the director or representative, the names and
18 addresses of all gasoline or special fuel distributors,
19 wholesalers and retailers;

20 H. the public regulation commission, return
21 information with respect to the Corporate Income and Franchise
22 Tax Act required to enable the commission to carry out its
23 duties;

24 [~~I. the state racing commission, return~~
25 ~~information with respect to the state municipal and county~~

1 ~~gross receipts taxes paid by racetracks;~~

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

5 ~~K.~~ J. the director of the workers' compensation
6 administration or to the director's representatives authorized
7 for this purpose, return information to facilitate the
8 identification of taxpayers that are delinquent or
9 noncompliant in payment of fees required by Section 52-1-9.1
10 or 52-5-19 NMSA 1978;

11 ~~L.~~ K. the secretary of workforce solutions or
12 the secretary's delegate, return information for use in
13 enforcement of unemployment insurance collections pursuant to
14 the terms of a written reciprocal agreement entered into by
15 the taxation and revenue department with the secretary of
16 workforce solutions for exchange of information; and

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

.207939.1

1 SECTION 39. Section 7-1-8.9 NMSA 1978 (being Laws 2009,
2 Chapter 243, Section 11, as amended by Laws 2015, Chapter 89,
3 Section 2 and by Laws 2015, Chapter 100, Section 2) is amended
4 to read:

5 "7-1-8.9. INFORMATION THAT MAY BE REVEALED TO LOCAL
6 GOVERNMENTS AND THEIR AGENCIES.--

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

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

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

.207939.1

1 in writing;

2 (b) a range of taxable gross receipts
3 of registered gross receipts paid by taxpayers from business
4 locations attributable to that municipality under the [~~Gross~~
5 ~~Receipts and Compensating~~] Sales and Use Tax Act or a local
6 option [~~gross receipts~~] sales tax imposed by that
7 municipality; provided that authorization from the federal
8 internal revenue service to reveal such information has been
9 received. The department may also reveal the information
10 described in this subparagraph quarterly or upon such other
11 periodic basis as the secretary and the municipality may agree
12 in writing; and

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

20 (2) the officials or employees of a county of
21 this state authorized in a written request by the county for a
22 period specified in the request within the twelve months
23 preceding the request; provided that the county receiving the
24 information has entered into a written agreement with the
25 department that the information shall be used for tax purposes

.207939.1

1 only and specifying that the county is subject to the
2 confidentiality provisions of Section 7-1-8 NMSA 1978 and the
3 penalty provisions of Section 7-1-76 NMSA 1978:

4 (a) the names, taxpayer identification
5 numbers and addresses of registered [~~gross receipts~~] taxpayers
6 reporting gross receipts either for that county in the case of
7 a local option [~~gross receipts~~] sales tax imposed on a
8 countywide basis or only for the areas of that county outside
9 of any incorporated municipalities within that county in the
10 case of a [~~county~~] local option [~~gross receipts~~] sales tax
11 imposed only in areas of the county outside of any
12 incorporated municipalities. The department may also reveal
13 the information described in this subparagraph quarterly or
14 upon such other periodic basis as the secretary and the county
15 may agree in writing;

16 (b) a range of taxable gross receipts
17 of registered gross receipts paid by taxpayers from business
18 locations attributable either to that county in the case of a
19 local option [~~gross receipts~~] sales tax imposed on a
20 countywide basis or only to the areas of that county outside
21 of any incorporated municipalities within that county in the
22 case of a [~~county~~] local option [~~gross receipts~~] sales tax
23 imposed only in areas of the county outside of any
24 incorporated municipalities; provided that authorization from
25 the federal internal revenue service to reveal such

.207939.1

1 information has been received. The department may also reveal
2 the information described in this subparagraph quarterly or
3 upon such other periodic basis as the secretary and the county
4 may agree in writing;

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

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

.207939.1

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

21 B. The department may require that a municipal or
22 county official or employee satisfactorily complete
23 appropriate training on protecting confidential information
24 prior to receiving the information pursuant to Subsection A of
25 this section.

.207939.1

1 C. An employee of the department may reveal to a
 2 water and sanitation district of a county that has in effect
 3 an ordinance that, prior to July 1, 2018, imposed a water and
 4 sanitation gross receipts tax for a period specified by that
 5 district within the twelve months preceding the request for
 6 the information by that water and sanitation district:

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

14 (2) information indicating whether the
 15 persons shown on a list of businesses within the water and
 16 sanitation district have reported gross receipts to the
 17 department but have not reported gross receipts for that water
 18 and sanitation district."

19 **SECTION 40.** Section 7-1-10 NMSA 1978 (being Laws 1965,
 20 Chapter 248, Section 15, as amended) is amended to read:

21 "7-1-10. RECORDS REQUIRED BY STATUTE--TAXPAYER
 22 RECORDS--ACCOUNTING METHODS--REPORTING METHODS--INFORMATION
 23 RETURNS.--

24 A. Every person required by the provisions of any
 25 statute administered by the department to keep records and

underscoring material = new
 [bracketed material] = delete

1 documents and every taxpayer shall maintain books of account
2 or other records in a manner that will permit the accurate
3 computation of state taxes or provide information required by
4 the statute under which the person is required to keep
5 records.

6 B. Methods of accounting shall be consistent for
7 the same business. A taxpayer engaged in more than one
8 business may use a different method of accounting for each
9 business.

10 C. Prior to changing the method of accounting in
11 keeping books and records for tax purposes, a taxpayer shall
12 first secure the consent of the secretary or the secretary's
13 delegate. If consent is not secured, the department upon
14 audit may require the taxpayer to compute the amount of tax
15 due on the basis of the accounting method earlier used.

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

25 E. Upon the written application of a taxpayer and

.207939.1

1 at the sole discretion of the secretary or the secretary's
 2 delegate, the secretary or the secretary's delegate may enter
 3 into an agreement with a taxpayer allowing the taxpayer to
 4 report values, gross receipts, deductions or the value of
 5 property on an estimated basis for [~~gross receipts and~~
 6 ~~compensating~~] sales and use tax, oil and gas severance tax,
 7 oil and gas conservation tax, oil and gas emergency school tax
 8 and oil and gas ad valorem production tax purposes for a
 9 limited period of time not to exceed four years. As used in
 10 this section, "estimated basis" means a methodology that is
 11 reasonably expected to approximate the tax that will be due
 12 over the period of the agreement using summary rather than
 13 detail data or alternate valuation applications or methods,
 14 provided that:

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

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

19 (a) specify the receipts, deductions or
 20 values to be reported on an estimated basis and the
 21 methodology to be followed by the taxpayer in making the
 22 estimates;

23 (b) state the term of the agreement and
 24 the procedures for terminating the agreement prior to its
 25 expiration;

1 (c) be signed by the taxpayer or the
2 taxpayer's representative and the secretary or the secretary's
3 delegate; and

4 (d) contain a declaration by the
5 taxpayer or the taxpayer's representative that all statements
6 of fact made by the taxpayer or the taxpayer's representative
7 in the taxpayer's application and the agreement are true and
8 correct as to every material matter.

9 F. The secretary may, by regulation, require any
10 person doing business in the state to submit to the department
11 information reports that are considered reasonable and
12 necessary for the administration of any provision of law to
13 which the Tax Administration Act applies."

14 SECTION 41. Section 7-1-13.1 NMSA 1978 (being Laws 1988,
15 Chapter 99, Section 3, as amended) is amended to read:

16 "7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

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

24 (1) Group 1: all taxes due under the
25 Withholding Tax Act, the [~~Gross Receipts and Compensating~~]

1 Sales and Use Tax Act, the Municipal Local Option [~~gross~~
 2 ~~receipts~~] Sales and Use Tax [~~acts~~] Act, the County Local
 3 Option Sales and Use Tax Act, the Interstate
 4 Telecommunications [~~Gross Receipts~~] Sales Tax Act and the
 5 Leased Vehicle [~~Gross Receipts~~] Sales Tax Act;

6 (2) Group 2: all taxes due under the Oil and
 7 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,
 8 the Oil and Gas Emergency School Tax Act and the Oil and Gas
 9 Ad Valorem Production Tax Act;

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

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

15 B. For taxpayers who have more than one
 16 identification number issued by the department, the average
 17 tax payment shall be computed by combining the amounts paid
 18 under the several identification numbers.

19 [~~B.~~] C. Taxpayers who are required to make payment
 20 in accordance with the provisions of this section shall make
 21 payment by one or more of the following means on or before the
 22 due date so that funds are immediately available to the state
 23 on or before the due date:

24 (1) electronic payment; provided that a
 25 result of the payment is that funds are immediately available

.207939.1

1 to the state of New Mexico on or before the due date;

2 (2) currency of the United States;

3 (3) check drawn on and payable at any New
4 Mexico financial institution; provided that the check is
5 received by the department at the place and time required by
6 the department at least one banking day prior to the due date;
7 or

8 (4) check drawn on and payable at any
9 domestic non-New Mexico financial institution; provided that
10 the check is received by the department at the time and place
11 required by the department at least two banking days prior to
12 the due date.

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

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

23 SECTION 42. Section 7-1-14 NMSA 1978 (being Laws 1969,
24 Chapter 145, Section 1, as amended) is amended to read:

25 "7-1-14. SECRETARY MAY DETERMINE WHERE CERTAIN GROSS

1 RECEIPTS ARE TO BE REPORTED--PLACE OF BUSINESS FOR
2 CONSTRUCTION PROJECTS, ~~[AND]~~ CERTAIN REAL PROPERTY SALES AND
3 SALES BY OUT-OF-STATE VENDORS.--

4 A. By regulation, the secretary may require any
5 person maintaining one or more places of business to report
6 the person's taxable gross receipts and deductions for each
7 municipality or county or area within an Indian reservation or
8 pueblo grant in which the person maintains a place of
9 business.

10 B. For persons engaged in the construction
11 business, the place where the construction project is
12 performed is a "place of business", and all receipts from that
13 project are to be reported from that place of business.

14 C. The secretary may, by regulation, also require
15 any person maintaining a business outside the boundaries of a
16 municipality on land owned by that municipality to report the
17 person's taxable gross receipts for that municipality.

18 D. For a person engaged in the business of selling
19 real estate, the location of the real property sold is the
20 "place of business", and all receipts from that sale are to be
21 reported from that place of business.

22 E. For a person engaging in business but without
23 physical presence in this state, "place of business" is the
24 location where the property or the product of a service being
25 sold by the person is delivered. For transactions involving

.207939.1

1 intangible property or leases, "place of business" is the
2 location where the intangible property or lease is employed."

3 SECTION 43. Section 7-1-15 NMSA 1978 (being Laws 1969,
4 Chapter 31, Section 1, as amended) is amended to read:

5 "7-1-15. SECRETARY MAY SET TAX REPORTING AND PAYMENT
6 INTERVALS.--The secretary may, pursuant to regulation, allow
7 taxpayers with an anticipated tax liability of less than two
8 hundred dollars (\$200) a month to report and pay taxes at
9 intervals [~~which~~] that the secretary may specify. However,
10 unless specifically permitted by law, an interval shall not
11 exceed six months. The secretary may also allow direct
12 marketers who have entered into an agreement with the
13 department to collect and remit [~~compensating~~] use tax to
14 report and pay on a quarterly or [~~semi-annual~~] semiannual
15 basis."

16 SECTION 44. Section 7-1-15.2 NMSA 1978 (being Laws 1998,
17 Chapter 105, Section 1) is amended to read:

18 "7-1-15.2. AGREEMENTS--COLLECTION OF [~~COMPENSATING~~] USE
19 TAX.--The department may enter into agreements with direct
20 marketers for purposes of enforcing collection of the
21 [~~compensating~~] use tax."

22 SECTION 45. Section 7-1-21.1 NMSA 1978 (being Laws 2013,
23 Chapter 87, Section 1) is amended to read:

24 "7-1-21.1. SPECIAL AGREEMENTS--ALTERNATIVE [~~GROSS~~
25 RECEIPTS] SALES TAXPAYER.--

1 A. To allow the payment of [~~gross receipts~~] sales
 2 tax by a person who is not the liable taxpayer, the secretary
 3 may approve a request by a person to assume the liability for
 4 [~~gross receipts~~] sales tax or governmental [~~gross receipts~~]
 5 sales tax owed by another; provided that the person requesting
 6 approval agrees to assume the rights and responsibilities as
 7 taxpayer pursuant to the Tax Administration Act for:

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

13 (2) an agreement to collect and pay over
 14 taxes for a direct sales company:

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

18 (b) in which the direct sales company
 19 agrees to pay the [~~gross receipts~~] sales tax liability of the
 20 distributor at the same time the company remits its own [~~gross~~
 21 ~~receipts~~] sales tax [and

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

25 ~~(a) allows a person engaged in~~

1 ~~manufacturing in New Mexico to pay gross receipts tax or~~
2 ~~governmental gross receipts tax on behalf of a utility company~~
3 ~~on receipts from sales of utilities that are: 1) not consumed~~
4 ~~in the manufacturing process; or 2) not otherwise deductible;~~
5 ~~and~~

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

10 B. To enter into the agreements authorized in this
11 section, a person shall complete a form prescribed by the
12 secretary and provide any additional information or
13 documentation required by department rules or instructions
14 that will assist in the approval of agreements listed in
15 Subsection A of this section.

16 C. Once approved, an agreement shall be effective
17 only for the period of time specified in each agreement. Any
18 person entering into an agreement to pay tax on behalf of
19 another person shall fulfill all of the requirements set out
20 in the agreement. Failure to fulfill all of the requirements
21 set out in the agreement may result in the revocation of the
22 agreement by the department. An approved agreement may only
23 be revoked prior to expiration by written notification to all
24 persons who are party to the agreement and shall be applied
25 beginning on the first day of a month that occurs at least one

1 month following the date on which the agreement is revoked.

2 D. A person approved by the secretary to pay the
 3 [~~gross receipts~~] sales tax or governmental [~~gross receipts~~]
 4 sales tax pursuant to Subsection A of this section shall be
 5 deemed to be the taxpayer with respect to that tax pursuant to
 6 the Tax Administration Act with respect to all rights and
 7 responsibilities related to that tax, except that the person
 8 shall not:

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

12 (2) [~~the person shall not~~] claim a refund of
 13 tax on the basis that the person is not statutorily liable to
 14 pay the tax.

15 E. The department shall relieve from liability and
 16 hold harmless from the payment of a tax assumed by another
 17 person pursuant to an agreement approved pursuant to this
 18 section a taxpayer that would otherwise be liable for that
 19 tax."

20 SECTION 46. Section 7-1-26 NMSA 1978 (being Laws 1965,
 21 Chapter 248, Section 28, as amended) is amended to read:

22 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT, REBATE
 23 OR REFUND.--

24 A. A person who believes that an amount of tax has
 25 been paid by or withheld from that person in excess of that

.207939.1

underscored material = new
 [bracketed material] = delete

1 for which the person was liable, who has been denied any
2 credit or rebate claimed or who claims a prior right to
3 property in the possession of the department pursuant to a
4 levy made under authority of Sections 7-1-31 through 7-1-34
5 NMSA 1978 may claim a refund by directing to the secretary,
6 within the time limited by the provisions of Subsections D and
7 E of this section, a written claim for refund. Except as
8 provided in Subsection I of this section, a refund claim shall
9 include:

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

12 (2) the type of tax for which a refund is
13 being claimed, the credit or rebate denied or the property
14 levied upon;

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

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

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

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

24 (1) If the claim is denied in whole or in
25 part in writing, no claim may be refiled with respect to that

1 which was denied, but the person, within ninety days after
 2 either the mailing or delivery of the denial of all or any
 3 part of the claim, may elect to pursue one, but not more than
 4 one, of the remedies in Subsection C of this section.

5 (2) If the department has neither granted nor
 6 denied any portion of a claim for refund within one hundred
 7 twenty days of the date the claim was mailed or delivered to
 8 the department, the person may refile it within the time
 9 limits set forth in Subsection D of this section or may within
 10 ninety days elect to pursue one, but only one, of the remedies
 11 in Subsection C of this section. After the expiration of the
 12 two hundred ten days from the date the claim was mailed or
 13 delivered to the department, the department may not approve or
 14 disapprove the claim unless the person has pursued one of the
 15 remedies under Subsection C of this section.

16 C. A person may elect to pursue no more than one
 17 of the remedies in Paragraphs (1) and (2) of this subsection.
 18 A person who timely pursues more than one remedy shall be
 19 deemed to have elected the first remedy invoked. The person
 20 may:

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

24 (a) the circumstances of: 1) an
 25 alleged overpayment; 2) a denied credit; 3) a denied rebate;

.207939.1

1 or 4) a denial of a prior right to property levied upon by the
2 department;

3 (b) an allegation that, because of that
4 overpayment or denial, the state is indebted to the [~~taxpayer~~
5 person for a specified amount, including any allowed interest,
6 or for the property;

7 (c) demanding the refund to the
8 [~~taxpayer~~ person of that amount or that property; and

9 (d) reciting the facts of the claim for
10 refund; or

11 (2) commence a civil action in the district
12 court for Santa Fe county by filing a complaint setting forth
13 the circumstance of the claimed overpayment, denied credit or
14 rebate or denial of a prior right to property levied upon by
15 the department alleging that on account thereof the state is
16 indebted to the plaintiff in the amount or property stated,
17 together with any interest allowable, demanding the refund to
18 the plaintiff of that amount or property and reciting the
19 facts of the claim for refund. The plaintiff or the secretary
20 may appeal from any final decision or order of the district
21 court to the court of appeals.

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

.207939.1

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

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

6 (b) the final determination of value
 7 occurs with respect to any overpayment that resulted from a
 8 disapproval by any agency of the United States or the state of
 9 New Mexico or any court of increase in value of a product
 10 subject to taxation under the Oil and Gas Severance Tax Act,
 11 the Oil and Gas Conservation Tax Act, the Oil and Gas
 12 Emergency School Tax Act, the Oil and Gas Ad Valorem
 13 Production Tax Act or the Natural Gas Processors Tax Act;

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

16 (d) an overpayment of New Mexico tax
 17 resulted from: 1) an internal revenue service audit
 18 adjustment or a federal refund paid due to an adjustment of an
 19 audit by the internal revenue service or an amended federal
 20 return; or 2) making a change to a federal return for which
 21 federal approval is required by the Internal Revenue Code;

22 (2) when an amount of a claim for ~~[credit~~
 23 ~~under the provisions of the Investment Credit Act]~~ a
 24 laboratory partnership with small business tax credit [Act
 25 or], a technology jobs and research and development tax credit

underscored material = new
 [bracketed material] = delete

1 ~~[Act or for the]~~, a rural job tax credit ~~[pursuant to Section~~
2 ~~7-2E-1.1 NMSA 1978]~~ or similar credit has been denied, the
3 taxpayer may claim a refund of the credit no later than one
4 year after the date of the denial;

5 (3) when a taxpayer under audit by the
6 department has signed a waiver of the limitation on
7 assessments on or after July 1, 1993 pursuant to Subsection F
8 of Section 7-1-18 NMSA 1978, the taxpayer may file a claim for
9 refund of the same tax paid for the same period for which the
10 waiver was given, until a date one year after the later of the
11 date of the mailing of an assessment issued pursuant to the
12 audit, the date of the mailing of final audit findings to the
13 taxpayer or the date a proceeding is begun in court by the
14 department with respect to the same tax and the same period;

15 (4) if the payment of an amount of tax was
16 not made within three years of the end of the calendar year in
17 which the original due date of the tax or date of the
18 assessment of the department occurred, a claim for refund of
19 that amount of tax can be made within one year of the date on
20 which the tax was paid; or

21 (5) when a taxpayer has been assessed a
22 tax on or after July 1, 1993 under Subsection B, C or D of
23 Section 7-1-18 NMSA 1978 and when the assessment applies to a
24 period ending at least three years prior to the beginning of
25 the year in which the assessment was made, the taxpayer may

1 claim a refund for the same tax for the period of the
2 assessment or for any period following that period within one
3 year of the date of the assessment unless a longer period for
4 claiming a refund is provided in this section.

5 E. No credit or refund shall be allowed or made to
6 any person claiming a refund of gasoline tax under Section
7 7-13-11 NMSA 1978 unless notice of the destruction of the
8 gasoline was given the department within thirty days of the
9 actual destruction and the claim for refund is made within six
10 months of the date of destruction. No credit or refund shall
11 be allowed or made to any person claiming a refund of gasoline
12 tax under Section 7-13-17 NMSA 1978 unless the refund is
13 claimed within six months of the date of purchase of the
14 gasoline and the gasoline has been used at the time the claim
15 for refund is made.

16 F. If as a result of an audit by the department or
17 a managed audit covering multiple periods an overpayment of
18 tax is found in any period under the audit, that overpayment
19 may be credited against an underpayment of the same tax found
20 in another period under audit pursuant to Section 7-1-29 NMSA
21 1978, provided that the taxpayer files a claim for refund for
22 the overpayments identified in the audit.

23 G. Any refund of tax paid under any tax or tax act
24 administered under Subsection B of Section 7-1-2 NMSA 1978 may
25 be made, at the discretion of the department, in the form of

.207939.1

1 credit against future tax payments if future tax liabilities
2 in an amount at least equal to the credit amount reasonably
3 may be expected to become due.

4 H. For the purposes of this section, "oil and gas
5 tax return" means a return reporting tax due with respect to
6 oil, natural gas, liquid hydrocarbons, carbon dioxide, helium
7 or nonhydrocarbon gas pursuant to the Oil and Gas Severance
8 Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
9 Emergency School Tax Act, the Oil and Gas Ad Valorem
10 Production Tax Act, the Natural Gas Processors Tax Act or the
11 Oil and Gas Production Equipment Ad Valorem Tax Act.

12 I. The filing of a fully completed original income
13 tax return, corporate income tax return, corporate income and
14 franchise tax return, estate tax return or special fuel excise
15 tax return that shows a balance due the taxpayer or a fully
16 completed amended income tax return, an amended corporate
17 income tax return, an amended corporate income and franchise
18 tax return, an amended estate tax return, an amended special
19 fuel excise tax return or an amended oil and gas tax return
20 that shows a lesser tax liability than the original return
21 constitutes the filing of a claim for refund for the
22 difference in tax due shown on the original and amended
23 returns."

24 SECTION 47. Section 7-1-29 NMSA 1978 (being Laws 1965,
25 Chapter 248, Section 31, as amended) is amended to read:

.207939.1

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

2 A. In response to a claim for refund, credit or
3 rebate made as provided in Section 7-1-26 NMSA 1978, but
4 before a court acquires jurisdiction of the matter, the
5 secretary or the secretary's delegate may authorize payment to
6 a person in the amount of the [~~creditor~~] credit or rebate
7 claimed or refund an overpayment of tax determined by the
8 secretary or the secretary's delegate to have been erroneously
9 made by the person, together with allowable interest. A
10 payment of a credit rebate claimed or a refund of tax and
11 interest erroneously paid amounting to twenty thousand dollars
12 (\$20,000) or more shall be made with the prior approval of the
13 attorney general, except that the secretary or the secretary's
14 delegate may make refunds with respect to the Oil and Gas
15 Severance Tax Act, the Oil and Gas Conservation Tax Act, the
16 Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
17 Valorem Production Tax Act, the Natural Gas Processors Tax Act
18 or the Oil and Gas Production Equipment Ad Valorem Tax Act,
19 Section 7-13-17 NMSA 1978 and the Cigarette Tax Act without
20 the prior approval of the attorney general regardless of the
21 amount.

22 B. Pursuant to the final order of the district
23 court, the court of appeals, the supreme court of New Mexico
24 or a federal court, from which order, appeal or review is not
25 successfully taken, adjudging that a person has properly

.207939.1

1 claimed a credit or rebate or made an overpayment of tax, the
2 secretary shall authorize the payment to the person of the
3 amount thereof.

4 C. In the discretion of the secretary, any amount
5 of credit or rebate to be paid or tax to be refunded may be
6 offset against any amount of tax for which the person due to
7 receive the credit, rebate payment or refund is liable, or in
8 the case of a refund of gross receipts or sales tax, any
9 compensating or use tax owed by that person's customer as a
10 result of transactions with that person. The secretary or the
11 secretary's delegate shall give notice to the taxpayer that
12 the credit, rebate payment or refund will be made in this
13 manner, and the taxpayer shall be entitled to interest
14 pursuant to Section 7-1-68 NMSA 1978 until the tax liability
15 is credited with the credit, rebate or refund amount.

16 D. In an audit by the department or a managed
17 audit covering multiple reporting periods in which both
18 underpayments and overpayments of a tax have been made in
19 different reporting periods, the department shall credit the
20 tax overpayments against the underpayments; provided that the
21 taxpayer files a claim for refund of the overpayments. An
22 overpayment shall be applied as a credit first to the earliest
23 underpayment and then to succeeding underpayments. An
24 underpayment of tax to which an overpayment is credited
25 pursuant to this section shall be deemed paid in the period in

.207939.1

1 which the overpayment was made or the period to which the
2 overpayment was credited against an underpayment, whichever is
3 later. If the overpayments credited pursuant to this section
4 exceed the underpayments of a tax, the amount of the net
5 overpayment for the periods covered in the audit shall be
6 refunded to the taxpayer.

7 E. When a taxpayer makes a payment identified to a
8 particular return or assessment, and the department determines
9 that the payment exceeds the amount due pursuant to that
10 return or assessment, the secretary may apply the excess to
11 the taxpayer's other liabilities pursuant to the tax acts to
12 which the return or assessment applies, without requiring the
13 taxpayer to file a claim for a refund. The liability to which
14 an overpayment is applied pursuant to this section shall be
15 deemed paid in the period in which the overpayment was made or
16 the period to which the overpayment was applied, whichever is
17 later.

18 F. If the department determines, upon review of an
19 original or amended income tax return, corporate income and
20 franchise tax return, estate tax return, special fuels excise
21 tax return or oil and gas tax return, that there has been an
22 overpayment of tax for the taxable period to which the return
23 or amended return relates in excess of the amount due to be
24 refunded to the taxpayer pursuant to the provisions of
25 Subsection I of Section 7-1-26 NMSA 1978, the department may

.207939.1

1 refund that excess amount to the taxpayer without requiring
2 the taxpayer to file a refund claim.

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

8 H. In response to a timely refund claim pursuant
9 to Section 7-1-26 NMSA 1978 and notwithstanding any other
10 provision of the Tax Administration Act, the secretary or the
11 secretary's delegate may refund or credit a portion of an
12 assessment of tax paid, including applicable penalties and
13 interest representing the amount of tax previously paid by
14 another person on behalf of the taxpayer on the same
15 transaction; provided that the requirements of equitable
16 recoupment are met. For purposes of this subsection, the
17 refund claim may be filed by the taxpayer to whom the
18 assessment was issued or by another person who claims to have
19 previously paid the tax on behalf of the taxpayer. Prior to
20 granting the refund or credit, the secretary may require a
21 waiver of all rights to claim a refund or credit of the tax
22 previously paid by another person paying a tax on behalf of
23 the taxpayer."

24 SECTION 48. Section 7-1-55 NMSA 1978 (being Laws 1975,
25 Chapter 251, Section 3, as amended) is amended to read:

.207939.1

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

3 A. A person engaged in the construction business
4 who does not have a principal place of business in New Mexico
5 and who enters into a prime construction contract to be
6 performed in this state shall, at the time such contract is
7 entered into, furnish the secretary or the secretary's
8 delegate with a surety bond, or other acceptable security, in
9 a sum equivalent to the gross receipts to be paid under the
10 contract multiplied by the sum of the applicable rate of the
11 [~~gross receipts~~] state sales tax imposed by Section 7-9-4 NMSA
12 1978 plus the applicable rate or rates of tax imposed pursuant
13 to local option [~~gross receipts~~] sales taxes to secure payment
14 of the tax imposed on the gross receipts from the contract and
15 shall obtain a certificate from the secretary or the
16 secretary's delegate that the requirements of this subsection
17 have been met.

18 B. If the total sum to be paid under the contract
19 is changed by ten percent or more subsequent to the date the
20 surety bond or other acceptable security is furnished to the
21 secretary or the secretary's delegate, such person shall
22 increase or decrease, as the case may be, the amount of the
23 bond or security within fourteen days after the change.

24 C. If a person fails to comply with Subsection A
25 or B of this section, the secretary or the secretary's

.207939.1

1 delegate may:

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

8 (2) [~~may~~] when a serious and immediate risk
9 exists that an amount of tax due or reasonably expected to
10 become due from the person on gross receipts from a prime
11 construction contract will not be paid, request the person to
12 comply with Subsections A and B of this section, and, upon
13 failure immediately to comply, the secretary may, without
14 further notice of any kind, apply to any district court of the
15 state for an injunction as provided in Section 7-1-53 NMSA
16 1978.

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

21 E. As used in this section, "construction" shall
22 have the meaning set forth in Section 7-9-3.4 NMSA 1978 and
23 "engaging in business" shall have the meaning set forth in
24 Section 7-9-3.3 NMSA 1978.

25 F. A municipality or other political subdivision

underscored material = new
[bracketed material] = delete

1 of the state or any agency of the state shall not issue a
 2 building or other construction permit to any person subject to
 3 the requirements of Subsection A of this section without first
 4 having been furnished by the construction contractor with the
 5 certificate from the secretary or the secretary's delegate
 6 specified in Subsection A of this section. Any person who
 7 issues any such permit before receiving the certificate shall
 8 be deemed guilty of a misdemeanor and, upon conviction, be
 9 fined not less than fifty dollars (\$50.00) nor more than one
 10 hundred dollars (\$100) for each offense."

11 SECTION 49. A new section of the Tax Administration Act,
 12 Section 7-1-69.3 NMSA 1978, is enacted to read:

13 "7-1-69.3. [NEW MATERIAL] CIVIL PENALTY--VIOLATION OF
 14 CONDITIONS OF NONTAXABLE TRANSACTION CERTIFICATE.--A buyer or
 15 lessee delivering a nontaxable transaction certificate whose
 16 subsequent use of the property or service violates the
 17 conditions of the certificate shall pay as a penalty the
 18 greater of six percent of the value of the property or service
 19 or twenty-five dollars (\$25.00)."

20 SECTION 50. A new section of the Tax Administration Act,
 21 Section 7-1-84 NMSA 1978, is enacted to read:

22 "7-1-84. [NEW MATERIAL] DEPARTMENT TO DETERMINE SALES
 23 TAX RATES EQUIVALENT TO GROSS RECEIPTS TAX RATES.--

24 A. For the purpose of determining the municipal
 25 share pursuant to Subsection B of Section 3-37A-2 NMSA 1978,

.207939.1

1 the department shall estimate the municipal sales tax rates
2 that will, in fiscal years 2019 and 2020, produce an amount
3 equivalent to what would have been produced by a municipal
4 gross receipts tax rate of one and thirty-five hundredths
5 percent, if that tax was still in effect in those fiscal
6 years. The department shall use data from fiscal year 2017 to
7 estimate the rate for fiscal year 2019 and data from fiscal
8 year 2018 to estimate the rate for fiscal year 2020. The
9 estimated municipal sales tax rates shall be used to determine
10 the municipal share pursuant to Subsection B of Section
11 3-37A-2 NMSA 1978 as follows:

12 (1) the rate estimated for fiscal year 2019
13 shall be used beginning July 1, 2018 and prior to July 1,
14 2019; and

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

17 B. For the purpose of determining the local tax
18 effort and a qualifying municipality pursuant to Subsections G
19 and H of Section 3-37A-2 NMSA 1978, the department shall
20 estimate the municipal sales tax rates that will, in fiscal
21 years 2019 and 2020, produce an amount equivalent to what
22 would have been produced by a municipal gross receipts tax
23 rate of one and one-fourth percent if that tax was still in
24 effect in those fiscal years. The department shall use data
25 from fiscal year 2017 to estimate the rate for fiscal year

.207939.1

1 2019 and data from fiscal year 2018 to estimate the rate for
2 fiscal year 2020. The estimated municipal sales tax rates
3 shall be used to determine the local tax effort and a
4 qualifying municipality pursuant to Subsections G and H of
5 Section 3-37A-2 NMSA 1978 as follows:

6 (1) the rate estimated for fiscal year 2019
7 shall be used beginning July 1, 2018 and prior to July 1,
8 2019; and

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

11 C. For the purpose of determining the limitation
12 on the amount that may be transferred pursuant to Subsection D
13 of Section 4-48B-12 NMSA 1978, the department shall estimate
14 the county sales tax rates that will, in fiscal years 2019 and
15 2020, produce an amount equivalent to what would have been
16 produced by a county health care gross receipts tax if that
17 tax was still in effect in those fiscal years. The department
18 shall use data from fiscal year 2017 to estimate the rate for
19 fiscal year 2019 and data from fiscal year 2018 to estimate
20 the rate for fiscal year 2020. The estimated county sales tax
21 rates shall be used to determine the limitation on the amount
22 that may be transferred pursuant to Subsection D of Section
23 4-48B-12 NMSA 1978 as follows:

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

.207939.1

1 2019; and

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

4 D. For the purpose of determining a qualifying
5 county pursuant to Paragraph (4) of Subsection F of Section
6 4-61-2 NMSA 1978, the department shall estimate the county
7 sales tax rates that will, in fiscal years 2019 and 2020,
8 produce an amount equivalent to what would have been produced
9 by a county gross receipts tax rate of three-eighths percent
10 if that tax was still in effect in those fiscal years. The
11 department shall use data from fiscal year 2017 to estimate
12 the rate for fiscal year 2019 and data from fiscal year 2018
13 to estimate the rate for fiscal year 2020. The estimated
14 county sales tax rates shall be used to determine a qualifying
15 county pursuant to Paragraph (4) of Subsection F of Section
16 4-61-2 NMSA as follows:

17 (1) the rate estimated for fiscal year 2019
18 shall be used beginning July 1, 2018 and prior to July 1,
19 2019; and

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

22 E. For the purpose of determining the distribution
23 pursuant to Paragraphs (1) and (2) of Subsection E of Section
24 4-61-3 NMSA 1978, the department shall estimate the county
25 sales tax rates that will, in fiscal years 2019 and 2020,

.207939.1

1 produce an amount equivalent to what would have been produced
2 by a county gross receipts tax rate of one-eighth percent and
3 a rate of one-sixteenth percent if the county gross receipts
4 tax was still in effect in those fiscal years. The department
5 shall use data from fiscal year 2017 to estimate the rate for
6 fiscal year 2019 and data from fiscal year 2018 to estimate
7 the rate for fiscal year 2020. The estimated county sales tax
8 rates shall be used to determine the distribution pursuant to
9 Paragraphs (1) and (2) of Subsection E of Section 4-61-3 NMSA
10 1978 as follows:

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

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

16 F. For the purpose of determining the distribution
17 pursuant to Subsection C of Section 7-1-6.7 NMSA 1978, the
18 department shall estimate the state sales tax rates that will,
19 in fiscal years 2019 and 2020, produce an amount equivalent to
20 what would have been produced by a gross receipts tax rate of
21 forty-six thousandths percent, if that tax was still in effect
22 in those fiscal years. The department shall use data from
23 fiscal year 2017 to estimate the rate for fiscal year 2019 and
24 data from fiscal year 2018 to estimate the rate for fiscal
25 year 2020. The estimated state sales tax rates shall be used

.207939.1

1 to determine the distribution pursuant to Subsection C of
2 Section 7-1-6.7 NMSA 1978 as follows:

3 (1) the rate estimated for fiscal year 2019
4 shall be used beginning July 1, 2018 and prior to July 1,
5 2019; and

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

8 G. For the purpose of determining the distribution
9 pursuant to Paragraph (2) of Subsection A of Section 7-1-6.16
10 NMSA 1978, the department shall estimate the county sales tax
11 rates that will, in fiscal years 2019 and 2020, produce an
12 amount equivalent to what would have been produced by a county
13 gross receipts tax rate of one-eighth percent if that tax was
14 still in effect in those fiscal years. The department shall
15 use data from fiscal year 2017 to estimate the rate for fiscal
16 year 2019 and data from fiscal year 2018 to estimate the rate
17 for fiscal year 2020. The estimated county sales tax rates
18 shall be used to determine the distribution pursuant to
19 Paragraph (2) of Subsection A of Section 7-1-6.16 NMSA 1978 as
20 follows:

21 (1) the rate estimated for fiscal year 2019
22 shall be used beginning July 1, 2018 and prior to July 1,
23 2019; and

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

.207939.1

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

1 H. For the purpose of determining the dedication
2 pursuant to Subsection A of Section 27-5-6.2 NMSA 1978, the
3 department shall estimate the county sales tax rates that
4 will, in fiscal years 2019 and 2020, produce an amount
5 equivalent to what would have been produced by a county gross
6 receipts tax rate of one-twelfth percent if that tax was still
7 in effect in those fiscal years. The department shall use
8 data from fiscal year 2017 to estimate the rate for fiscal
9 year 2019 and data from fiscal year 2018 to estimate the rate
10 for fiscal year 2020. The estimated county sales tax rates
11 shall be used to determine the dedication pursuant to
12 Subsection A of Section 27-5-6.2 NMSA 1978 as follows:

13 (1) the rate estimated for fiscal year 2019
14 shall be used beginning July 1, 2018 and prior to July 1,
15 2019; and

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

18 I. For the purpose of determining the dedication
19 pursuant to Subsection A of Section 27-10-4 NMSA 1978, the
20 department shall estimate the county sales tax rates that
21 will, in fiscal years 2019 and 2020, produce an amount
22 equivalent to what would have been produced by a county gross
23 receipts tax rate of one-sixteenth percent if that tax was
24 still in effect in those fiscal years. The department shall
25 use data from fiscal year 2017 to estimate the rate for fiscal

.207939.1

1 year 2019 and data from fiscal year 2018 to estimate the rate
2 for fiscal year 2020. The estimated county sales tax rates
3 shall be used to determine the dedication pursuant to
4 Subsection A of Section 27-10-4 NMSA 1978, as follows:

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

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

10 J. The rates established pursuant to Subsections A
11 through I of this section shall be rounded up to the nearest
12 one-hundredth percent."

13 SECTION 51. Section 7-2-18.4 NMSA 1978 (being Laws 1994,
14 Chapter 115, Section 1) is amended to read:

15 "7-2-18.4. QUALIFIED BUSINESS FACILITY REHABILITATION
16 CREDIT--INCOME TAX CREDIT.--

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

1 B. A taxpayer may claim the credit provided in
2 this section for each taxable year in which restoration,
3 rehabilitation or renovation is carried out. Except as
4 provided in Subsection E of this section, claims for the
5 credit provided in this section shall be limited to three
6 consecutive years, and the maximum aggregate credit allowable
7 shall not exceed fifty thousand dollars (\$50,000) for any
8 single restoration, rehabilitation or renovation project for
9 any qualified business facility. Each claim for a qualified
10 business facility rehabilitation credit shall be accompanied
11 by documentation and certification as the department may
12 require by regulation or instruction.

13 C. No credit may be claimed or allowed pursuant to
14 the provisions of this section for any costs incurred for a
15 restoration, rehabilitation or renovation project for which a
16 credit may be claimed pursuant to the provisions of Section
17 7-2-18.2 [~~or Section 7-9A-1~~] NMSA 1978.

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

22 E. A taxpayer who otherwise qualifies and claims a
23 credit on a restoration, rehabilitation or renovation project
24 on a building owned by a partnership or other business
25 association of which the taxpayer is a member may claim a

1 credit only in proportion to [~~his~~] the taxpayer's interest in
2 the partnership or association. The total credit claimed by
3 all members of the partnership or association shall not exceed
4 fifty thousand dollars (\$50,000) in the aggregate for any
5 single restoration, rehabilitation or renovation project for a
6 qualified business facility.

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

16 G. As used in this section:

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

.207939.1

1 (2) "restoration, rehabilitation or
2 renovation" includes:

3 (a) the construction services necessary
4 to ensure that a building is in compliance with applicable
5 zoning codes, is safe for occupancy and meets the operating
6 needs of a person in the manufacturing, distribution or
7 service industry; and

8 (b) expansion of or an addition to a
9 building if the expansion or addition does not increase the
10 usable square footage of the building by more than ten percent
11 of the usable square footage of the building prior to the
12 restoration, rehabilitation or renovation project."

13 **SECTION 52.** Section 7-2-18.25 NMSA 1978 (being Laws
14 2009, Chapter 279, Section 1) is amended to read:

15 "7-2-18.25. ADVANCED ENERGY INCOME TAX CREDIT.--

16 A. The tax credit that may be claimed pursuant to
17 this section may be referred to as the "advanced energy income
18 tax credit".

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

.207939.1

1 department.

2 C. An entity that holds an interest in a qualified
3 generating facility may request a certificate of eligibility
4 from the department of environment to enable the requester to
5 apply for an advanced energy income tax credit. The
6 department of environment:

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

9 (2) shall require that the requester provide
10 the department of environment with the information necessary
11 to assess whether the requester's facility meets the criteria
12 to be a qualified generating facility;

13 (3) shall issue a certificate to the
14 requester stating that the facility is or is not a qualified
15 generating facility within one hundred eighty days after
16 receiving all information necessary to make a determination;

17 (4) shall:

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

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

24 (5) shall report annually to the appropriate
25 interim legislative committee information that will allow the

.207939.1

1 legislative committee to analyze the effectiveness of the
2 advanced energy tax credits, including the identity of
3 qualified generating facilities, the energy production means
4 used, the amount of emissions identified in this section
5 reduced and removed by those qualified generating facilities
6 and whether any requests for certificates of eligibility could
7 not be approved due to program limits.

8 D. A taxpayer who holds an interest in a qualified
9 generating facility may be allocated the right to claim the
10 advanced energy income tax credit without regard to the
11 taxpayer's relative interest in the qualified generating
12 facility if:

13 (1) the business entity making the allocation
14 provides notice of the allocation and the taxpayer's interest
15 in the qualified generating facility to the department on
16 forms prescribed by the department;

17 (2) allocations to the taxpayer and all other
18 taxpayers allocated a right to claim the advanced energy tax
19 credit shall not exceed one hundred percent of the advanced
20 energy tax credit allowed for the qualified generating
21 facility; and

22 (3) the taxpayer and all other taxpayers
23 allocated a right to claim the advanced energy tax credits
24 collectively own at least a five percent interest in the
25 qualified generating facility.

.207939.1

1 E. To claim the advanced energy income tax credit,
2 a taxpayer shall submit with the taxpayer's New Mexico income
3 tax return a certificate of eligibility from the department of
4 environment stating that the taxpayer may be eligible for
5 advanced energy tax credits. The taxation and revenue
6 department shall provide credit claims forms. A credit claim
7 form shall accompany any return in which the taxpayer wishes
8 to apply for an approved credit, and the claim shall specify
9 the amount of credit intended to apply to each return. The
10 taxation and revenue department shall determine the amount of
11 advanced energy income tax credit for which the taxpayer may
12 apply.

13 F. Upon receipt of the notice of an allocation of
14 the right to claim all or a portion of the advanced energy
15 income tax credit, the department shall verify the allocation
16 due to the recipient.

17 G. ~~[A husband and wife]~~ Married individuals who
18 file separate returns for a taxable year in which they could
19 have filed a joint return may each claim only one-half of the
20 advanced energy income tax credit that would have been allowed
21 on a joint return.

22 H. The total amount of all advanced energy tax
23 credits claimed shall not exceed the total amount determined
24 by the department to be allowable pursuant to this section and
25 the Corporate Income and Franchise Tax Act ~~[and Section 7-9G-2~~

1 ~~NMSA 1978~~].

2 I. ~~[Any balance of the advanced energy income tax~~
3 ~~credit that the taxpayer is approved to claim may be claimed~~
4 ~~by the taxpayer as an advanced energy combined reporting tax~~
5 ~~credit allowed pursuant to Section 7-9G-2 NMSA 1978.]~~ If the
6 advanced energy income tax credit exceeds the amount of the
7 taxpayer's tax liabilities pursuant to the Income Tax Act [~~and~~
8 ~~Section 7-9G-2 NMSA 1978~~] in the taxable year in which it is
9 claimed, the balance of the unpaid credit may be carried
10 forward for ten years [~~and claimed as an advanced energy~~
11 ~~income tax credit or an advanced energy combined reporting tax~~
12 ~~credit~~]. The advanced energy income tax credit is not
13 refundable.

14 J. A taxpayer claiming the advanced energy income
15 tax credit pursuant to this section is ineligible for credits
16 pursuant to [~~the Investment Credit Act or~~] any other credit
17 that may be taken pursuant to the Income Tax Act [~~or credits~~
18 ~~that may be taken against the gross receipts tax, compensating~~
19 ~~tax or withholding tax~~] for the same expenditures.

20 K. The aggregate amount of all advanced energy tax
21 credits that may be claimed with respect to a qualified
22 generating facility shall not exceed sixty million dollars
23 (\$60,000,000).

24 L. As used in this section:

25 (1) "advanced energy tax credit" means the

.207939.1

1 advanced energy income tax credit and the advanced energy
2 corporate income tax credit [~~and the advanced energy combined~~
3 ~~reporting tax credit~~];

4 (2) "coal-based electric generating facility"
5 means a new or repowered generating facility and an associated
6 coal gasification facility, if any, that uses coal to generate
7 electricity and that meets the following specifications:

8 (a) emits the lesser of: 1) what is
9 achievable with the best available control technology; or 2)
10 thirty-five thousandths pound per million British thermal
11 units of sulfur dioxide, twenty-five thousandths pound per
12 million British thermal units of oxides of nitrogen and one
13 hundredth pound per million British thermal units of total
14 particulates in the flue gas;

15 (b) removes the greater of: 1) what is
16 achievable with the best available control technology; or 2)
17 ninety percent of the mercury from the input fuel;

18 (c) captures and sequesters or controls
19 carbon dioxide emissions so that by the later of January 1,
20 2017 or eighteen months after the commercial operation date of
21 the coal-based electric generating facility, no more than one
22 thousand one hundred pounds per megawatt-hour of carbon
23 dioxide is emitted into the atmosphere;

24 (d) all infrastructure required for
25 sequestration is in place by the later of January 1, 2017 or

1 eighteenth months after the commercial operation date of the
2 coal-based electric generating facility;

3 (e) includes methods and procedures to
4 monitor the disposition of the carbon dioxide captured and
5 sequestered from the coal-based electric generating facility;
6 and

7 (f) does not exceed a name-plate
8 capacity of seven hundred net megawatts;

9 (3) "eligible generation plant costs" means
10 expenditures for the development and construction of a
11 qualified generating facility, including permitting; site
12 characterization and assessment; engineering; design; carbon
13 dioxide capture, treatment, compression, transportation and
14 sequestration; site and equipment acquisition; and fuel supply
15 development used directly and exclusively in a qualified
16 generating facility;

17 (4) "entity" means an individual, estate,
18 trust, receiver, cooperative association, club, corporation,
19 company, firm, partnership, limited liability company, limited
20 liability partnership, joint venture, syndicate or other
21 association or a gas, water or electric utility owned or
22 operated by a county or municipality;

23 (5) "geothermal electric generating facility"
24 means a facility with a name-plate capacity of one megawatt or
25 more that uses geothermal energy to generate electricity,

.207939.1

1 including a facility that captures and provides geothermal
2 energy to a preexisting electric generating facility using
3 other fuels in part;

4 (6) "interest in a qualified generating
5 facility" means title to a qualified generating facility; a
6 leasehold interest in a qualified generating facility; an
7 ownership interest in a business or entity that is taxed for
8 federal income tax purposes as a partnership that holds title
9 to or a leasehold interest in a qualified generating facility;
10 or an ownership interest, through one or more intermediate
11 entities that are each taxed for federal income tax purposes
12 as a partnership, in a business that holds title to or a
13 leasehold interest in a qualified generating facility;

14 (7) "name-plate capacity" means the maximum
15 rated output of the facility measured as alternating current
16 or the equivalent direct current measurement;

17 (8) "qualified generating facility" means a
18 facility that begins construction not later than December 31,
19 2015 and is:

20 (a) a solar thermal electric generating
21 facility that begins construction on or after July 1, 2007 and
22 that may include an associated renewable energy storage
23 facility;

24 (b) a solar photovoltaic electric
25 generating facility that begins construction on or after July

1 1, 2009 and that may include an associated renewable energy
2 storage facility;

3 (c) a geothermal electric generating
4 facility that begins construction on or after July 1, 2009;

5 (d) a recycled energy project if that
6 facility begins construction on or after July 1, 2007; or

7 (e) a new or repowered coal-based
8 electric generating facility and an associated coal
9 gasification facility;

10 (9) "recycled energy" means energy produced
11 by a generation unit with a name-plate capacity of not more
12 than fifteen megawatts that converts the otherwise lost energy
13 from the exhaust stacks or pipes to electricity without
14 combustion of additional fossil fuel;

15 (10) "sequester" means to store, or
16 chemically convert, carbon dioxide in a manner that prevents
17 its release into the atmosphere and may include the use of
18 geologic formations and enhanced oil, coalbed methane or
19 natural gas recovery techniques; and

20 (11) "solar photovoltaic electric generating
21 facility" means an electric generating facility with a
22 name-plate capacity of one megawatt or more that uses solar
23 photovoltaic energy to generate electricity [~~and~~

24 ~~(12) "solar thermal generating facility"~~
25 ~~means an electric generating facility with a name-plate~~

.207939.1

1 ~~capacity of one megawatt or more that uses solar thermal~~
2 ~~energy to generate electricity, including a facility that~~
3 ~~captures and provides solar energy to a preexisting electric~~
4 ~~generating facility using other fuels in part]."~~

5 SECTION 53. Section 7-2A-2 NMSA 1978 (being Laws 1986,
6 Chapter 20, Section 33, as amended) is amended to read:

7 "7-2A-2. DEFINITIONS.--For the purpose of the Corporate
8 Income and Franchise Tax Act and unless the context requires
9 otherwise:

10 A. "affiliated group" means that term as it is
11 used in the Internal Revenue Code;

12 B. "bank" means any national bank, national
13 banking association, state bank or bank holding company;

14 C. "base income" means that part of the taxpayer's
15 income defined as taxable income and upon which the federal
16 income tax is calculated in the Internal Revenue Code for
17 income tax purposes plus, for taxable years beginning on or
18 after January 1, 1991, the amount of the net operating loss
19 deduction allowed by Section 172(a) of the Internal Revenue
20 Code, as that section may be amended or renumbered, and
21 claimed by the taxpayer for that year; "base income" also
22 includes interest received on a state or local bond;

23 D. "corporation" means corporations, joint stock
24 companies, real estate trusts organized and operated under the
25 Real Estate Trust Act, financial corporations and banks, other

1 business associations and, for corporate income tax purposes,
2 partnerships and limited liability companies taxed as
3 corporations under the Internal Revenue Code;

4 E. "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 F. "fiscal year" means any accounting period of
9 twelve months ending on the last day of any month other than
10 December;

11 G. "Internal Revenue Code" means the United States
12 Internal Revenue Code of 1986, as amended;

13 H. "net income" means base income adjusted to
14 exclude:

15 (1) income from obligations of the
16 United States less expenses incurred to earn that income;

17 (2) other amounts that the state is
18 prohibited from taxing because of the laws or constitution of
19 this state or the United States;

20 (3) for taxable years that began prior to
21 January 1, 1991, an amount equal to the sum of:

22 (a) net operating loss carryback
23 deductions to that year from taxable years beginning prior to
24 January 1, 1991 claimed and allowed, as provided by the
25 Internal Revenue Code; and

.207939.1

1 (b) net operating loss carryover
2 deductions to that year claimed and allowed;

3 (4) for taxable years beginning on or after
4 January 1, 1991 and prior to January 1, 2013, an amount equal
5 to the sum of any net operating loss carryover deductions to
6 that year claimed and allowed; provided that the amount of any
7 net operating loss carryover from a taxable year beginning on
8 or after January 1, 1991 and prior to January 1, 2013 may be
9 excluded only as follows:

10 (a) in the case of a timely filed
11 return, in the taxable year immediately following the taxable
12 year for which the return is filed; or

13 (b) in the case of amended returns or
14 original returns not timely filed, in the first taxable year
15 beginning after the date on which the return or amended return
16 establishing the net operating loss is filed; and

17 (c) in either case, if the net
18 operating loss carryover exceeds the amount of net income
19 exclusive of the net operating loss carryover for the taxable
20 year to which the exclusion first applies, in the next four
21 succeeding taxable years in turn until the net operating loss
22 carryover is exhausted for any net operating loss carryover
23 from a taxable year prior to January 1, 2013; in no event may
24 a net operating loss carryover from a taxable year beginning
25 prior to January 1, 2013 be excluded in any taxable year after

1 the fourth taxable year beginning after the taxable year to
2 which the exclusion first applies; ~~and~~

3 (5) for taxable years beginning on or after
4 January 1, 2013, an amount equal to the sum of any net
5 operating loss carryover deductions to that year claimed and
6 allowed; provided that the amount of any net operating loss
7 carryover may be excluded only as follows:

8 (a) in the case of a timely filed
9 return, in the taxable year immediately following the taxable
10 year for which the return is filed; or

11 (b) in the case of amended returns or
12 original returns not timely filed, in the first taxable year
13 beginning after the date on which the return or amended return
14 establishing the net operating loss is filed; and

15 (c) in either case, if the net
16 operating loss carryover exceeds the amount of net income
17 exclusive of the net operating loss carryover for the taxable
18 year to which the exclusion first applies, in the next
19 nineteen succeeding taxable years in turn until the net
20 operating loss carryover is exhausted for any net operating
21 loss carryover from a taxable year beginning on or after
22 January 1, 2013; in no event shall a net operating loss
23 carryover from a taxable year beginning: 1) prior to January
24 1, 2013 be excluded in any taxable year after the fourth
25 taxable year beginning after the taxable year to which the

.207939.1

1 exclusion first applies; and 2) on or after January 1, 2013 be
2 excluded in any taxable year after the nineteenth taxable year
3 beginning after the taxable year to which the exclusion first
4 applies; and

5 (6) income on which the premium tax pursuant
6 to Section 59A-6-2 NMSA 1978 is assessed and income of
7 authorized insurers from eligible investments, as those terms
8 are used in the New Mexico Insurance Code;

9 I. "net operating loss" means any net operating
10 loss, as defined by Section 172(c) of the Internal Revenue
11 Code, as that section may be amended or renumbered, for a
12 taxable year as further increased by the income, if any, from
13 obligations of the United States for that year less related
14 expenses;

15 J. "net operating loss carryover" means the
16 amount, or any portion of the amount, of a net operating loss
17 for any taxable year that, pursuant to Paragraph (3), (4) or
18 (5) of Subsection H of this section, may be excluded from base
19 income;

20 K. "person" means any individual, estate, trust,
21 receiver, cooperative association, club, corporation, company,
22 firm, partnership, limited liability company, joint venture,
23 syndicate or other association; "person" also means, to the
24 extent permitted by law, any federal, state or other
25 governmental unit or subdivision or agency, department or

.207939.1

1 instrumentality thereof;

2 L. "secretary" means the secretary of taxation and
3 revenue or the secretary's delegate;

4 M. "state" means any state of the United States,
5 the District of Columbia, the commonwealth of Puerto Rico, any
6 territory or possession of the United States or political
7 subdivision thereof or any political subdivision of a foreign
8 country;

9 N. "state or local bond" means a bond issued by a
10 state other than New Mexico or by a local government other
11 than one of New Mexico's political subdivisions, the interest
12 from which is excluded from income for federal income tax
13 purposes under Section 103 of the Internal Revenue Code, as
14 that section may be amended or renumbered;

15 O. "taxable year" means the calendar year or
16 fiscal year upon the basis of which the net income is computed
17 under the Corporate Income and Franchise Tax Act and includes,
18 in the case of the return made for a fractional part of a year
19 under the provisions of that act, the period for which the
20 return is made;

21 P. "taxpayer" means any corporation subject to the
22 taxes imposed by the Corporate Income and Franchise Tax Act;
23 and

24 Q. "unitary corporations" means two or more
25 integrated corporations, other than any foreign corporation

.207939.1

1 incorporated in a foreign country and not engaged in trade or
2 business in the United States during the taxable year, that
3 are owned in the amount of more than fifty percent and
4 controlled by the same person and for which at least one of
5 the following conditions exists:

6 (1) there is a unity of operations evidenced
7 by central purchasing, advertising, accounting or other
8 centralized services;

9 (2) there is a centralized management or
10 executive force and centralized system of operation; or

11 (3) the operations of the corporations are
12 dependent upon or contribute property or services to one
13 another individually or as a group."

14 SECTION 54. Section 7-2A-4 NMSA 1978 (being Laws 1981,
15 Chapter 37, Section 37, as amended) is amended to read:

16 "7-2A-4. EXEMPTIONS.--No corporate income or franchise
17 tax shall be imposed upon:

18 [~~A. insurance companies reciprocal or inter-~~
19 ~~insurance exchanges which pay a premium tax to the state;~~

20 ~~B.]~~ A. a trust organized or created in the United
21 States and forming part of a stock bonus, pension or profit-
22 sharing plan of an employer for the exclusive benefit of [~~his~~]
23 the employer's employees or their beneficiaries, which trust
24 is exempt from taxation under the provisions of the Internal
25 Revenue Code; or

1 ~~[C.]~~ B. religious, educational, benevolent or
 2 other organizations not organized for profit ~~[which]~~ that are
 3 exempt from income taxation under the Internal Revenue Code,
 4 unless the organization receives income ~~[which]~~ that is
 5 subject to federal income taxation as "unrelated business
 6 income" under the Internal Revenue Code, in which case the
 7 organization is subject to the corporate franchise tax, and
 8 the corporate income tax applies to the unrelated business
 9 income."

10 **SECTION 55.** Section 7-2A-15 NMSA 1978 (being Laws 1994,
 11 Chapter 115, Section 2) is amended to read:

12 "7-2A-15. QUALIFIED BUSINESS FACILITY REHABILITATION
 13 CREDIT--CORPORATE INCOME TAX CREDIT.--

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

22 B. A taxpayer may claim the credit provided in
 23 this section for each taxable year in which restoration,
 24 rehabilitation or renovation is carried out. Except as
 25 provided in Subsection ~~[D]~~ E of this section, claims for the

.207939.1

1 credit provided in this section shall be limited to three
2 consecutive years, and the maximum aggregate credit allowable
3 shall not exceed fifty thousand dollars (\$50,000) for any
4 single restoration, rehabilitation or renovation project for
5 any qualified business facility. Each claim for a qualified
6 business facility rehabilitation credit shall be accompanied
7 by documentation and certification as the department may
8 require by regulation or instruction.

9 C. No credit may be claimed or allowed pursuant to
10 the provisions of this section for any costs incurred for a
11 restoration, rehabilitation or renovation project for which a
12 credit may be claimed pursuant to the provisions of Section
13 7-2A-8.6 [~~or Section 7-9A-1~~] NMSA 1978.

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

24 E. The credit provided in this section may only be
25 deducted from the taxpayer's corporate income tax liability.

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

8 F. As used in this section:

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

18 (2) "restoration, rehabilitation or
 19 renovation" includes:

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

25 (b) expansion of or additions to a

1 building if the expansion or addition does not increase the
2 usable square footage of the building by more than ten percent
3 of the usable square footage of the building prior to the
4 restoration, rehabilitation or renovation."

5 **SECTION 56.** Section 7-2A-25 NMSA 1978 (being Laws 2009,
6 Chapter 279, Section 2) is amended to read:

7 "7-2A-25. ADVANCED ENERGY CORPORATE INCOME TAX CREDIT.--

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

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

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

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

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

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

9 (4) shall:

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

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

16 (5) shall report annually to the appropriate
17 interim legislative committee information that will allow the
18 legislative committee to analyze the effectiveness of the
19 advanced energy tax credits, including the identity of
20 qualified generating facilities, the energy production means
21 used, the amount of emissions identified in this section
22 reduced and removed by those qualified generating facilities
23 and whether any requests for certificates of eligibility could
24 not be approved due to program limits.

25 D. A taxpayer that holds an interest in a

.207939.1

1 qualified generating facility may be allocated the right to
2 claim the advanced energy corporate income tax credit without
3 regard to the taxpayer's relative interest in the qualified
4 generating facility if:

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

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

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

18 E. Upon receipt of the notice of an allocation of
19 the right to claim all or a portion of the advanced energy
20 corporate income tax credit, the department shall verify the
21 allocation due to the recipient.

22 F. To claim the advanced energy corporate income
23 tax credit, a taxpayer shall submit with the taxpayer's New
24 Mexico corporate income tax return a certificate of
25 eligibility from the department of environment stating that

.207939.1

1 the taxpayer may be eligible for advanced energy tax credits.
2 The taxation and revenue department shall provide credit claim
3 forms. A credit claim form shall accompany any return in
4 which the taxpayer wishes to apply for an approved credit, and
5 the claim shall specify the amount of credit intended to apply
6 to each return. The taxation and revenue department shall
7 determine the amount of advanced energy corporate income tax
8 credit for which the taxpayer may apply.

9 G. The total amount of all advanced energy tax
10 credits claimed shall not exceed the total amount determined
11 by the department to be allowable pursuant to this section and
12 the Income Tax Act [~~and Section 7-9G-2 NMSA 1978~~].

13 H. [~~Any balance of the advanced energy corporate~~
14 ~~income tax credit that the taxpayer is approved to claim may~~
15 ~~be claimed by the taxpayer as an advanced energy combined~~
16 ~~reporting tax credit allowed pursuant to Section 7-9G-2 NMSA~~
17 ~~1978.~~] If the advanced energy corporate income tax credit
18 exceeds the amount of the taxpayer's tax liabilities pursuant
19 to the Corporate Income and Franchise Tax Act [~~and Section~~
20 ~~7-9G-2 NMSA 1978~~] in the taxable year in which it is claimed,
21 the balance of the unpaid credit may be carried forward for
22 ten years [~~and claimed as an advanced energy corporate income~~
23 ~~tax credit or an advanced energy combined reporting tax~~
24 ~~credit~~]. The advanced energy corporate income tax credit is
25 not refundable.

.207939.1

1 I. A taxpayer claiming the advanced energy
2 corporate income tax credit pursuant to this section is
3 ineligible for credits pursuant to the ~~[Investment Credit Act~~
4 ~~or any other credit that may be taken pursuant to the]~~
5 Corporate Income and Franchise Tax Act ~~[or credits that may be~~
6 ~~taken against the gross receipts tax, compensating tax or~~
7 ~~withholding tax]~~ for the same expenditures.

8 J. The aggregate amount of all advanced energy tax
9 credits that may be claimed with respect to a qualified
10 generating facility shall not exceed sixty million dollars
11 (\$60,000,000).

12 K. As used in this section:

13 (1) "advanced energy tax credit" means the
14 advanced energy income tax credit and the advanced energy
15 corporate income tax credit ~~[and the advanced energy combined~~
16 ~~reporting tax credit];~~

17 (2) "coal-based electric generating facility"
18 means a new or repowered generating facility and an associated
19 coal gasification facility, if any, that uses coal to generate
20 electricity and that meets the following specifications:

21 (a) emits the lesser of: 1) what is
22 achievable with the best available control technology; or 2)
23 thirty-five thousandths pound per million British thermal
24 units of sulfur dioxide, twenty-five thousandths pound per
25 million British thermal units of oxides of nitrogen and one

1 hundredth pound per million British thermal units of total
2 particulates in the flue gas;

3 (b) removes the greater of: 1) what is
4 achievable with the best available control technology; or 2)
5 ninety percent of the mercury from the input fuel;

6 (c) captures and sequesters or controls
7 carbon dioxide emissions so that by the later of January 1,
8 2017 or eighteen months after the commercial operation date of
9 the coal-based electric generating facility, no more than one
10 thousand one hundred pounds per megawatt-hour of carbon
11 dioxide is emitted into the atmosphere;

12 (d) all infrastructure required for
13 sequestration is in place by the later of January 1, 2017 or
14 eighteen months after the commercial operation date of the
15 coal-based electric generating facility;

16 (e) includes methods and procedures to
17 monitor the disposition of the carbon dioxide captured and
18 sequestered from the coal-based electric generating facility;
19 and

20 (f) does not exceed a name-plate
21 capacity of seven hundred net megawatts;

22 (3) "eligible generation plant costs" means
23 expenditures for the development and construction of a
24 qualified generating facility, including permitting; site
25 characterization and assessment; engineering; design; carbon

.207939.1

1 dioxide capture, treatment, compression, transportation and
2 sequestration; site and equipment acquisition; and fuel supply
3 development used directly and exclusively in a qualified
4 generating facility;

5 (4) "entity" means an individual, estate,
6 trust, receiver, cooperative association, club, corporation,
7 company, firm, partnership, limited liability company, limited
8 liability partnership, joint venture, syndicate or other
9 association or a gas, water or electric utility owned or
10 operated by a county or municipality;

11 (5) "geothermal electric generating facility"
12 means a facility with a name-plate capacity of one megawatt or
13 more that uses geothermal energy to generate electricity,
14 including a facility that captures and provides geothermal
15 energy to a preexisting electric generating facility using
16 other fuels in part;

17 (6) "interest in a qualified generating
18 facility" means title to a qualified generating facility; a
19 leasehold interest in a qualified generating facility; an
20 ownership interest in a business or entity that is taxed for
21 federal income tax purposes as a partnership that holds title
22 to or a leasehold interest in a qualified generating facility;
23 or an ownership interest, through one or more intermediate
24 entities that are each taxed for federal income tax purposes
25 as a partnership, in a business that holds title to or a

1 leasehold interest in a qualified generating facility;

2 (7) "name-plate capacity" means the maximum
3 rated output of the facility measured as alternating current
4 or the equivalent direct current measurement;

5 (8) "qualified generating facility" means a
6 facility that begins construction not later than December 31,
7 2015 and is:

8 (a) a solar thermal electric generating
9 facility that begins construction on or after July 1, 2007 and
10 that may include an associated renewable energy storage
11 facility;

12 (b) a solar photovoltaic electric
13 generating facility that begins construction on or after July
14 1, 2009 and that may include an associated renewable energy
15 storage facility;

16 (c) a geothermal electric generating
17 facility that begins construction on or after July 1, 2009;

18 (d) a recycled energy project if that
19 facility begins construction on or after July 1, 2007; or

20 (e) a new or repowered coal-based
21 electric generating facility and an associated coal
22 gasification facility;

23 (9) "recycled energy" means energy produced
24 by a generation unit with a name-plate capacity of not more
25 than fifteen megawatts that converts the otherwise lost energy

.207939.1

1 from the exhaust stacks or pipes to electricity without
2 combustion of additional fossil fuel;

3 (10) "sequester" means to store, or
4 chemically convert, carbon dioxide in a manner that prevents
5 its release into the atmosphere and may include the use of
6 geologic formations and enhanced oil, coalbed methane or
7 natural gas recovery techniques; and

8 (11) "solar photovoltaic electric generating
9 facility" means an electric generating facility with a name-
10 plate capacity of one megawatt or more that uses solar
11 photovoltaic energy to generate electricity [~~and~~

12 ~~(12) "solar thermal electric generating~~
13 ~~facility" means an electric generating facility with a name-~~
14 ~~plate capacity of one megawatt or more that uses solar thermal~~
15 ~~energy to generate electricity, including a facility that~~
16 ~~captures and provides solar energy to a preexisting electric~~
17 ~~generating facility using other fuels in part]."~~

18 SECTION 57. Section 7-2E-1.1 NMSA 1978 (being Laws 2007,
19 Chapter 172, Section 2, as amended) is amended to read:

20 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

21 A. The tax credit created by this section may be
22 referred to as the "rural job tax credit". Every eligible
23 employer may apply for, and the taxation and revenue
24 department may allow, a tax credit for each qualifying job the
25 employer creates. The maximum tax credit amount with respect

1 to each qualifying job is equal to:

2 (1) twenty-five percent of the first sixteen
 3 thousand dollars (\$16,000) in wages paid for the qualifying
 4 job if the job is performed or based at a location in a tier
 5 one area; or

6 (2) twelve and one-half percent of the first
 7 sixteen thousand dollars (\$16,000) in wages paid if the
 8 qualifying job is performed or based at a location in a tier
 9 two area.

10 B. The purpose of the rural job tax credit is to
 11 encourage businesses to start new businesses in rural areas of
 12 the state.

13 C. The amount of the rural job tax credit shall be
 14 six and one-fourth percent of the first sixteen thousand
 15 dollars (\$16,000) in wages paid for the qualifying job in a
 16 qualifying period. The rural job tax credit may be claimed
 17 for each qualifying job for a maximum of:

18 (1) four qualifying periods for each
 19 qualifying job performed or based at a location in a tier one
 20 area; and

21 (2) two qualifying periods for each
 22 qualifying job performed or based at a location in a tier two
 23 area.

24 D. With respect to each qualifying job for which
 25 an eligible employer seeks the rural job tax credit, the

.207939.1

underscored material = new
 [bracketed material] = delete

1 employer shall certify the amount of wages paid to each
2 eligible employee during each qualifying period, the number of
3 weeks during the qualifying period the position was occupied
4 and whether the qualifying job was in a tier one or tier two
5 area.

6 E. The economic development department shall
7 determine which employers are eligible employers and shall
8 report the listing of eligible businesses to the taxation and
9 revenue department in a manner and at times the departments
10 shall agree upon.

11 F. To receive a rural job tax credit with respect
12 to any qualifying period, an eligible employer must apply to
13 the taxation and revenue department on forms and in the manner
14 the department may prescribe. The application shall include a
15 certification made pursuant to Subsection D of this section.
16 If all the requirements of this section have been complied
17 with, the taxation and revenue department may issue to the
18 applicant a document granting a tax credit for the appropriate
19 qualifying period. The tax credit document shall be numbered
20 for identification and declare its date of issuance and the
21 amount of rural job tax credit allowed for the respective jobs
22 created. The tax credit documents may be sold, exchanged or
23 otherwise transferred and may be carried forward for a period
24 of three years from the date of issuance. The parties to such
25 a transaction to sell, exchange or transfer a rural job tax

.207939.1

1 credit document shall notify the department of the transaction
2 within ten days of the sale, exchange or transfer.

3 G. The holder of the tax credit document may apply
4 all or a portion of the rural job tax credit granted by the
5 document against the holder's [~~modified combined tax~~
6 ~~liability~~] personal income tax liability or corporate income
7 tax liability. Any balance of rural job tax credit granted by
8 the document may be carried forward for up to three years from
9 the date of issuance of the tax credit document. [~~No amount~~
10 ~~of rural job tax credit may be applied against a gross~~
11 ~~receipts tax imposed by a municipality or county.~~]

12 H. Notwithstanding the provisions of Section 7-1-8
13 NMSA 1978, the taxation and revenue department may disclose to
14 any person the balance of rural job tax credit remaining on
15 any tax credit document and the balance of credit remaining on
16 that document for any period.

17 I. The secretary of economic development, the
18 secretary of taxation and revenue and the secretary of
19 workforce solutions or their designees shall annually evaluate
20 the effectiveness of the rural job tax credit in stimulating
21 economic development in the rural areas of New Mexico and make
22 a joint report of their findings to each session of the
23 legislature so long as the rural job tax credit is in effect.

24 J. An eligible employer that creates a qualifying
25 job in the period beginning on or after July 1, 2006 but

.207939.1

1 before July 1, 2007 or creates a qualifying job, the
2 qualifying period of which includes a part of the period
3 between July 1, 2006 and July 1, 2007, for which the eligible
4 employer has not received a rural job tax credit document
5 pursuant to this section may submit an application for, and
6 the taxation and revenue department may issue to the eligible
7 employer applying, a document granting a tax credit for the
8 appropriate qualifying period. Claims for a rural job tax
9 credit submitted pursuant to the provisions of this subsection
10 shall be submitted within three years from the date of
11 issuance of the rural job tax credit document.

12 K. A qualifying job shall not be eligible for a
13 rural job credit pursuant to this section if:

14 (1) the job is created due to a business
15 merger, acquisition or other change in organization;

16 (2) the eligible employee was terminated from
17 employment in New Mexico by another employer involved in the
18 merger, acquisition or other change in organization; and

19 (3) the job is performed by:

20 (a) the person who performed the job or
21 its functional equivalent prior to the business merger,
22 acquisition or other change in organization; or

23 (b) a person replacing the person who
24 performed the job or its functional equivalent prior to the
25 business merger, acquisition or other change in organization.

1 L. Notwithstanding the provisions of Subsection K
2 of this section, a qualifying job that was created by another
3 employer and for which the rural job tax credit claim was
4 received by the taxation and revenue department prior to July
5 1, 2013 and is under review or has been approved shall remain
6 eligible for the rural job tax credit for the balance of the
7 qualifying periods for which the job qualifies by the new
8 employer that results from a business merger, acquisition or
9 other change in the organization.

10 M. A job shall not be eligible for a rural job tax
11 credit pursuant to this section if the job is created due to
12 an eligible employer entering into a contract or becoming a
13 subcontractor to a contract with a governmental entity that
14 replaces one or more entities performing functionally
15 equivalent services for the governmental entity in New Mexico
16 unless the job is a qualifying job that was not being
17 performed by an employee of the replaced entity.

18 N. As used in this section:

19 (1) "eligible employee" means any individual
20 other than an individual who:

21 (a) bears any of the relationships
22 described in Paragraphs (1) through (8) of 26 U.S.C. Section
23 152(a) to the employer or, if the employer is a corporation,
24 to an individual who owns, directly or indirectly, more than
25 fifty percent in value of the outstanding stock of the

.207939.1

1 corporation or, if the employer is an entity other than a
2 corporation, to any individual who owns, directly or
3 indirectly, more than fifty percent of the capital and profits
4 interests in the entity;

5 (b) if the employer is an estate or
6 trust, is a grantor, beneficiary or fiduciary of the estate or
7 trust or is an individual who bears any of the relationships
8 described in Paragraphs (1) through (8) of 26 U.S.C. Section
9 152(a) to a grantor, beneficiary or fiduciary of the estate or
10 trust; or

11 (c) is a dependent, as that term is
12 described in 26 U.S.C. Section 152(a)(9), of the employer or,
13 if the taxpayer is a corporation, of an individual who owns,
14 directly or indirectly, more than fifty percent in value of
15 the outstanding stock of the corporation or, if the employer
16 is an entity other than a corporation, of any individual who
17 owns, directly or indirectly, more than fifty percent of the
18 capital and profits interests in the entity or, if the
19 employer is an estate or trust, of a grantor, beneficiary or
20 fiduciary of the estate or trust;

21 (2) "eligible employer" means an employer
22 who is eligible for in-plant training assistance pursuant to
23 Section 21-19-7 NMSA 1978;

24 (3) "metropolitan statistical area" means a
25 metropolitan statistical area in New Mexico as determined by

1 the United States bureau of the census;

2 ~~[(4) "modified combined tax liability" means~~
 3 ~~the total liability for the reporting period for the gross~~
 4 ~~receipts tax imposed by Section 7-9-4 NMSA 1978 together with~~
 5 ~~any tax collected at the same time and in the same manner as~~
 6 ~~that gross receipts tax, such as the compensating tax, the~~
 7 ~~withholding tax, the interstate telecommunications gross~~
 8 ~~receipts tax, the surcharges imposed by Section 63-9D-5 NMSA~~
 9 ~~1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,~~
 10 ~~minus the amount of any credit other than the rural job tax~~
 11 ~~credit applied against any or all of these taxes or~~
 12 ~~surcharges; but "modified combined tax liability" excludes all~~
 13 ~~amounts collected with respect to local option gross receipts~~
 14 ~~taxes;~~

15 ~~(5)]~~ (4) "qualifying job" means a job
 16 established by the employer that is occupied by an eligible
 17 employee for at least forty-eight weeks of a qualifying
 18 period;

19 ~~[(6)]~~ (5) "qualifying period" means the
 20 period of twelve months beginning on the day an eligible
 21 employee begins working in a qualifying job or the period of
 22 twelve months beginning on the anniversary of the day an
 23 eligible employee began working in a qualifying job;

24 ~~[(7)]~~ (6) "rural area" means any part of the
 25 state other than:

.207939.1

- 1 (a) an H class county;
2 (b) the state fairgrounds;
3 (c) an incorporated municipality within
4 a metropolitan statistical area if the municipality's
5 population is thirty thousand or more according to the most
6 recent federal decennial census; and
7 (d) any area within ten miles of the
8 exterior boundaries of a municipality described in
9 Subparagraph (c) of this paragraph;

10 [~~8~~] (7) "tier one area" means:

11 (a) any municipality within the rural
12 area if the municipality's population according to the most
13 recent federal decennial census is fifteen thousand or less;
14 or

15 (b) any part of the rural area that is
16 not within the exterior boundaries of a municipality;

17 [~~9~~] (8) "tier two area" means any
18 municipality within the rural area if the municipality's
19 population according to the most recent federal decennial
20 census is more than fifteen thousand; and

21 [~~10~~] (9) "wages" means all compensation
22 paid by an eligible employer to an eligible employee through
23 the employer's payroll system, including those wages the
24 employee elects to defer or redirect, such as the employee's
25 contribution to 401(k) or cafeteria plan programs, but not

1 including benefits or the employer's share of payroll taxes."

2 SECTION 58. Section 7-9-1 NMSA 1978 (being Laws 1966,
3 Chapter 47, Section 1, as amended) is amended to read:

4 "7-9-1. SHORT TITLE.--Chapter 7, Article 9 NMSA 1978 may
5 be cited as the "[~~Gross Receipts and Compensating~~] Sales and
6 Use Tax Act."

7 SECTION 59. Section 7-9-3 NMSA 1978 (being Laws 1978,
8 Chapter 46, Section 1, as amended) is amended to read:

9 "7-9-3. DEFINITIONS.--As used in the [~~Gross Receipts and~~
10 ~~Compensating~~] Sales and Use Tax Act:

11 A. "buying" or "selling" means a transfer of
12 property for consideration or the performance of service for
13 consideration;

14 B. "department" means the taxation and revenue
15 department, the secretary of taxation and revenue or an
16 employee of the department exercising authority lawfully
17 delegated to that employee by the secretary;

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

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

25 (1) observation of tests conducted by the

.207939.1

1 performer of services;

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

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

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

9 (5) similar activities;

10 E. "leasing" means an arrangement whereby, for a
11 consideration, property is employed for or by any person other
12 than the owner of the property, except that the granting of a
13 license to use property is licensing and is not a lease;

14 F. "local option [~~gross receipts~~] sales tax" means
15 a tax authorized to be imposed by a county or municipality
16 upon the taxpayer's gross receipts and required to be
17 collected by the department at the same time and in the same
18 manner as the [~~gross receipts~~] state sales tax; "local option
19 [~~gross receipts~~] sales tax" includes the taxes imposed
20 pursuant to the Municipal Local Option [~~Gross Receipts Taxes~~]
21 Sales and Use Tax Act, [~~Supplemental Municipal Gross Receipts~~
22 ~~Tax Act~~] the County Local Option [~~Gross Receipts Taxes~~] Sales
23 and Use Tax Act [~~Local Hospital Gross Receipts Tax Act, County~~
24 ~~Correctional Facility Gross Receipts Tax Act~~] and such other
25 acts as may be enacted authorizing counties or municipalities

1 to impose taxes on gross receipts, which taxes are to be
2 collected by the department;

3 G. "manufactured home" means a movable or portable
4 housing structure for human occupancy that exceeds either a
5 width of eight feet or a length of forty feet constructed to
6 be towed on its own chassis and designed to be installed with
7 or without a permanent foundation;

8 H. "manufacturing" means combining or processing
9 components or materials to increase their value for sale in
10 the ordinary course of business, but does not include
11 construction;

12 I. "person" means:

13 (1) an individual, estate, trust, receiver,
14 cooperative association, club, corporation, company, firm,
15 partnership, limited liability company, limited liability
16 partnership, joint venture, syndicate or other entity,
17 including any gas, water or electric utility owned or operated
18 by a county, municipality or other political subdivision of
19 the state; or

20 (2) a national, federal, state, Indian or
21 other governmental unit or subdivision, or an agency,
22 department or instrumentality of any of the foregoing;

23 J. "property" means real property, tangible
24 personal property, licenses other than the licenses of
25 copyrights, trademarks or patents and franchises. Tangible

.207939.1

1 personal property includes electricity and manufactured homes;

2 K. "research and development services" means an
3 activity engaged in for other persons for consideration, for
4 one or more of the following purposes:

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

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

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

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

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

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

1 subsection;

2 L. "secretary" means the secretary of taxation and
3 revenue or the secretary's delegate;

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

21 N. "use" or "using" includes use, consumption or
22 storage other than storage for subsequent sale in the ordinary
23 course of business or for use solely outside this state."

24 **SECTION 60.** Section 7-9-3.2 NMSA 1978 (being Laws 1991,
25 Chapter 8, Section 1, as amended) is amended to read:

.207939.1

1 "7-9-3.2. ADDITIONAL DEFINITION.--~~[A.]~~ As used in the
2 ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act,
3 "governmental gross receipts":

4 A. means receipts of the state or an agency,
5 institution, instrumentality or political subdivision from:

6 (1) the sale of tangible personal property
7 other than water from facilities open to the general public;

8 (2) the performance of or admissions to
9 recreational, athletic or entertainment services or events in
10 facilities open to the general public;

11 (3) refuse collection or refuse disposal or
12 both;

13 (4) sewage services;

14 (5) the sale of water by a utility owned or
15 operated by a county, municipality or other political
16 subdivision of the state; and

17 (6) the renting of parking, docking or tie-
18 down spaces or the granting of permission to park vehicles,
19 tie down aircraft or dock boats;

20 ~~["Governmental gross receipts"]~~ B. includes
21 receipts from the sale of tangible personal property handled
22 on consignment when sold from facilities open to the general
23 public, ~~[but excludes cash discounts taken and allowed,~~
24 ~~governmental gross receipts tax payable on transactions~~
25 ~~reportable for the period and any type of time-price~~

underscored material = new
[bracketed material] = delete

1 ~~differential.~~

2 B. ~~As used in this section, "facilities open to~~
 3 ~~the general public" does not include] not including point of~~
 4 sale registers or electronic devices at a bookstore owned or
 5 operated by a public post-secondary educational institution
 6 when the registers or devices are utilized in the sale of
 7 textbooks or other materials required for courses at the
 8 institution to a student enrolled at the institution who
 9 displays a valid student identification card; and

10 C. excludes cash discounts taken and allowed,
 11 governmental sales tax payable on transactions reportable for
 12 the period and any type of time-price differential."

13 SECTION 61. Section 7-9-3.3 NMSA 1978 (being Laws 2003,
 14 Chapter 272, Section 4) is amended to read:

15 "7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in
 16 the Gross Receipts and Compensating Tax Act, "engaging in
 17 business" means carrying on or causing to be carried on any
 18 activity with the purpose of direct or indirect benefit,
 19 without regard to having physical presence, including the
 20 presence of a representative acting on behalf of the person,
 21 in the state, except that "engaging in business" does not
 22 include:

23 A. [~~"engaging in business" does not include]~~
 24 having a worldwide [~~web site]~~ website as a third-party content
 25 provider on a computer physically located in New Mexico but

.207939.1

1 owned by another nonaffiliated person; ~~and~~

2 B. ~~["engaging in business" does not include]~~ using
3 a nonaffiliated third-party call center to accept and process
4 telephone or electronic orders of tangible personal property
5 or licenses primarily from non-New Mexico buyers, which orders
6 are forwarded to a location outside New Mexico for filling, or
7 to provide services primarily to non-New Mexico customers; and

8 C. the activities of a person without physical
9 presence in this state if the person and the person's
10 affiliates have less than one hundred thousand dollars
11 (\$100,000) of gross receipts in the state, based on receipts
12 during the prior calendar year. As used in this subsection,
13 "affiliate" means a person that directly or indirectly,
14 through one or more intermediaries controls, is controlled by
15 or is under common control with another person."

16 SECTION 62. Section 7-9-3.3 NMSA 1978 (being Laws 2003,
17 Chapter 272, Section 4, as amended by Section 61 of this act)
18 is repealed and new Section 7-9-3.3 NMSA 1978 is enacted to
19 read:

20 "7-9-3.3. [NEW MATERIAL] DEFINITION--ENGAGING IN
21 BUSINESS.--As used in the Sales and Use Tax Act, "engaging in
22 business" means carrying on or causing to be carried on any
23 activity with the purpose of direct or indirect benefit,
24 without regard to having physical presence, including the
25 presence of a representative acting on behalf of the person,

.207939.1

1 in the state, except that "engaging in business" does not
2 include:

3 A. having a worldwide website as a third-party
4 content provider on a computer physically located in New
5 Mexico but owned by another nonaffiliated person;

6 B. using a nonaffiliated third-party call center
7 to accept and process telephone or electronic orders of
8 tangible personal property or licenses primarily from non-New
9 Mexico buyers, which orders are forwarded to a location
10 outside New Mexico for filling, or to provide services
11 primarily to non-New Mexico customers; and

12 C. the activities of a person without physical
13 presence in this state if the person and the person's
14 affiliates have less than one hundred thousand dollars
15 (\$100,000) of gross receipts in the state, based on receipts
16 during the prior calendar year. As used in this subsection,
17 "affiliate" means a business entity that directly or
18 indirectly, through one or more intermediaries controls, is
19 controlled by or is under common control with another business
20 entity."

21 SECTION 63. Section 7-9-3.4 NMSA 1978 (being Laws 2003,
22 Chapter 272, Section 5) is amended to read:

23 "7-9-3.4. DEFINITIONS--CONSTRUCTION AND CONSTRUCTION
24 MATERIALS.--As used in the [~~Gross Receipts and Compensating~~]
25 Sales and Use Tax Act:

.207939.1

1 A. "construction" means:

2 (1) the building, altering, repairing or
3 demolishing in the ordinary course of business any:

4 (a) road, highway, bridge, parking area
5 or related project;

6 (b) building, stadium or other
7 structure;

8 (c) airport, subway or similar
9 facility;

10 (d) park, trail, athletic field, golf
11 course or similar facility;

12 (e) dam, reservoir, canal, ditch or
13 similar facility;

14 (f) sewerage or water treatment
15 facility, power generating plant, pump station, natural gas
16 compressing station, gas processing plant, coal gasification
17 plant, refinery, distillery or similar facility;

18 (g) sewerage, water, gas or other
19 pipeline;

20 (h) transmission line;

21 (i) radio, television or other tower;

22 (j) water, oil or other storage tank;

23 (k) shaft, tunnel or other mining

24 appurtenance;

25 (l) microwave station or similar

1 facility;

2 (m) retaining wall, wall, fence, gate
3 or similar structure; or

4 (n) similar work;

5 (2) the leveling or clearing of land;

6 (3) the excavating of earth;

7 (4) the drilling of wells of any type,
8 including seismograph shot holes or core drilling; or

9 (5) similar work; and

10 B. "construction material" means tangible personal
11 property that becomes or is intended to become an ingredient
12 or component part of a construction project, but "construction
13 material" does not include a replacement fixture when the
14 replacement is not construction or a replacement part for a
15 fixture."

16 SECTION 64. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
17 Chapter 272, Section 3, as amended) is amended to read:

18 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

19 A. As used in the Gross Receipts and Compensating
20 Tax Act, "gross receipts":

21 (1) [~~"gross receipts"~~] means the total amount
22 of money or the value of other consideration received from
23 selling property in New Mexico, from leasing or licensing
24 property employed in New Mexico, from granting a right to use
25 a franchise employed in New Mexico, from selling services

.207939.1

1 performed outside New Mexico, the product of which is
2 initially used in New Mexico, or from performing services in
3 New Mexico. In an exchange in which the money or other
4 consideration received does not represent the value of the
5 property or service exchanged, "gross receipts" means the
6 reasonable value of the property or service exchanged;

7 (2) [~~"gross receipts"~~] includes:

8 (a) any receipts from sales of tangible
9 personal property handled on consignment, including
10 third-party sales made over a multi-vendor marketplace
11 platform that acts as the intermediary, typically as the
12 processor of the transaction, between the seller and the
13 purchaser;

14 (b) the total commissions or fees
15 derived from the business of buying, selling or promoting the
16 purchase, sale or lease, as an agent or broker on a commission
17 or fee basis, of any property, service, stock, bond or
18 security;

19 (c) amounts paid by members of any
20 cooperative association or similar organization for sales or
21 leases of personal property or performance of services by such
22 organization;

23 (d) amounts received from transmitting
24 messages or conversations by persons providing telephone or
25 telegraph services;

1 (e) amounts received by a New Mexico
2 florist from the sale of flowers, plants or other products
3 that are customarily sold by florists where the sale is made
4 pursuant to orders placed with the New Mexico florist that are
5 filled and delivered outside New Mexico by an out-of-state
6 florist; and

7 (f) the receipts of a home service
8 provider from providing mobile telecommunications services to
9 customers whose place of primary use is in New Mexico if: 1)
10 the mobile telecommunications services originate and terminate
11 in the same state, regardless of where the services originate,
12 terminate or pass through; and 2) the charges for mobile
13 telecommunications services are billed by or for a customer's
14 home service provider and are deemed provided by the home
15 service provider. For the purposes of this section, "home
16 service provider", "mobile telecommunications services",
17 "customer" and "place of primary use" have the meanings given
18 in the federal Mobile Telecommunications Sourcing Act; and

19 (3) [~~"gross receipts"~~] excludes:

20 (a) cash discounts allowed and taken;
21 (b) New Mexico gross receipts tax,
22 governmental gross receipts tax and leased vehicle gross
23 receipts tax payable on transactions for the reporting period;
24 (c) taxes imposed pursuant to the
25 provisions of any local option gross receipts tax that is

.207939.1

1 payable on transactions for the reporting period;

2 (d) any gross receipts or sales taxes
3 imposed by an Indian nation, tribe or pueblo; provided that
4 the tax is approved, if approval is required by federal law or
5 regulation, by the secretary of the interior of the United
6 States; and provided further that the gross receipts or sales
7 tax imposed by the Indian nation, tribe or pueblo provides a
8 reciprocal exclusion for gross receipts, sales or gross
9 receipts-based excise taxes imposed by the state or its
10 political subdivisions;

11 (e) any type of time-price
12 differential;

13 (f) amounts received solely on behalf
14 of another in a disclosed agency capacity; and

15 (g) amounts received by a New Mexico
16 florist from the sale of flowers, plants or other products
17 that are customarily sold by florists where the sale is made
18 pursuant to orders placed with an out-of-state florist for
19 filling and delivery in New Mexico by a New Mexico florist.

20 B. When the sale of property or service is made
21 under any type of charge, conditional or time-sales contract
22 or the leasing of property is made under a leasing contract,
23 the seller or lessor may elect to treat all receipts,
24 excluding any type of time-price differential, under such
25 contracts as gross receipts as and when the payments are

1 actually received. If the seller or lessor transfers the
 2 seller's or lessor's interest in any such contract to a third
 3 person, the seller or lessor shall pay the gross receipts tax
 4 upon the full sale or leasing contract amount, excluding any
 5 type of time-price differential."

6 SECTION 65. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
 7 Chapter 272, Section 3, as amended by Section 64 of this act)
 8 is repealed and a new Section 7-9-3.5 NMSA 1978 is enacted to
 9 read:

10 "7-9-3.5. [NEW MATERIAL] DEFINITION--GROSS RECEIPTS.--

11 A. As used in the Sales and Use Tax Act, "gross
 12 receipts":

13 (1) means the total amount of money or the
 14 value of other consideration received from selling property in
 15 New Mexico, from leasing or licensing property employed in New
 16 Mexico, from granting a right to use a franchise employed in
 17 New Mexico, from selling services performed outside New
 18 Mexico, the product of which is initially used in New Mexico,
 19 or from performing services in New Mexico. In an exchange in
 20 which the money or other consideration received does not
 21 represent the value of the property or service exchanged,
 22 "gross receipts" means the reasonable value of the property or
 23 service exchanged;

24 (2) includes:

25 (a) any receipts from sales of tangible

1 personal property handled on consignment, including
2 third-party sales made over a multi-vendor marketplace
3 platform that acts as the intermediary, typically as the
4 processor of the transaction, between the seller and the
5 purchaser;

6 (b) the total commissions or fees
7 derived from the business of buying, selling or promoting the
8 purchase, sale or lease, as an agent or broker on a commission
9 or fee basis, of any property, service, stock, bond or
10 security;

11 (c) amounts paid by members of any
12 cooperative association or similar organization for sales or
13 leases of personal property or performance of services by such
14 organization;

15 (d) amounts received from transmitting
16 messages or conversations by persons providing telephone or
17 telegraph services;

18 (e) amounts received by a New Mexico
19 florist from the sale of flowers, plants or other products
20 that are customarily sold by florists where the sale is made
21 pursuant to orders placed with the New Mexico florist that are
22 filled and delivered outside New Mexico by an out-of-state
23 florist; and

24 (f) the receipts of a home service
25 provider from providing mobile telecommunications services to

1 customers whose place of primary use is in New Mexico if: 1)
2 the mobile telecommunications services originate and terminate
3 in the same state, regardless of where the services originate,
4 terminate or pass through; and 2) the charges for mobile
5 telecommunications services are billed by or for a customer's
6 home service provider and are deemed provided by the home
7 service provider. For the purposes of this section, "home
8 service provider", "mobile telecommunications services",
9 "customer" and "place of primary use" have the meanings given
10 in the federal Mobile Telecommunications Sourcing Act; and

11 (3) excludes:

12 (a) cash discounts allowed and taken;

13 (b) state and local option sales tax,
14 governmental sales tax and leased vehicle sales tax payable on
15 transactions for the reporting period;

16 (c) taxes imposed pursuant to the
17 provisions of any local option sales tax that is payable on
18 transactions for the reporting period;

19 (d) any gross receipts or sales taxes
20 imposed by an Indian nation, tribe or pueblo; provided that
21 the tax is approved, if approval is required by federal law or
22 regulation, by the secretary of the interior of the United
23 States; and provided further that the gross receipts or sales
24 tax imposed by the Indian nation, tribe or pueblo provides a
25 reciprocal exclusion for gross receipts, sales or gross

.207939.1

1 receipts-based excise taxes imposed by the state or its
2 political subdivisions;

3 (e) any type of time-price
4 differential;

5 (f) amounts received solely on behalf
6 of another in a disclosed agency capacity; and

7 (g) amounts received by a New Mexico
8 florist from the sale of flowers, plants or other products
9 that are customarily sold by florists where the sale is made
10 pursuant to orders placed with an out-of-state florist for
11 filling and delivery in New Mexico by a New Mexico florist.

12 B. When the sale of property or service is made
13 under any type of charge, conditional or time-sales contract
14 or the leasing of property is made under a leasing contract,
15 the seller or lessor may elect to treat all receipts,
16 excluding any type of time-price differential, under such
17 contracts as gross receipts as and when the payments are
18 actually received. If the seller or lessor transfers the
19 seller's or lessor's interest in any such contract to a third
20 person, the seller or lessor shall pay the state and local
21 option sales tax upon the full sale or leasing contract
22 amount, excluding any type of time-price differential."

23 SECTION 66. Section 7-9-4 NMSA 1978 (being Laws 1966,
24 Chapter 47, Section 4, as amended) is amended to read:

25 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS

1 "~~[GROSS RECEIPTS]~~ STATE SALES TAX".--

2 A. For the privilege of engaging in business, an
3 excise tax equal to ~~[five and one-eighth percent]~~ the rates
4 determined pursuant to Subsection B of this section of gross
5 receipts is imposed on any person engaging in business in New
6 Mexico. ~~[B.]~~ The tax imposed by this section shall be
7 referred to as the "~~[gross receipts]~~ state sales tax".

8 B. The rate of the state sales tax shall be
9 determined as follows:

10 (1) on and after July 1, 2018 and prior to
11 January 1, 2020, the rate shall be the quotient of the
12 estimated state sales tax revenue divided by the estimated
13 fiscal year 2019 state sales tax base, rounded up to the
14 nearest one-hundredth percent; and

15 (2) on and after January 1, 2020, the rate
16 shall be the quotient of the product of the fiscal year 2019
17 baseline revenue multiplied by one hundred three percent,
18 divided by the fiscal year 2019 state sales tax base and
19 rounded up to the nearest one-hundredth percent.

20 C. If, on or before March 1, 2019, the secretary
21 of finance and administration certifies to the secretary of
22 taxation and revenue that revenue attributable to the state
23 sales tax and distributed to the general fund since July 1,
24 2018 is projected to be less for fiscal year 2019 than the
25 amount of estimated state sales tax revenue, the secretary may

.207939.1

1 increase the rate determined pursuant to Paragraph (1) of
2 Subsection B of this section in one-tenth increments, up to a
3 maximum of three-tenths, to be effective July 1, 2019.

4 D. As used in this section:

5 (1) "baseline revenue" means the average
6 total net receipts attributable to the gross receipts tax, the
7 compensating tax, the motor vehicle excise tax and the liquor
8 excise tax for fiscal years 2015 through 2017;

9 (2) "consensus revenue estimating group"
10 means the professional economists of the department of finance
11 and administration, the taxation and revenue department, the
12 department of transportation and the legislative finance
13 committee;

14 (3) "estimated fiscal year 2019 state sales
15 tax base" means the gross receipts of all persons expected to
16 engage in business in the state in fiscal year 2019 that will
17 be subject to the state sales tax, as conservatively estimated
18 by the consensus revenue estimating group, to ensure that
19 revenue from the state sales tax will exceed the baseline
20 revenue;

21 (4) "estimated state sales tax revenue" means
22 the fiscal year 2019 baseline revenue less the projected
23 fiscal year 2019 revenue from the use tax, motor vehicle
24 excise tax and liquor excise tax, as estimated by the
25 consensus revenue estimating group;

1 (5) "fiscal year 2019 baseline revenue" means
 2 baseline revenue multiplied by one hundred six and nine-
 3 hundredths percent; and

4 (6) "fiscal year 2019 state sales tax base"
 5 means the gross receipts of all persons engaging in business
 6 in the state in fiscal year 2019 that are subject to the state
 7 sales tax, as determined by the consensus revenue estimating
 8 group."

9 SECTION 67. Section 7-9-4.3 NMSA 1978 (being Laws 1991,
 10 Chapter 8, Section 2, as amended by Laws 1993, Chapter 332,
 11 Section 1 and by Laws 1993, Chapter 352, Section 1) is amended
 12 to read:

13 "7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
 14 "GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX".--For the privilege
 15 of engaging in certain activities by governments, there is
 16 imposed on every agency, institution, instrumentality or
 17 political subdivision of the state [~~except any school district~~
 18 ~~and any entity licensed by the department of health that is~~
 19 ~~principally engaged in providing health care services] an
 20 excise tax of five percent of governmental gross receipts.
 21 The tax imposed by this section shall be referred to as the
 22 "governmental [~~gross receipts~~] sales tax"."~~

23 SECTION 68. Section 7-9-5 NMSA 1978 (being Laws 1966,
 24 Chapter 47, Section 5, as amended) is amended to read:

25 "7-9-5. PRESUMPTION OF TAXABILITY.--

underscored material = new
 [bracketed material] = delete

1 A. To prevent evasion of the [~~gross receipts~~]
2 state sales tax and to aid in its administration, it is
3 presumed that all receipts of a person engaging in business
4 are subject to the [~~gross receipts~~] state sales tax. [~~Any~~] A
5 person engaged solely in transactions specifically exempt
6 under the provisions of the [~~Gross Receipts and Compensating~~]
7 Sales and Use Tax Act shall not be required to register or
8 file a return under that act.

9 B. If receipts from nontaxable charges for mobile
10 telecommunications services are aggregated with and not
11 separately stated from taxable charges for mobile
12 telecommunications services, [~~then~~] the charges for nontaxable
13 mobile telecommunications services shall be subject to [~~gross~~
14 ~~receipts~~] state sales tax unless the home service provider can
15 reasonably identify nontaxable charges in its books and
16 records that are kept in the regular course of business. For
17 the purposes of this subsection, "charges for mobile
18 telecommunications services", "home service provider" and
19 "mobile telecommunications services" have the meanings given
20 in the federal Mobile Telecommunications Sourcing Act."

21 SECTION 69. Section 7-9-6 NMSA 1978 (being Laws 1966,
22 Chapter 47, Section 6, as amended) is amended to read:

23 "7-9-6. SEPARATELY STATING THE [~~GROSS RECEIPTS~~] STATE
24 SALES TAX.--When the [~~gross receipts~~] state sales tax is
25 stated separately on the books of the seller or lessor, and if

1 the total amount of tax that is stated separately on
 2 transactions reportable within one reporting period is in
 3 excess of the amount of [~~gross receipts~~] state sales tax
 4 otherwise payable on the transactions on which the tax was
 5 stated separately, the excess amount of tax stated on the
 6 transactions within that reporting period shall be included in
 7 gross receipts."

8 SECTION 70. Section 7-9-7 NMSA 1978 (being Laws 1966,
 9 Chapter 47, Section 7, as amended) is amended to read:

10 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
 11 "[~~COMPENSATING~~] USE TAX".--

12 A. For the privilege of using tangible property in
 13 New Mexico, there is imposed on the person using the property
 14 an excise tax [~~equal to five and one-eighth percent~~] at the
 15 rate in effect and imposed pursuant to Section 7-9-4 NMSA 1978
 16 of the value of tangible property that was:

17 (1) manufactured by the person using the
 18 property in the state; or

19 (2) acquired inside or outside of this state
 20 as the result of a transaction with a person located outside
 21 this state that would have been subject to the [~~gross~~
 22 ~~receipts~~] state sales tax had the tangible personal property
 23 been acquired from a person with nexus with New Mexico [~~or~~

24 ~~(3) acquired as the result of a transaction~~
 25 ~~that was not initially subject to the compensating tax imposed~~

.207939.1

1 ~~by Paragraph (2) of this subsection or the gross receipts tax~~
2 ~~but which transaction, because of the buyer's subsequent use~~
3 ~~of the property, should have been subject to the compensating~~
4 ~~tax imposed by Paragraph (2) of this subsection or the gross~~
5 ~~receipts tax].~~

6 B. For the purpose of Subsection A of this
7 section, value of tangible property shall be the adjusted
8 basis of the property for federal income tax purposes
9 determined as of the time of acquisition or introduction into
10 this state or of conversion to use, whichever is later. If no
11 adjusted basis for federal income tax purposes is established
12 for the property, a reasonable value of the property shall be
13 used.

14 C. For the privilege of using a license or
15 franchise in New Mexico, there is imposed on the person using
16 the property an excise tax at the rate provided in Subsection
17 A of this section against the value of the property in its use
18 in New Mexico. For use of a license or franchise to be
19 taxable under this subsection, the property must have been
20 sold, leased or licensed by a person outside this state and
21 the receipts from the sale, lease or licensing of the license
22 or franchise must not have been subject to the state sales
23 tax.

24 [~~C.~~] D. For the privilege of using services
25 rendered in New Mexico, there is imposed on the person using

1 such services an excise tax [~~equal to five percent~~] at the
 2 rate provided in Subsection A of this section of the value of
 3 the services at the time they were rendered. [~~The services,~~
 4 ~~to be taxable under this subsection, must have been rendered~~
 5 ~~as the result of a transaction that was not initially subject~~
 6 ~~to the gross receipts tax but which transaction, because of~~
 7 ~~the buyer's subsequent use of the services, should have been~~
 8 ~~subject to the gross receipts tax.~~] For use of services to be
 9 taxable under this subsection, the services must have been
 10 performed by a person outside this state and receipts from the
 11 performance or sale of the services not subject to the state
 12 sales tax.

13 [~~D.~~] E. The tax imposed by this section shall be
 14 referred to as the "[~~compensating~~] use tax."

15 SECTION 71. 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 AND GROSS
 19 RECEIPTS TAX LIABILITIES.--

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

- 23 (1) the property is used only for nonbusiness
 24 purposes;
 25 (2) the property is not a manufactured home;

.207939.1

1 and

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

5 B. The department shall take no action to enforce
6 collection of gross receipts tax for a tax period prior to
7 July 1, 2017 on persons engaging in business if, for those tax
8 periods, those persons:

9 (1) lacked physical presence in the state;
10 and

11 (2) did not report taxable gross receipts.

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

20 SECTION 72. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
21 Chapter 45, Section 1, as amended by Section 71 of this act)
22 is repealed and a new Section 7-9-7.1 NMSA 1978 is enacted to
23 read:

24 "7-9-7.1. [NEW MATERIAL] DEPARTMENT BARRED FROM TAKING
25 COLLECTION ACTIONS WITH RESPECT TO CERTAIN SALES AND USE TAX

.207939.1

1 LIABILITIES.--

2 A. The department shall take no action to enforce
 3 collection of use tax due on purchases made by an individual
 4 if:

5 (1) the property is used only for nonbusiness
 6 purposes;

7 (2) the property is not a manufactured home;
 8 and

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

11 B. The department shall take no action to enforce
 12 collection of gross receipts tax for a tax period prior to
 13 July 1, 2017 on persons engaging in business if, for those tax
 14 periods, those persons:

15 (1) lacked physical presence in the state;
 16 and

17 (2) did not report taxable gross receipts.

18 C. The prohibition in Subsection A of this section
 19 does not prevent the department from enforcing collection of
 20 use tax on purchases from persons who are not individuals, who
 21 are agents for collection pursuant to Section 7-9-10 NMSA 1978
 22 or who use the property in the course of engaging in business
 23 in New Mexico or from enforcing collection of use tax due on
 24 purchase of manufactured homes."

25 SECTION 73. Section 7-9-8 NMSA 1978 (being Laws 1966,

.207939.1

underscored material = new
 [bracketed material] = delete

1 Chapter 47, Section 8, as amended) is amended to read:

2 "7-9-8. PRESUMPTION OF TAXABILITY AND VALUE.--

3 A. To prevent evasion of the [~~compensating~~] use
4 tax and the duty to collect it, it is presumed that property
5 bought or sold by any person for delivery into this state is
6 bought or sold for a taxable use in this state.

7 B. In determining the amount of [~~compensating~~] use
8 tax due on the use of property, it is presumed, in the absence
9 of preponderant evidence of another value, that the value
10 means the total amount of money or the reasonable value of
11 other consideration paid for property exclusive of any type of
12 time-price differential. However, in an exchange in which the
13 amount of money paid does not represent the value of the
14 property or property and service purchased, the [~~compensating~~]
15 use tax shall be imposed on the reasonable value of the
16 property or property and service purchased.

17 C. In determining the amount of [~~compensating~~] use
18 tax due on the use of a service, it is presumed, in the
19 absence of preponderant evidence of another value, that the
20 value means the total amount of money or the reasonable value
21 of other consideration paid for the service exclusive of any
22 type of time-price differential. However, in an exchange in
23 which the amount paid does not represent the value of the
24 service purchased, the [~~compensating~~] use tax shall be imposed
25 on the reasonable value of the service purchased."

1 SECTION 74. Section 7-9-9 NMSA 1978 (being Laws 1966,
2 Chapter 47, Section 9, as amended) is amended to read:

3 "7-9-9. LIABILITY OF USER FOR PAYMENT OF [COMPENSATING]
4 USE TAX.--Any person in New Mexico using property on the value
5 of which [~~compensating~~] use tax is payable but has not been
6 paid is liable to the state for payment of the [~~compensating~~]
7 use tax, but this liability is discharged if the buyer has
8 paid the [~~compensating~~] use tax to the seller for payment over
9 to the department."

10 SECTION 75. Section 7-9-10 NMSA 1978 (being Laws 1966,
11 Chapter 47, Section 10, as amended) is amended to read:

12 "7-9-10. AGENTS FOR COLLECTION OF [COMPENSATING] USE
13 TAX--DUTIES.--

14 A. Every person carrying on or causing to be
15 carried on any activity within this state attempting to
16 exploit New Mexico's markets who sells property or sells
17 property and service for use in this state and who is not
18 subject to [~~the gross receipts~~] state sales tax on receipts
19 from these sales shall collect the [~~compensating~~] use tax from
20 the buyer and pay the tax collected to the department.

21 [~~"Activity", for the purposes of this section, includes but is~~
22 ~~not limited to]~~

23 B. As used in this section, "activity":

24 (1) means engaging in any of the following in
25 New Mexico:

.207939.1

1 (a) maintaining an office or other
2 place of business;
3 (b) soliciting orders through employees
4 or independent contractors;
5 (c) soliciting orders through
6 advertisements placed in newspapers or magazines published in
7 New Mexico or advertisements broadcast by New Mexico radio or
8 television stations;
9 (d) soliciting orders through programs
10 broadcast by New Mexico radio or television stations or
11 transmitted by cable systems in New Mexico; and
12 (e) canvassing, demonstrating,
13 collecting money, warehousing or storing merchandise or
14 delivering or distributing products as a consequence of an
15 advertising or other sales program directed at potential
16 customers; ["Activity", ~~for the purposes of this section~~] and
17 (2) does not include:
18 (a) having a [~~world wide web site~~]
19 worldwide website as a third-party provider on a computer
20 physically located in New Mexico but owned by another
21 nonaffiliated person; [~~and "activity" does not include~~] or
22 (b) using a nonaffiliated third-party
23 call center to accept and process telephone or electronic
24 orders of tangible personal property or licenses primarily
25 from non-New Mexico buyers, which orders are forwarded to a

1 location outside New Mexico for filling, or to provide
2 services primarily to non-New Mexico customers.

3 ~~[B.]~~ C. To ensure orderly and efficient collection
4 of the public revenue, if any application of this section is
5 held invalid, the section's application to other situations or
6 persons shall not be affected."

7 **SECTION 76.** Section 7-9-11 NMSA 1978 (being Laws 1966,
8 Chapter 47, Section 11, as amended) is amended to read:

9 "7-9-11. DATE PAYMENT DUE.--The taxes imposed by the
10 ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act are to
11 be paid on or before the twenty-fifth day of the month
12 following the month in which the taxable event occurs."

13 **SECTION 77.** Section 7-9-12 NMSA 1978 (being Laws 1969,
14 Chapter 144, Section 5, as amended) is amended to read:

15 "7-9-12. EXEMPTIONS.--~~[Exempted from the gross receipts~~
16 ~~or compensating tax are those receipts or uses exempted in~~
17 ~~Sections 7-9-13 through 7-9-42 NMSA 1978.]~~ Exemptions from
18 either the ~~[gross receipts]~~ state sales tax or the
19 ~~[compensating]~~ use tax are not exemptions from both taxes
20 unless explicitly stated otherwise by law."

21 **SECTION 78.** Section 7-9-13.1 NMSA 1978 (being Laws 1989,
22 Chapter 262, Section 4) is amended to read:

23 "7-9-13.1. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
24 SERVICES PERFORMED OUTSIDE THE STATE THE PRODUCT OF WHICH IS
25 INITIALLY USED IN NEW MEXICO--EXCEPTIONS.--

.207939.1

1 A. ~~[Except as provided otherwise in Subsection B~~
2 ~~of this section]~~ Exempted from the ~~[gross receipts]~~ state
3 sales tax are the receipts from selling services, other than
4 research and development services, performed outside New
5 Mexico the product of which is initially used in New Mexico.

6 B. ~~[The exemption provided by this section does~~
7 ~~not apply to research and development services other than]~~
8 Exempted from the state sales tax are receipts from selling
9 research and development services performed outside New
10 Mexico, the product of which is initially used in New Mexico
11 when the services are sold:

12 (1) ~~[sold]~~ between affiliated corporations;

13 (2) ~~[sold]~~ to the United States by persons
14 ~~[other than organizations described in Subsection A of Section~~
15 ~~7-9-29 NMSA 1978]~~ who are prime contractors operating
16 facilities in New Mexico designated as national laboratories
17 by act of congress; or

18 (3) ~~[sold]~~ to persons ~~[other than~~
19 ~~organizations described in Subsection A of Section 7-9-29 NMSA~~
20 ~~1978]~~ who are prime contractors operating facilities in New
21 Mexico designated as national laboratories by act of congress.

22 C. An "affiliated corporation" means a corporation
23 that directly or indirectly, through one or more
24 intermediaries controls, is controlled by or is under common
25 control with the subject corporation. "Control" means

1 ownership of stock in a corporation [~~which~~] that represents at
 2 least eighty percent of the total voting power of that
 3 corporation and has a stated or par value equal to at least
 4 eighty percent of the total stated or par value of the stock
 5 of that corporation."

6 SECTION 79. Section 7-9-24 NMSA 1978 (being Laws 1969,
 7 Chapter 144, Section 17, as amended) is amended to read:

8 "7-9-24. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
 9 [INSURANCE COMPANIES] RECEIPTS ON WHICH PREMIUM TAX IS
 10 ASSESSED.--Exempted from the [~~gross receipts~~] state sales tax
 11 are the receipts [~~of insurance companies or any agent thereof~~
 12 ~~from premiums and any consideration received by a property~~
 13 ~~bondsman, as that person is defined in Section 59A-51-2 NMSA~~
 14 ~~1978, as security or surety for a bail bond in connection with~~
 15 ~~a judicial proceeding]~~:

16 A. on which the premium tax, pursuant to Section
 17 59A-6-2 NMSA 1978, is assessed; and

18 B. of authorized insurers from eligible
 19 investments, as those terms are used in the New Mexico
 20 Insurance Code."

21 SECTION 80. Section 7-9-40 NMSA 1978 (being Laws 1970,
 22 Chapter 60, Section 2, as amended) is amended to read:

23 "7-9-40. EXEMPTION--GROSS RECEIPTS TAX--PURSES AND
 24 JOCKEY REMUNERATION AT NEW MEXICO RACETRACKS [~~RECEIPTS FROM~~
 25 ~~GROSS AMOUNTS WAGERED]~~--~~[A.]~~ Exempted from the gross receipts

.207939.1

1 tax are the receipts of horsemen, jockeys and trainers from
2 race purses at New Mexico horse racetracks subject to the
3 jurisdiction of the state racing commission.

4 ~~[B. Exempted from the gross receipts tax are the~~
5 ~~receipts of a racetrack from the commissions and other amounts~~
6 ~~authorized by Section 60-1-10 NMSA 1978 to be retained by a~~
7 ~~racetrack conducting horse races under the authority of a~~
8 ~~license from the state racing commission.]"~~

9 SECTION 81. Section 7-9-43 NMSA 1978 (being Laws 1966,
10 Chapter 47, Section 13, as amended) is repealed and a new
11 Section 7-9-43 NMSA 1978 is enacted to read:

12 "7-9-43. [NEW MATERIAL] NONTAXABLE TRANSACTION
13 CERTIFICATE AND ALTERNATIVE EVIDENCE REQUIRED TO ENTITLE
14 PERSONS TO DEDUCTIONS.--

15 A. Except as provided in Subsection B of this
16 section, a person may establish entitlement to a deduction
17 from gross receipts allowed pursuant to the Sales and Use Tax
18 Act by obtaining a properly executed nontaxable transaction
19 certificate from the purchaser.

20 B. Except as provided in Subsection C of this
21 section, a person who does not comply with Subsection A of
22 this section may establish entitlement to a deduction from
23 gross receipts by presenting alternative evidence that
24 demonstrates the facts necessary to support entitlement to the
25 deduction, but the burden of proof is on that person.

1 Alternative evidence includes:

2 (1) invoices or contracts that identify the
3 nature of the transaction;

4 (2) documentation as to the purchaser's use
5 or disposition of the property or service;

6 (3) a statement from the purchaser indicating
7 that the purchaser sold or intends to resell the property or
8 service purchased from the seller, either by itself or in
9 combination with other property or services, in the ordinary
10 course of business; or

11 (4) other evidence that demonstrates the
12 facts necessary to establish entitlement to the deduction or
13 specified by department rule or instruction.

14 C. A statement from the purchaser summarizing the
15 purchaser's use or disposition of the property or service
16 purchased from the seller that includes the following
17 information shall constitute prima facie evidence of
18 entitlement to the deduction:

19 (1) the seller's name;

20 (2) the date of the invoice or date of the
21 transaction;

22 (3) the invoice number or a copy of the
23 invoice;

24 (4) a copy of the purchase order, if
25 available;

.207939.1

- 1 (5) the amount from purchase; and
- 2 (6) a description of the property or service
- 3 purchased or leased.

4 D. When a person accepts in good faith a properly
5 executed nontaxable transaction certificate from the
6 purchaser, the properly executed nontaxable transaction
7 certificate shall be conclusive evidence that the proceeds
8 from the transaction are deductible from the person's gross
9 receipts.

10 E. If a person has accepted in good faith a
11 properly executed nontaxable transaction certificate, but the
12 purchaser has not employed the property or service purchased
13 in the nontaxable manner or has provided false or inaccurate
14 information on the nontaxable transaction certificate, the
15 purchaser shall be liable for an amount equal to any tax,
16 penalty and interest that the seller would have been required
17 to pay if the seller had not complied with Subsection A of
18 this section.

19 F. Any person who knowingly or willfully provides
20 false or inaccurate information on a nontaxable transaction
21 certificate may be subject to prosecution under Sections
22 7-1-72 and 7-1-73 NMSA 1978."

23 **SECTION 82.** Section 7-9-44 NMSA 1978 (being Laws 1969,
24 Chapter 144, Section 34, as amended) is amended to read:

25 "7-9-44. SUSPENSION OF THE RIGHT TO USE A NONTAXABLE

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

1 TRANSACTION CERTIFICATE.--

2 A. The secretary may suspend for not more than one
3 year the privilege of a person to execute nontaxable
4 transaction certificates if that person [~~(1)~~] fails to pay,
5 within one year of the date [~~the tax is due, the compensating~~
6 ~~tax on the~~] in which the transaction subject to the nontaxable
7 transaction certificate occurred, the penalty provided by
8 Section 7-1-69.3 NMSA 1978 with respect to the person's
9 subsequent use of property or services purchased through the
10 execution of a nontaxable transaction certificate. [~~or~~

11 ~~(2) executes with the seller or lessor a~~
12 ~~nontaxable transaction certificate inapplicable to the~~
13 ~~transaction when no compensating tax is due on that buyer's or~~
14 ~~lessee's use of the property or service.~~

15 ~~B. The secretary may suspend for not more than six~~
16 ~~months the privilege of a person to execute nontaxable~~
17 ~~transaction certificates to claim deductions on the basis of~~
18 ~~nontaxable transaction certificates accepted by that person,~~
19 ~~or both, if that person fails to account in the manner and~~
20 ~~time required by the department, in accordance with Subsection~~
21 ~~E of Section 7-9-43 NMSA 1978, for the certificates executed~~
22 ~~or accepted by that person.~~

23 ~~G.]~~ B. A suspension under this section voids the
24 department's approval of the person's application for the
25 privilege of executing nontaxable transaction certificates

.207939.1

1 and, prior to resumption of the privilege, the person whose
2 privilege to execute nontaxable transaction certificates has
3 been suspended shall reapply for the privilege of executing
4 such certificates in accordance with Section 7-9-43 NMSA 1978.

5 ~~[D.]~~ C. Notwithstanding the provisions of Section
6 7-1-8 NMSA 1978, the department may notify the public or
7 provide for notice to the public of the suspension of a
8 person's privilege to execute nontaxable transaction
9 certificates."

10 SECTION 83. Section 7-9-45 NMSA 1978 (being Laws 1969,
11 Chapter 144, Section 35, as amended) is amended to read:

12 "7-9-45. DEDUCTIONS.--

13 A. ~~[In computing the gross receipts tax or~~
14 ~~governmental gross receipts tax due, only those receipts~~
15 ~~specified in Sections 7-9-46 through 7-9-76.2, 7-9-77.1,~~
16 ~~7-9-83, 7-9-85 through 7-9-87 and 7-9-89 NMSA 1978 may be~~
17 ~~deducted. Receipts, whether specified once or several times~~
18 ~~in those sections, may be deducted only once from gross~~
19 ~~receipts or governmental gross] Receipts may only be deducted~~
20 ~~once from gross receipts tax or governmental gross receipts~~
21 ~~when computing the state sales tax or governmental sales tax~~
22 ~~due.~~

23 B. The same receipts ~~[that are exempted from the~~
24 ~~gross receipts tax may] shall not be both exempt from the~~
25 ~~state sales tax and deducted from gross receipts. [Receipts~~

1 ~~that are deducted from gross receipts may not be exempted from~~
 2 ~~the gross receipts tax.]~~

3 C. The same receipts [~~that are exempted from the~~
 4 ~~governmental gross receipts tax]~~ shall not be both exempt from
 5 the governmental sales tax and deducted from governmental
 6 gross receipts. [~~Receipts that are deducted from governmental~~
 7 ~~gross receipts shall not be exempted from the governmental~~
 8 ~~gross receipts tax.]"~~

9 SECTION 84. Section 7-9-46 NMSA 1978 (being Laws 1969,
 10 Chapter 144, Section 36, as amended) is amended to read:

11 "7-9-46. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
 12 GROSS RECEIPTS--SALES TO MANUFACTURERS.--

13 A. Receipts from selling tangible personal
 14 property may be deducted from gross receipts or from
 15 governmental gross receipts if the sale is made to a person
 16 engaged in the business of manufacturing who delivers a
 17 nontaxable transaction certificate to the seller. The buyer
 18 delivering the nontaxable transaction certificate must
 19 incorporate the tangible personal property as an ingredient or
 20 component part of the product that the buyer is in the
 21 business of manufacturing.

22 B. Receipts from selling tangible personal
 23 property that is a consumable and used in such a way that it
 24 is consumed in the manufacturing process of a product,
 25 provided that the tangible personal property is not a tool or

.207939.1

1 equipment used to create the manufactured product, to a person
2 engaged in the business of manufacturing that product and who
3 delivers a nontaxable transaction certificate to the seller
4 may be deducted [~~in the following percentages~~] from gross
5 receipts or from governmental gross receipts

6 ~~(1) twenty percent of receipts received~~
7 ~~prior to January 1, 2014;~~

8 ~~(2) forty percent of receipts received in~~
9 ~~calendar year 2014;~~

10 ~~(3) sixty percent of receipts received in~~
11 ~~calendar year 2015;~~

12 ~~(4) eighty percent of receipts received in~~
13 ~~calendar year 2016; and~~

14 ~~(5) one hundred percent of receipts received~~
15 ~~on or after January 1, 2017].~~

16 C. Receipts from selling qualified equipment may
17 be deducted from gross receipts if the sale is made to a
18 person engaged in the business of manufacturing who delivers a
19 nontaxable transaction certificate to the seller.

20 [~~C.~~] D. The purpose of the deductions provided in
21 this section is to encourage manufacturing businesses to
22 locate in New Mexico and to reduce the tax burden, including
23 reducing pyramiding, on the tangible personal property that is
24 consumed in the manufacturing process and that is purchased by
25 manufacturing businesses in New Mexico.

1 ~~[D.]~~ E. The department shall annually report to
 2 the revenue stabilization and tax policy committee the
 3 aggregate amount of deductions taken pursuant to this section,
 4 the number of taxpayers claiming each of the deductions and
 5 any other information that is necessary to determine that the
 6 deductions are performing the purposes for which they are
 7 enacted.

8 ~~[E.]~~ F. A taxpayer deducting gross receipts
 9 pursuant to this section shall report the amount deducted
 10 separately for each deduction provided in this section and
 11 attribute the amount of the deduction to the appropriate
 12 authorization provided in this section in a manner required by
 13 the department that facilitates the evaluation by the
 14 legislature of the benefit to the state of these deductions.

15 ~~[F.]~~ G. As used in [~~Subsection B of~~] this section:

16 (1) "consumable" means tangible personal
 17 property that is incorporated into, destroyed, depleted or
 18 transformed in the process of manufacturing a product:

19 ~~[(1)]~~ (a) including electricity, fuels,
 20 water, manufacturing aids and supplies, chemicals, gases,
 21 repair parts, spares and other tangibles used to manufacture a
 22 product; but

23 ~~[(2)]~~ (b) excluding tangible personal
 24 property used in: ~~[(a)]~~ 1) the generation of power; ~~[(b)]~~ 2)
 25 the processing of natural resources, including hydrocarbons;

1 and [~~e~~] 3) the preparation of meals for immediate
2 consumption on- or off-premises;

3 (2) "manufacturing operation" means a plant
4 employing personnel to perform production tasks, in
5 conjunction with equipment not previously existing at the
6 site, to produce goods; and

7 (3) "qualified equipment" means an essential
8 machine, mechanism or tool, or a component or fitting thereof,
9 used directly and exclusively in a manufacturing operation and
10 subject to depreciation for purposes of the Internal Revenue
11 Code of 1986 by the taxpayer carrying on the manufacturing
12 operation that:

13 (a) was not previously used in New
14 Mexico and that is owned by the taxpayer, the United States or
15 an agency or instrumentality thereof or the state or a
16 political subdivision thereof and leased or subleased to the
17 taxpayer if the equipment is in New Mexico and is incorporated
18 or is to be incorporated within one year into a manufacturing
19 operation;

20 (b) includes electricity, fuels, water,
21 manufacturing aids and supplies, chemicals, gases, repair
22 parts, spares and other tangibles used to manufacture a
23 product; and

24 (c) does not include: 1) tangible
25 personal property used in the generation of power; 2) the

1 processing of natural resources, including hydrocarbons; 3)
 2 the preparation of meals for immediate consumption on- or
 3 off-premises; or 4) any vehicle that leaves the site of the
 4 manufacturing operation for purposes of transporting persons
 5 or property or any property for which the taxpayer claims the
 6 credit pursuant to Section 7-9-79 NMSA 1978."

7 SECTION 85. Section 7-9-48 NMSA 1978 (being Laws 1969,
 8 Chapter 144, Section 38, as amended) is amended to read:

9 "7-9-48. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
 10 GROSS RECEIPTS--SALE OF A SERVICE FOR RESALE.--Receipts from
 11 selling a service for resale may be deducted from gross
 12 receipts or from governmental gross receipts if the sale is
 13 made to a person who delivers a nontaxable transaction
 14 certificate to the seller. The buyer delivering the
 15 nontaxable transaction certificate must resell the service in
 16 the ordinary course of business [~~and the resale must be~~
 17 ~~subject to the gross receipts tax or governmental gross~~
 18 ~~receipts tax]."~~

19 SECTION 86. A new Section 7-9-48.1 NMSA 1978 is enacted
 20 to read:

21 "7-9-48.1. [NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--
 22 QUALIFIED BUSINESS SERVICES.--

23 A. Receipts from the sale of qualified business
 24 services to a qualified taxpayer may be deducted from gross
 25 receipts if the sale is made to a qualified taxpayer who

.207939.1

1 delivers a nontaxable transaction certificate to the seller.

2 B. The purpose of the deduction provided by this
3 section is to reduce the tax burden on businesses that results
4 from multiple impositions of transactional taxes upon the sale
5 or use of services that businesses purchase.

6 C. As used in this section:

7 (1) "qualified business services" means
8 services that are deductible for purposes of determining net
9 income pursuant to Section 162 of the Internal Revenue Code of
10 1986, as that section may be amended or renumbered, and for
11 which receipts from performance of that service are subject to
12 the state sales tax and are not otherwise eligible for a
13 deduction or exemption from the state sales tax; and

14 (2) "qualified taxpayer" means a person who
15 purchases qualified business services, but does not include a
16 federal, state, tribal or other governmental unit or
17 subdivision or an agency, department, institution or
18 instrumentality of a federal, state, tribal or other
19 governmental unit or subdivision."

20 SECTION 87. Section 7-9-54 NMSA 1978 (being Laws 1969,
21 Chapter 144, Section 44, as amended by Laws 2003, Chapter 272,
22 Section 6 and by Laws 2003, Chapter 330, Section 2) is amended
23 to read:

24 "7-9-54. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
25 GROSS RECEIPTS [~~TAX~~]--SALES TO [~~GOVERNMENTAL AGENCIES~~] LOCAL

.207939.1

1 GOVERNMENTS FOR BOND PROJECTS.--

2 A. Receipts from selling tangible personal
3 property to [~~the United States or New Mexico or a governmental~~
4 ~~unit, subdivision, agency, department or instrumentality~~
5 ~~thereof~~] a local government for a bond project may be deducted
6 from gross receipts or from governmental gross receipts.

7 Unless contrary to federal law, the deduction provided by this
8 subsection does not apply to:

9 [~~(1)~~] ~~receipts from selling metalliferous~~
10 ~~mineral ore;~~

11 ~~(2)~~] (1) receipts from selling tangible
12 personal property that is or will be incorporated into a
13 metropolitan redevelopment project created under the
14 Metropolitan Redevelopment Code;

15 [~~(3)~~] (2) receipts from selling construction
16 material; or

17 [~~(4)~~] (3) that portion of the receipts from
18 performing a "service" that reflects the value of tangible
19 personal property utilized or produced in performance of such
20 service.

21 [~~B. Receipts from selling tangible personal~~
22 ~~property for any purpose to an Indian tribe, nation or pueblo~~
23 ~~or a governmental unit, subdivision, agency, department or~~
24 ~~instrumentality thereof for use on Indian reservations or~~
25 ~~pueblo grants may be deducted from gross receipts or from~~

.207939.1

1 ~~governmental gross receipts.~~

2 ~~C. When a seller, in good faith, deducts receipts~~
3 ~~for tangible personal property sold to the state or a~~
4 ~~governmental unit, subdivision, agency, department or~~
5 ~~instrumentality thereof, after receiving written assurances~~
6 ~~from the buyer's representative that the property sold is not~~
7 ~~construction material, the department shall not assert in a~~
8 ~~later assessment or audit of the seller that the receipts are~~
9 ~~not deductible pursuant to Paragraph (3) of Subsection A of~~
10 ~~this section.]~~

11 B. For the purposes of this section, "bond
12 project" means an arrangement entered into pursuant to the
13 Industrial Revenue Bond Act, the County Industrial Revenue
14 Bond Act or similar act in which:

15 (1) a private person agrees to:

16 (a) arrange for the constructing and
17 equipping of a facility for a local government by acting as
18 agent for the government in procuring construction services;
19 other services; tangible personal property that becomes an
20 ingredient or component part of a construction project; and
21 other tangible personal property necessary for constructing
22 and equipping the facility;

23 (b) lease the completed facility from
24 the government; and

25 (c) buy the facility upon repayment of

1 the bonds; and

2 (2) the local government agrees to own the
 3 facility, finance the project in whole or in part through the
 4 issuance of bonds, designate the private person as its agent
 5 in procuring the necessary property and services, lease the
 6 facility to the private person and sell the facility to the
 7 private person upon repayment of the bonds."

8 SECTION 88. Section 7-9-55 NMSA 1978 (being Laws 1969,
 9 Chapter 144, Section 45, as amended) is amended to read:

10 "7-9-55. [~~DEDUCTION--GROSS RECEIPTS~~] EXEMPTION--STATE
 11 SALES TAX--[GOVERNMENTAL GROSS RECEIPTS TAX] EXPORTS--
 12 TRANSACTION IN INTERSTATE COMMERCE.--

13 A. Exempted from the state sales tax and the
 14 governmental sales tax are receipts from transactions in
 15 interstate or foreign commerce [~~may be deducted from gross~~
 16 ~~receipts~~] to the extent that the imposition of the [~~gross~~
 17 ~~receipts~~] state sales tax would be unlawful under the United
 18 States constitution.

19 [~~B. Receipts from transactions in interstate~~
 20 ~~commerce may be deducted from governmental gross receipts.~~

21 C. [~~Receipts from transmitting messages or~~
 22 ~~conversations by radio other than from one point in this state~~
 23 ~~to another point in this state and receipts from the sale of~~
 24 ~~radio or television broadcast time when the advertising~~
 25 ~~message is supplied by or on behalf of a national or regional~~

.207939.1

~~seller or advertiser not having its principal place of
business in or being incorporated under the laws of this state
may be deducted from gross receipts. Commissions of
advertising agencies from performing services in this state
may not be deducted from gross receipts under this section]~~

B. Exempted from the state sales tax are receipts
from selling tangible personal property in interstate or
foreign commerce when the seller ships or delivers the
tangible personal property to a location outside New Mexico
for use outside New Mexico.

C. Exempted from the state sales tax are receipts
from leasing or licensing personal property in interstate or
foreign commerce when the property is employed outside New
Mexico.

D. Exempted from the state sales tax are receipts
from granting a right to use a franchise in interstate or
foreign commerce when the franchise is employed outside New
Mexico.

E. Exempted from the state sales tax are receipts
from selling in interstate or foreign commerce a service
performed in New Mexico and the seller ships or delivers the
product of the service to a location outside New Mexico for
use outside New Mexico."

SECTION 89. Section 7-9-57.1 NMSA 1978 (being Laws 1998,
Chapter 92, Section 3) is amended to read:

.207939.1

1 "7-9-57.1. [~~DEDUCTION--GROSS RECEIPTS~~] EXEMPTION--STATE
 2 SALES TAX--SALES THROUGH [WORLD WIDE WEB SITES] WORLDWIDE
 3 WEBSITES.--Exempted from the state sales tax are receipts of
 4 any person derived from the sale of a service or property made
 5 through a [~~world wide web site~~] worldwide website to a person
 6 with a billing address outside New Mexico [~~may be deducted~~
 7 ~~from gross receipts~~]."

8 SECTION 90. Section 7-9-62 NMSA 1978 (being Laws 1969,
 9 Chapter 144, Section 52, as amended) is amended to read:

10 "7-9-62. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--AGRICULTURAL
 11 IMPLEMENTS--AIRCRAFT MANUFACTURERS--VEHICLES THAT ARE NOT
 12 REQUIRED TO BE REGISTERED--AIRCRAFT PARTS AND MAINTENANCE
 13 SERVICES--REPORTING REQUIREMENTS.--

14 A. Except for receipts deductible under Subsection
 15 B of this section, prior to July 1, 2032, fifty percent of the
 16 receipts from selling agricultural implements, farm tractors,
 17 aircraft or vehicles that are not required to be registered
 18 under the Motor Vehicle Code may be deducted from gross
 19 receipts; provided that, with respect to agricultural
 20 implements, the sale is made to a person who states in writing
 21 that the person is regularly engaged in the business of
 22 farming or ranching. [~~Any deduction allowed under Section~~
 23 ~~7-9-71 NMSA 1978 must be taken before the deduction allowed by~~
 24 ~~this subsection is computed.~~]

25 B. Prior to July 1, 2032, receipts of an aircraft

.207939.1

1 manufacturer or affiliate from selling aircraft or from
2 selling aircraft flight support, pilot training or maintenance
3 training services may be deducted from gross receipts. [~~Any~~
4 ~~deduction allowed under Section 7-9-71 NMSA 1978 must be taken~~
5 ~~before the deduction allowed by this subsection is computed.~~]

6 C. Prior to July 1, 2032, receipts from selling
7 aircraft parts or maintenance services for aircraft or
8 aircraft parts may be deducted from gross receipts. [~~Any~~
9 ~~deduction allowed under Section 7-9-71 NMSA 1978 must be taken~~
10 ~~before the deduction allowed by this subsection is computed.~~]

11 D. A taxpayer allowed a deduction pursuant to this
12 section shall report the amount of the deduction separately in
13 a manner required by the department.

14 E. The department shall compile an annual report
15 on the deductions provided by this section that shall include
16 the number of taxpayers approved by the department to receive
17 the deductions, the aggregate amount of deductions approved
18 and any other information necessary to evaluate the
19 effectiveness of the deductions. [~~Beginning in 2019 and every~~
20 ~~five years thereafter~~] Each year that the deductions are in
21 effect, the department shall compile and present the annual
22 reports to the revenue stabilization and tax policy committee
23 and the legislative finance committee with an analysis of the
24 effectiveness and cost of the deductions.

25 F. As used in this section:

.207939.1

underscored material = new
[bracketed material] = delete

1 (1) "affiliate" means a business entity that
2 directly or indirectly through one or more intermediaries
3 controls, is controlled by or is under common control with the
4 aircraft manufacturer;

5 (2) "agricultural implement" means a tool,
6 utensil or instrument that is depreciable for federal income
7 tax purposes and that is:

8 (a) designed to irrigate agricultural
9 crops above ground or below ground at the place where the crop
10 is grown; or

11 (b) designed primarily for use with a
12 source of motive power, such as a tractor, in planting,
13 growing, cultivating, harvesting or processing agricultural
14 crops at the place where the crop is grown; in raising poultry
15 or livestock; or in obtaining or processing food or fiber,
16 such as eggs, milk, wool or mohair, from living poultry or
17 livestock at the place where the poultry or livestock are kept
18 for this purpose;

19 (3) "aircraft manufacturer" means a business
20 entity that in the ordinary course of business designs and
21 builds private or commercial aircraft certified by the federal
22 aviation administration;

23 (4) "business entity" means a corporation,
24 limited liability company, partnership, limited partnership,
25 limited liability partnership or real estate investment trust,

.207939.1

1 but does not mean an individual or a joint venture;

2 (5) "control" means equity ownership in a
3 business entity that:

4 (a) represents at least fifty percent
5 of the total voting power of that business entity; and

6 (b) has a value equal to at least fifty
7 percent of the total equity of that business entity; and

8 (6) "flight support" means providing
9 navigation data, charts, weather information, online
10 maintenance records and other aircraft or flight-related
11 information and the software needed to access the
12 information."

13 SECTION 91. Section 7-9-62.1 NMSA 1978 (being Laws 2000
14 (2nd S.S.), Chapter 4, Section 2, as amended) is amended to
15 read:

16 "7-9-62.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--~~AIRCRAFT
17 SALES AND SERVICES--REPORTING REQUIREMENTS.--

18 A. Prior to July 1, 2032, receipts from the sale
19 of or from maintaining, refurbishing, remodeling or otherwise
20 modifying a commercial or military carrier over ten thousand
21 pounds gross landing weight may be deducted from gross
22 receipts.

23 B. A taxpayer allowed a deduction pursuant to this
24 section shall report the amount of the deduction separately in
25 a manner required by the department.

1 C. The department shall compile an annual report
 2 on the deduction provided by this section that shall include
 3 the number of taxpayers approved by the department to receive
 4 the deduction, the aggregate amount of deductions approved and
 5 any other information necessary to evaluate the effectiveness
 6 of the deduction. [~~Beginning in 2019 and every five years~~
 7 ~~thereafter~~] Each year that the deduction is in effect, the
 8 department shall compile and present the annual reports to the
 9 revenue stabilization and tax policy committee and the
 10 legislative finance committee with an analysis of the
 11 effectiveness and cost of the deduction."

12 SECTION 92. Section 7-9-67 NMSA 1978 (being Laws 1969,
 13 Chapter 144, Section 58, as amended) is amended to read:

14 "7-9-67. [~~DEDUCTION--GROSS RECEIPTS~~] EXEMPTION--STATE
 15 SALES TAX--GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX--REFUNDS--
 16 UNCOLLECTIBLE DEBTS.--

17 A. Exempted from the state sales tax are refunds
 18 and allowances made to buyers or amounts written off the books
 19 as an uncollectible debt by a person reporting [~~gross~~
 20 ~~receipts~~] state sales tax on an accrual basis [~~may be deducted~~
 21 ~~from gross receipts~~]. If debts reported uncollectible are
 22 subsequently collected, such receipts shall be included in
 23 gross receipts in the month of collection.

24 B. Exempted from the governmental sales tax are
 25 refunds and allowances made to buyers or amounts written off

.207939.1

1 the books as an uncollectible debt by a person reporting
2 governmental [~~gross receipts~~] sales tax on an accrual basis
3 [~~may be deducted from governmental gross receipts~~]. If debts
4 reported uncollectible are subsequently collected, such
5 receipts shall be included in governmental gross receipts in
6 the month of collection."

7 SECTION 93. Section 7-9-71 NMSA 1978 (being Laws 1969,
8 Chapter 144, Section 63, as amended) is amended to read:

9 "7-9-71. [~~DEDUCTION--GROSS RECEIPTS~~] EXEMPTION--STATE
10 SALES TAX--TRADE-IN ALLOWANCE.--Exempted from the state sales
11 tax is that portion of the receipts of a seller that is
12 represented by a trade-in of tangible personal property of the
13 same type being sold, except for the receipts represented by a
14 trade-in of a manufactured home [~~may be deducted from gross~~
15 ~~receipts~~]."

16 SECTION 94. Section 7-9-77 NMSA 1978 (being Laws 1966,
17 Chapter 47, Section 15, as amended) is amended to read:

18 "7-9-77. [~~DEDUCTIONS~~] DEDUCTION--[~~COMPENSATING~~] USE
19 TAX--TRADE-IN VALUE OF TANGIBLE PERSONAL PROPERTY.--[~~A.~~] Fifty
20 percent of [~~the value of agricultural implements, farm~~
21 ~~tractors, aircraft not exempted under Section 7-9-30 NMSA 1978~~
22 ~~or vehicles that are not required to be registered under the~~
23 ~~Motor Vehicle Code may be deducted from the value in computing~~
24 ~~the compensating tax due; provided that, with respect to use~~
25 ~~of agricultural implements, the person using the property is~~

1 ~~regularly engaged in the business of farming or ranching. Any~~
 2 ~~deduction allowed under Subsection B of this section is to be~~
 3 ~~taken before the deduction allowed by this subsection is~~
 4 ~~computed. As used in this subsection, "agricultural~~
 5 ~~implement" means a tool, utensil or instrument that is:~~

6 ~~(1) designed primarily for use with a source~~
 7 ~~of motive power, such as a tractor, in planting, growing,~~
 8 ~~cultivating, harvesting or processing agricultural produce at~~
 9 ~~the place where the produce is grown; in raising poultry or~~
 10 ~~livestock; or in obtaining or processing food or fiber, such~~
 11 ~~as eggs, milk, wool or mohair, from living poultry or~~
 12 ~~livestock at the place where the poultry or livestock are kept~~
 13 ~~for this purpose; and~~

14 ~~(2) depreciable for federal income tax~~
 15 ~~purposes.~~

16 ~~B.] that portion of the value of tangible personal~~
 17 ~~property on which an allowance was granted to the buyer for a~~
 18 ~~trade-in of tangible personal property of the same type that~~
 19 ~~was bought may be deducted from the value in computing the~~
 20 ~~[compensating] use tax due."~~

21 SECTION 95. Section 7-9-85 NMSA 1978 (being Laws 1994,
 22 Chapter 43, Section 1) is amended to read:

23 "7-9-85. DEDUCTION--GROSS RECEIPTS [TAX]--CERTAIN
 24 ORGANIZATION FUNDRAISERS.--Receipts from not more than two
 25 fundraising events annually conducted by an organization that

.207939.1

1 is exempt from the federal income tax as an organization
2 described in Section 501(c) [~~other than an organization~~
3 ~~described in Section 501(e)(3)~~] of the United States Internal
4 Revenue Code of 1986, as amended, may be deducted from gross
5 receipts."

6 SECTION 96. Section 7-9-110.1 NMSA 1978 (being Laws
7 2011, Chapter 60, Section 1 and Laws 2011, Chapter 61, Section
8 1) is amended to read:

9 "7-9-110.1. DEDUCTION--~~[GROSS RECEIPTS]~~ STATE SALES
10 TAX--USE TAX--LOCOMOTIVE ENGINE FUEL.--

11 A. Prior to July 1, 2047, receipts from the sale
12 of fuel to a common carrier to be loaded or used in a
13 locomotive engine may be deducted from gross receipts. [~~For~~
14 ~~the purposes of this section, "locomotive engine" means a~~
15 ~~wheeled vehicle consisting of a self-propelled engine that is~~
16 ~~used to draw trains along railway tracks.]~~

17 B. Prior to July 1, 2047, the value of fuel to be
18 loaded or used by a common carrier in a locomotive engine may
19 be deducted in computing the use tax due.

20 C. The purpose of the deductions provided by this
21 section is to encourage the construction, renovation,
22 maintenance and operation of railroad locomotive refueling
23 facilities and other railroad capital investments in New
24 Mexico.

25 D. To be eligible for a deduction on fuel loaded

1 or used by a common carrier in a locomotive engine from the
2 use tax, the fuel shall be used or loaded by a common carrier
3 that:

4 (1) after July 1, 2011, made a capital
5 investment of one hundred million dollars (\$100,000,000) or
6 more in new construction or renovations at the railroad
7 locomotive refueling facility in which the fuel is loaded or
8 used; or

9 (2) on or after July 1, 2012, made a capital
10 investment of fifty million dollars (\$50,000,000) or more in
11 new railroad infrastructure improvements, including railroad
12 facilities, track, signals and supporting railroad network,
13 located in New Mexico; provided that the new railroad
14 infrastructure improvements are not required by a regulatory
15 agency to correct problems, such as regular or preventive
16 maintenance, specifically identified by that agency as
17 requiring necessary corrective action.

18 E. To be eligible for the deduction on fuel loaded
19 or used by a common carrier in a locomotive engine from gross
20 receipts, a common carrier shall deliver an appropriate
21 nontaxable transaction certificate to the seller and the sale
22 shall be made to a common carrier that:

23 (1) after July 1, 2011, made a capital
24 investment of one hundred million dollars (\$100,000,000) or
25 more in new construction or renovations at the railroad

.207939.1

1 locomotive refueling facility in which the fuel is sold; or
2 (2) on or after July 1, 2012, made a capital
3 investment of fifty million dollars (\$50,000,000) or more in
4 new railroad infrastructure improvements, including railroad
5 facilities, track, signals and supporting railroad network,
6 located in New Mexico; provided that the new railroad
7 infrastructure improvements are not required by a regulatory
8 agency to correct problems, such as regular or preventative
9 maintenance, specifically identified by that agency as
10 requiring necessary corrective action.

11 F. The economic development department shall
12 promulgate rules for the issuance of a certificate of
13 eligibility for the purposes of claiming a deduction pursuant
14 to this section. A common carrier may request a certificate
15 of eligibility from the economic development department to
16 provide to the taxation and revenue department to establish
17 eligibility for a nontaxable transaction certificate for the
18 deduction on fuel loaded or used by a common carrier in a
19 locomotive engine from gross receipts. The taxation and
20 revenue department shall issue nontaxable transaction
21 certificates to a common carrier upon the presentation of a
22 certificate of eligibility obtained from the economic
23 development department pursuant to this subsection.

24 G. The economic development department shall keep
25 a record of temporary and permanent jobs from all railroad

1 activity where a capital investment is made by a common
2 carrier that claims a deduction pursuant to this section. The
3 economic development department and the taxation and revenue
4 department shall estimate the amount of state revenue that is
5 attributable to all railroad activity where a capital
6 investment is made by a common carrier that claims a deduction
7 pursuant to this section.

8 H. The economic development department and the
9 taxation and revenue department shall compile an annual report
10 with the number of taxpayers who claim a deduction pursuant to
11 this section, the number of jobs created as a result of that
12 deduction, the amount of that deduction approved, the net
13 revenue to the state as a result of that deduction and any
14 other information required by the legislature to aid in
15 evaluating the effectiveness of that deduction. A taxpayer
16 who claims a deduction pursuant to this section shall provide
17 the economic development department and the taxation and
18 revenue department with the information required to compile
19 that report. The economic development department and the
20 taxation and revenue department shall present that report
21 before the legislative interim revenue stabilization and tax
22 policy committee and the legislative finance committee by
23 November of each year. Notwithstanding any other section of
24 law to the contrary, the economic development department and
25 the taxation and revenue department may disclose the number of

.207939.1

1 applicants for a deduction pursuant to this section, the
2 amount of the deduction approved, the number of employees of
3 the taxpayer and any other information required by the
4 legislature or the taxation and revenue department to aid in
5 evaluating the effectiveness of that deduction.

6 I. An appropriate legislative committee shall
7 review the effectiveness of the deduction for each taxpayer
8 who claims the deduction pursuant to this section every six
9 years beginning in 2019.

10 J. For the purposes of this section, "locomotive
11 engine" means a wheeled vehicle consisting of a self-propelled
12 engine that is used to draw trains along railway tracks."

13 SECTION 97. Section 7-9-115 NMSA 1978 (being Laws 2015
14 (1st S.S.), Chapter 2, Section 9) is amended to read:

15 "7-9-115. DEDUCTION--GROSS RECEIPTS [~~TAX~~]-GOODS AND
16 SERVICES FOR THE DEPARTMENT OF DEFENSE RELATED TO DIRECTED
17 ENERGY AND SATELLITES.--

18 A. Prior to January 1, 2021, receipts from the
19 sale by a qualified contractor of qualified research and
20 development services and qualified directed energy and
21 satellite-related inputs may be deducted from gross receipts
22 when sold pursuant to a contract with the United States
23 department of defense.

24 B. The purposes of the deduction allowed in this
25 section are to promote new and sophisticated technology,

1 enhance the viability of directed energy and satellite
2 projects, attract new projects and employers to New Mexico and
3 increase high-technology employment opportunities in New
4 Mexico.

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

8 D. The department shall compile an annual report
9 on the deduction provided by this section that shall include
10 the number of taxpayers that claimed the deduction, the
11 aggregate amount of deductions claimed and any other
12 information necessary to evaluate the effectiveness of the
13 deduction. Beginning in 2017 and each year thereafter that
14 the deduction is in effect, the department and the economic
15 development department shall present the annual report to the
16 revenue stabilization and tax policy committee and the
17 legislative finance committee with an analysis of the
18 effectiveness and cost of the deduction and whether the
19 deduction is performing the purpose for which it was created.

20 E. As used in this section:

21 (1) "directed energy" means a system,
22 including related services, that enables the use of the
23 frequency spectrum, including radio waves, light and x-rays;

24 (2) "inputs" means systems, subsystems,
25 components, prototypes and demonstrators or products and

.207939.1

1 services involving optics, photonics, electronics, advanced
2 materials, nanoelectromechanical and microelectromechanical
3 systems, fabrication materials and test evaluation and
4 computer control systems related to directed energy or
5 satellites;

6 (3) "qualified contractor" means a person
7 other than an organization designated as a national laboratory
8 by act of congress or an operator of national laboratory
9 facilities in New Mexico; provided that the operator may be a
10 qualified contractor with respect to the operator's receipts
11 not connected with operating the national laboratory;

12 (4) "qualified directed energy and satellite-
13 related inputs" means inputs supplied to the department of
14 defense pursuant to a contract with that department entered
15 into on or after January 1, 2016;

16 (5) "qualified research and development
17 services" means research and development services related to
18 directed energy or satellites provided to the department of
19 defense pursuant to a contract with that department entered
20 into on or after January 1, 2016; and

21 (6) "satellite" means composite systems
22 assembled and packaged for use in space, including launch
23 vehicles and related products and services."

24 SECTION 98. Section 7-9C-1 NMSA 1978 (being Laws 1992,
25 Chapter 50, Section 1 and also Laws 1992, Chapter 67, Section

1 1, as amended) is amended to read:

2 "7-9C-1. SHORT TITLE.--Chapter 7, Article 9C NMSA 1978
3 may be cited as the "Interstate Telecommunications [~~Gross~~
4 ~~Receipts~~] Sales Tax Act."

5 SECTION 99. Section 7-9C-7 NMSA 1978 (being Laws 1992,
6 Chapter 50, Section 7 and also Laws 1992, Chapter 67, Section
7 7, as amended) is amended to read:

8 "7-9C-7. DEDUCTION--SALE OF A SERVICE FOR RESALE.--~~[A.]~~
9 Receipts from providing an interstate telecommunications
10 service in this state that will be used by other persons in
11 providing telephone or telegraph services to the final user
12 may be deducted from interstate telecommunications gross
13 receipts if the sale is made to a person who is subject to the
14 interstate telecommunications [~~gross receipts tax or to the~~
15 ~~gross receipts tax or the compensating~~] sales tax, the state
16 sales tax or the use tax.

17 [~~B. Receipts during the period July 1, 1998~~
18 ~~through June 30, 2000 from providing leased telephone lines,~~
19 ~~telecommunications services, internet access services or~~
20 ~~computer programming that will be used by other persons in~~
21 ~~providing internet access and related services to the final~~
22 ~~user may be deducted from interstate telecommunications gross~~
23 ~~receipts if the sale is made to a person who is subject to the~~
24 ~~interstate telecommunications gross receipts tax, the gross~~
25 ~~receipts tax or the compensating tax.]"~~

.207939.1

1 SECTION 100. Section 7-9F-3 NMSA 1978 (being Laws 2000
2 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to
3 read:

4 "7-9F-3. DEFINITIONS.--As used in the Technology Jobs
5 and Research and Development Tax Credit Act:

6 A. "affiliate" means a person who directly or
7 indirectly owns or controls, is owned or controlled by or is
8 under common ownership or control with another person through
9 ownership of voting securities or other ownership interests
10 representing a majority of the total voting power of the
11 entity;

12 B. "annual payroll expense" means the wages paid
13 or payable to employees in the state by the taxpayer in the
14 taxable year for which the taxpayer applies for an additional
15 credit pursuant to the Technology Jobs and Research and
16 Development Tax Credit Act;

17 C. "base payroll expense" means the wages paid or
18 payable by the taxpayer in the taxable year prior to the
19 taxable year for which the taxpayer applies for an additional
20 credit pursuant to the Technology Jobs and Research and
21 Development Tax Credit Act, adjusted for any increase from the
22 preceding taxable year in the consumer price index for the
23 United States for all items as published by the United States
24 department of labor in the taxable year for which the
25 additional credit is claimed. In a taxable year during which

1 a taxpayer has been part of a business merger or acquisition
 2 or other change in business organization, the taxpayer's base
 3 payroll expense shall include the payroll expense of all
 4 entities included in the reorganization for all positions that
 5 are included in the business entity resulting from the
 6 reorganization;

7 D. "department" means the taxation and revenue
 8 department, the secretary of taxation and revenue or any
 9 employee of the department exercising authority lawfully
 10 delegated to that employee by the secretary;

11 E. "facility" means a factory, mill, plant,
 12 refinery, warehouse, dairy, feedlot, building or complex of
 13 buildings located within the state, including the land on
 14 which it is located and all machinery, equipment and other
 15 real and tangible personal property located at or within it
 16 and used in connection with its operation;

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

.207939.1

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

7 G.] F. "qualified expenditure" means an
8 expenditure or an allocated portion of an expenditure by a
9 taxpayer in connection with qualified research at a qualified
10 facility, including expenditures for depletable land and rent
11 paid or incurred for land, improvements, the allowable amount
12 paid or incurred to operate or maintain a facility, buildings,
13 equipment, computer software, computer software upgrades,
14 consultants and contractors performing work in New Mexico,
15 payroll, technical books and manuals and test materials, but
16 not including any expenditure on property that is owned by a
17 municipality or county in connection with an industrial
18 revenue bond project, property for which the taxpayer has
19 received any credit pursuant to the Investment Credit Act,
20 property that was owned by the taxpayer or an affiliate before
21 July 3, 2000 or research and development expenditures
22 reimbursed by a person who is not an affiliate of the
23 taxpayer. If a "qualified expenditure" is an allocation of an
24 expenditure, the cost accounting methodology used for the
25 allocation of the expenditure shall be the same cost

.207939.1

1 accounting methodology used by the taxpayer in its other
2 business activities;

3 ~~[H.]~~ G. "qualified facility" means a facility in
4 New Mexico at which qualified research is conducted other than
5 a facility operated by a taxpayer for the United States or any
6 agency, department or instrumentality thereof;

7 ~~[I.]~~ H. "qualified research" means research:

8 (1) that is undertaken for the purpose of
9 discovering information:

10 (a) that is technological in nature;

11 and

12 (b) the application of which is
13 intended to be useful in the development of a new or improved
14 business component of the taxpayer; and

15 (2) substantially all of the activities of
16 which constitute elements of a process of experimentation
17 related to a new or improved function, performance,
18 reliability or quality, but not related to style, taste or
19 cosmetic or seasonal design factors;

20 ~~[J.]~~ I. "qualified research and development small
21 business" means a taxpayer that:

22 (1) employed no more than fifty employees as
23 determined by the number of employees for which the taxpayer
24 was liable for unemployment insurance coverage in the taxable
25 year for which an additional credit is claimed;

.207939.1

1 (2) had total qualified expenditures of no
2 more than five million dollars (\$5,000,000) in the taxable
3 year for which an additional credit is claimed; and

4 (3) did not have more than fifty percent of
5 its voting securities or other equity interest with the right
6 to designate or elect the board of directors or other
7 governing body of the business owned directly or indirectly by
8 another business;

9 [~~K.~~] J. "rural area" means any area of the state
10 other than the state fairgrounds, an incorporated municipality
11 with a population of thirty thousand or more according to the
12 most recent federal decennial census and any area within three
13 miles of the external boundaries of an incorporated
14 municipality with a population of thirty thousand or more
15 according to the most recent federal decennial census;

16 [~~L.~~] K. "taxpayer" means any of the following
17 persons, other than a federal, state or other governmental
18 unit or subdivision or an agency, department, institution or
19 instrumentality thereof:

- 20 (1) a person liable for payment of any tax;
21 (2) a person responsible for withholding and
22 payment or collection and payment of any tax;
23 (3) a person to whom an assessment has been
24 made if the assessment remains unabated or the assessed amount
25 has not been paid; or

1 (4) for purposes of the additional credit
 2 against the taxpayer's income tax pursuant to the Technology
 3 Jobs and Research and Development Tax Credit Act and to the
 4 extent of their respective interest in that entity, the
 5 shareholders, members, partners or other owners of:

6 (a) a small business corporation that
 7 has elected to be treated as an S corporation for federal
 8 income tax purposes; or

9 (b) an entity treated as a partnership
 10 or disregarded entity for federal income tax purposes; and

11 ~~[M.]~~ L. "wages" means remuneration for services
 12 performed by an employee in New Mexico for an employer."

13 SECTION 101. Section 7-9F-9 NMSA 1978 (being Laws 2000
 14 (2nd S.S.), Chapter 22, Section 9, as amended) is amended to
 15 read:

16 "7-9F-9. CLAIMING THE BASIC CREDIT.--

17 A. A taxpayer may apply for approval of a credit
 18 within one year following the end of the reporting period in
 19 which the qualified expenditure was made.

20 B. A taxpayer having applied for and been granted
 21 approval for a basic credit by the department pursuant to the
 22 Technology Jobs and Research and Development Tax Credit Act
 23 may claim the amount of the approved basic credit against the
 24 taxpayer's ~~[compensating tax, withholding tax or gross~~
 25 ~~receipts tax, excluding local option gross receipts tax]~~

.207939.1

1 income tax or corporate income tax liability due to the state
2 of New Mexico; provided that no taxpayer may claim an amount
3 of approved basic credit for a [~~reporting period~~] taxable year
4 in which the basic credit is being claimed that exceeds the
5 [~~sum~~] amount of the taxpayer's [~~compensating tax, withholding~~
6 ~~tax and gross receipts tax, excluding local option gross~~
7 ~~receipts tax, due for that reporting period~~] income tax or
8 corporate income tax due for that taxable year.

9 C. Any amount of approved basic credit not claimed
10 against the taxpayer's [~~compensating tax, withholding tax or~~
11 ~~gross receipts tax, excluding local option gross receipts tax~~]
12 income tax or corporate income tax liability due may be
13 claimed in subsequent [~~reporting periods~~] taxable years for a
14 period of up to three years from the date of the original
15 claim."

16 SECTION 102. Section 7-9F-11 NMSA 1978 (being Laws 2000
17 (2nd S.S.), Chapter 22, Section 11) is amended to read:

18 "7-9F-11. RECAPTURE.--If the taxpayer or a successor in
19 business of the taxpayer ceases operations in New Mexico for
20 at least one hundred eighty consecutive days within a two-year
21 period after the taxpayer has claimed a basic credit or an
22 additional credit at a facility [~~with respect to which the~~
23 ~~taxpayer has claimed the basic credit or the additional~~
24 ~~credit~~], the department shall grant no further basic credit or
25 additional credit to the taxpayer with respect to that

.207939.1

1 facility. In addition, any amount of approved basic credit
 2 [~~not claimed against the taxpayer's gross receipts tax,~~
 3 ~~compensating tax or withholding tax and any amount of~~
 4 ~~approved]~~ or additional credit not claimed against the
 5 taxpayer's income tax or corporate income tax shall be
 6 extinguished, and within thirty days after the one hundred
 7 eightieth day of the cessation of operations, the taxpayer
 8 shall pay the amount of any [~~gross receipts tax, compensating~~
 9 ~~tax or withholding tax for which an approved basic credit was~~
 10 ~~taken and any]~~ income tax or corporate income tax against
 11 which an approved additional credit was taken. For purposes
 12 of this section, a taxpayer shall not be deemed to have ceased
 13 operations during reasonable periods for maintenance or
 14 retooling or for the repair or replacement of facilities
 15 damaged or destroyed or during the continuance of labor
 16 disputes."

17 **SECTION 103.** Section 7-9I-2 NMSA 1978 (being Laws 2005,
 18 Chapter 104, Section 18, as amended) is amended to read:

19 "7-9I-2. DEFINITIONS.--As used in the Affordable Housing
 20 Tax Credit Act:

21 A. "affordable housing project" means land
 22 acquisition, construction, building acquisition, remodeling,
 23 improvement, rehabilitation, conversion or weatherization for
 24 residential housing that is approved by the authority and that
 25 includes single-family housing or multifamily housing;

.207939.1

1 B. "authority" means the New Mexico mortgage
2 finance authority;

3 C. "department" means the taxation and revenue
4 department; and

5 ~~[D. "modified combined tax liability" means the
6 total liability for the reporting period for the gross
7 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
8 any tax collected at the same time and in the same manner as
9 the gross receipts tax, such as the compensating tax, the
10 withholding tax, the interstate telecommunications gross
11 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
12 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
13 minus the amount of any credit other than the affordable
14 housing tax credit applied against any or all of these taxes
15 or surcharges; but "modified combined tax liability" excludes
16 all amounts collected with respect to local option gross
17 receipts taxes and governmental gross receipts taxes; and~~

18 ~~E.]~~ D. "person" means an individual, tribal
19 government, housing authority, corporation, limited liability
20 company, partnership, joint venture, syndicate, association or
21 nonprofit organization."

22 SECTION 104. Section 7-9I-5 NMSA 1978 (being Laws 2005,
23 Chapter 104, Section 21) is amended to read:

24 "7-9I-5. AFFORDABLE HOUSING TAX CREDIT.--

25 A. The tax credit provided in this section may be

1 referred to as the "affordable housing tax credit". Except as
 2 otherwise provided by the Affordable Housing Tax Credit Act, a
 3 holder of an investment voucher that submits the investment
 4 voucher to the department may apply for, and the department
 5 may allow, a tax credit in an amount not to exceed the value
 6 of the investment voucher during the tax year in which the
 7 authority certifies to the department:

8 (1) completion of a service for which an
 9 investment voucher has been issued pursuant to the Affordable
 10 Housing Tax Credit Act; or

11 (2) approval by the authority or completion
 12 of an affordable housing project for which a land, building or
 13 cash donation has been made and for which an investment
 14 voucher has been issued pursuant to the Affordable Housing Tax
 15 Credit Act.

16 B. A holder of an investment voucher may apply all
 17 or a portion of the affordable housing tax credit against the
 18 holder's ~~[modified combined tax liability]~~ personal income tax
 19 liability or corporate income tax liability. Any balance of
 20 the affordable housing tax credit claimed may be carried
 21 forward for up to five years from the calendar year during
 22 which the authority certifies to the department approval of
 23 the affordable housing project for which the investment
 24 voucher used to claim the affordable housing tax credit is
 25 issued. ~~[No amount of the affordable housing tax credit may~~

.207939.1

1 ~~be applied against a local option gross receipts tax imposed~~
2 ~~by a municipality or county or against the government gross~~
3 ~~receipts tax.]~~

4 C. Notwithstanding the provisions of Section 7-1-8
5 NMSA 1978, the department may disclose to a person the balance
6 of the affordable housing tax credit remaining with respect to
7 any investment voucher submitted by that person."

8 SECTION 105. Section 7-10-1 NMSA 1978 (being Laws 1970,
9 Chapter 26, Section 1, as amended) is amended to read:

10 "7-10-1. SHORT TITLE.--Chapter 7, Article 10 NMSA 1978
11 may be cited as the "~~[Gross Receipts]~~ Sales Tax Registration
12 Act"."

13 SECTION 106. Section 7-10-3 NMSA 1978 (being Laws 1970,
14 Chapter 26, Section 3, as amended) is amended to read:

15 "7-10-3. DEFINITIONS.--As used in the ~~[Gross Receipts]~~
16 Sales Tax Registration Act:

17 A. "department" means the taxation and revenue
18 department, the secretary of taxation and revenue or any
19 employee of the department exercising authority lawfully
20 delegated to that employee by the secretary;

21 B. "person" means any individual, estate, trust,
22 receiver, cooperative association, club, corporation, company,
23 firm, partnership, joint venture, syndicate or other entity;
24 and

25 C. "state" means any state agency, department or

1 office that has authority to contract in the name of the state
2 or to make payments from state funds."

3 SECTION 107. Section 7-10-4 NMSA 1978 (being Laws 1970,
4 Chapter 26, Section 4, as amended) is amended to read:

5 "7-10-4. PERSONS DOING BUSINESS WITH THE STATE--
6 REGISTRATION TO PAY THE [~~GROSS RECEIPTS~~] STATE SALES TAX
7 REQUIRED.--Any person leasing or selling property to the state
8 or performing services for the state, as those terms are used
9 in the [~~Gross Receipts and Compensating~~] Sales and Use Tax
10 Act, shall be registered with the department to pay [~~the gross~~
11 ~~receipts~~] state sales tax unless that person has no business
12 location, employees or property in New Mexico and does not
13 conduct business in New Mexico through agents or contractors."

14 SECTION 108. Section 7-10-5 NMSA 1978 (being Laws 1970,
15 Chapter 26, Section 5, as amended) is amended to read:

16 "7-10-5. PENALTY FOR NONCOMPLIANCE.--If any person
17 required to register under the provisions of Section 7-10-4
18 NMSA 1978 is not registered to pay the [~~gross receipts~~] state
19 sales tax, the state shall withhold payment of the amount due
20 until the person has presented evidence of registration with
21 the department to pay the [~~gross receipts~~] state sales tax."

22 SECTION 109. Section 7-14-10 NMSA 1978 (being Laws 1988,
23 Chapter 73, Section 20, as amended) is amended to read:

24 "7-14-10. DISTRIBUTION OF PROCEEDS.--

25 A. Except as provided in Subsection B of this

1 section, the receipts from the tax and any associated interest
2 and penalties shall be deposited in the "motor vehicle
3 suspense fund", hereby created in the state treasury. As of
4 the end of each month, the net receipts attributable to the
5 tax and associated penalties and interest shall be distributed
6 ~~[to the general fund]~~ as follows:

7 (1) fifty percent to the state road fund; and

8 (2) fifty percent to the local governments
9 road fund.

10 B. If, on or before March 1, 2019, the secretary
11 of finance and administration certifies to the secretary of
12 taxation and revenue that revenue attributable to the state
13 sales tax and distributed to the general fund since July 1,
14 2018 is projected to be less for fiscal year 2019 than the
15 amount of estimated state sales tax revenue, as that term is
16 defined in Section 7-9-4 NMSA 1978, the distributions pursuant
17 to Paragraphs (1) and (2) of Subsection A of this section
18 shall be made to the general fund beginning July 1, 2019 and
19 prior to January 1, 2020."

20 SECTION 110. Section 7-14A-1 NMSA 1978 (being Laws 1991,
21 Chapter 197, Section 5, as amended) is amended to read:

22 "7-14A-1. SHORT TITLE.--Chapter 7, Article 14A NMSA 1978
23 may be cited as the "Leased Vehicle ~~[Gross Receipts]~~ Sales Tax
24 Act."

25 SECTION 111. Section 7-14A-2 NMSA 1978 (being Laws 1991,

1 Chapter 197, Section 6, as amended) is amended to read:

2 "7-14A-2. DEFINITIONS.--As used in the Leased Vehicle
3 [~~Gross Receipts~~] Sales Tax 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. "engaging in business" means carrying on or
9 causing to be carried on the leasing of vehicles with the
10 purpose of direct or indirect benefit;

11 C. "gross receipts" means the total amount of
12 money or the value of other consideration received from
13 leasing vehicles used in New Mexico, but excludes cash
14 discounts allowed and taken, leased vehicle [~~gross receipts~~]
15 sales tax payable on transactions for the reporting period,
16 [~~gross receipts~~] state sales tax payable pursuant to the
17 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act on
18 transactions for the reporting period and taxes imposed
19 pursuant to the provisions of any local option [~~gross~~
20 ~~receipts~~] sales tax, as that term is defined in the Tax
21 Administration Act, that is payable on transactions for the
22 reporting period and any type of time-price differential.
23 Also excluded from "gross receipts" are any gross receipts or
24 sales taxes imposed by an Indian nation, tribe or pueblo;
25 provided that the tax is approved, if approval is required by

.207939.1

1 federal law or regulation, by the secretary of the interior of
2 the United States; and provided further that the gross
3 receipts or sales tax imposed by the Indian nation, tribe or
4 pueblo provides a reciprocal exclusion for gross receipts,
5 sales or gross receipts-based excise taxes imposed by the
6 state or its political subdivisions. In an exchange in which
7 the money or other consideration received does not represent
8 the value of the lease of the vehicle, "gross receipts" means
9 the reasonable value of the lease of the vehicle. When the
10 leasing of vehicles is made under a leasing contract, the
11 seller or lessor may elect to treat all receipts under those
12 contracts as gross receipts as and when the payments are
13 actually received. "Gross receipts" also includes amounts
14 paid by members of any cooperative association or similar
15 organization for the lease of vehicles by that organization;

16 D. "leasing" means any arrangement whereby, for a
17 consideration, a vehicle without a driver furnished by the
18 lessor or owner is employed for or by any person other than
19 the owner of the vehicle for a period of not more than six
20 months;

21 E. "person" means any individual, estate, trust,
22 receiver, cooperative association, club, corporation, company,
23 firm, partnership, joint venture, syndicate or other entity;
24 and

25 F. "vehicle" means a passenger automobile designed

1 to accommodate six or fewer adult human beings that is part of
 2 a fleet of five or more passenger automobiles owned by the
 3 same person."

4 SECTION 112. Section 7-14A-3 NMSA 1978 (being Laws 1991,
 5 Chapter 197, Section 7) is amended to read:

6 "7-14A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
 7 "LEASED VEHICLE [~~GROSS RECEIPTS~~] SALES TAX".--

8 A. For the privilege of engaging in business, an
 9 excise tax equal to five percent of gross receipts is imposed
 10 on any person engaging in business in New Mexico.

11 B. The tax imposed by this section shall be
 12 referred to as the "leased vehicle [~~gross receipts~~] sales
 13 tax".

14 SECTION 113. Section 7-14A-3.1 NMSA 1978 (being Laws
 15 1993, Chapter 359, Section 1, as amended) is amended to read:

16 "7-14A-3.1. IMPOSITION AND RATE--LEASED VEHICLE
 17 SURCHARGE.--

18 A. Except as provided in Subsection B of this
 19 section, there is imposed a surcharge on the leasing of a
 20 vehicle to another person by a person engaging in business in
 21 New Mexico if the lease is subject to the leased vehicle
 22 [~~gross receipts~~] sales tax. The amount of this surcharge is
 23 two dollars (\$2.00) for each day the vehicle is leased by the
 24 person. The surcharge may be referred to as the "leased
 25 vehicle surcharge".

.207939.1

1 B. The leased vehicle surcharge imposed in
2 Subsection A of this section shall not apply to the lease of a
3 temporary replacement vehicle if the lessee signs a statement
4 that the temporary replacement vehicle is to be used as a
5 replacement for another vehicle that is being repaired,
6 serviced or replaced. For the purposes of this section,
7 "temporary replacement vehicle" means a vehicle that is:

8 (1) used by an individual in place of another
9 vehicle that is unavailable for use by the individual due to
10 loss, damage, mechanical breakdown or need for servicing; and

11 (2) leased temporarily by or on behalf of the
12 individual or loaned temporarily to the individual by a
13 vehicle repair facility or dealer while the other vehicle is
14 being repaired, serviced or replaced."

15 SECTION 114. Section 7-14A-4 NMSA 1978 (being Laws 1991,
16 Chapter 197, Section 8, as amended) is amended to read:

17 "7-14A-4. PRESUMPTION OF TAXABILITY.--To prevent evasion
18 of the leased vehicle [~~gross receipts~~] sales tax and the
19 leased vehicle surcharge and to aid in their administration,
20 it is presumed that all receipts of a person engaging in
21 business are subject to the leased vehicle [~~gross receipts~~]
22 sales tax and that all vehicles leased by that person are
23 subject to the leased vehicle surcharge."

24 SECTION 115. Section 7-14A-5 NMSA 1978 (being Laws 1991,
25 Chapter 197, Section 9) is amended to read:

1 "7-14A-5. SEPARATELY STATING THE LEASED VEHICLE [~~GROSS~~
 2 ~~RECEIPTS~~] SALES TAX.--When the leased vehicle [~~gross receipts~~]
 3 sales tax is stated separately on the books of the lessor and
 4 if the total amount of tax that is stated separately on
 5 transactions reportable within one reporting period is in
 6 excess of the amount of leased vehicle [~~gross receipts~~] sales
 7 tax otherwise payable on the transactions on which the tax was
 8 separately stated, the excess amount of tax stated on the
 9 transactions within that reporting period shall be included in
 10 gross receipts."

11 **SECTION 116.** Section 7-14A-6 NMSA 1978 (being Laws 1991,
 12 Chapter 197, Section 10, as amended) is amended to read:

13 "7-14A-6. DATE PAYMENT DUE.--The tax and the surcharge
 14 imposed by the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act
 15 are to be paid on or before the twenty-fifth day of the month
 16 following the month in which the taxable event occurs."

17 **SECTION 117.** Section 7-14A-7 NMSA 1978 (being Laws 1991,
 18 Chapter 197, Section 11) is amended to read:

19 "7-14A-7. DEDUCTION--TRANSACTIONS IN INTERSTATE
 20 COMMERCE.--Receipts from transactions in interstate commerce
 21 may be deducted from gross receipts to the extent that the
 22 imposition of the leased vehicle [~~gross receipts~~] sales tax
 23 would be unlawful under the United States constitution."

24 **SECTION 118.** Section 7-14A-10 NMSA 1978 (being Laws
 25 1991, Chapter 197, Section 14, as amended) is amended to read:

.207939.1

1 "7-14A-10. DISTRIBUTION OF PROCEEDS.--At the end of each
2 month, the net receipts attributable to the leased vehicle
3 [~~gross receipts~~] sales tax and any associated penalties and
4 interest shall be distributed as follows:

5 A. one-fourth to the local governments road fund;
6 and

7 B. three-fourths to the highway infrastructure
8 fund."

9 SECTION 119. Section 7-14A-11 NMSA 1978 (being Laws
10 1991, Chapter 197, Section 15, as amended) is amended to read:

11 "7-14A-11. ADMINISTRATION.--

12 A. The department shall interpret the provisions
13 of the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act.

14 B. The department shall administer and enforce the
15 collection of the leased vehicle [~~gross receipts~~] sales tax
16 and the leased vehicle surcharge, and the Tax Administration
17 Act applies to the administration and enforcement of the tax
18 and the surcharge."

19 SECTION 120. Section 7-19D-1 NMSA 1978 (being Laws 1993,
20 Chapter 346, Section 1) is amended to read:

21 "7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA 1978
22 may be cited as the "Municipal Local Option [~~Gross Receipts~~
23 ~~Taxes~~] Sales and Use Tax Act".

24 SECTION 121. Section 7-19D-2 NMSA 1978 (being Laws 1993,
25 Chapter 346, Section 2) is amended to read:

1 "7-19D-2. DEFINITIONS.--As used in the Municipal Local
 2 Option [~~Gross Receipts Taxes~~] Sales and Use Tax Act:

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

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

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

14 D. "person" means an individual or any other legal
 15 entity; and

16 E. "state [~~gross receipts~~] sales tax" means the
 17 [~~gross receipts~~] state sales tax imposed [~~under the Gross~~
 18 ~~Receipts and Compensating~~] pursuant to the Sales and Use Tax
 19 Act."

20 SECTION 122. Section 7-19D-3 NMSA 1978 (being Laws 1993,
 21 Chapter 346, Section 3) is amended to read:

22 "7-19D-3. EFFECTIVE DATE OF ORDINANCE.--An ordinance
 23 imposing, amending or repealing a tax or an increment of tax
 24 authorized by the Municipal Local Option [~~Gross Receipts~~
 25 ~~Taxes~~] Sales and Use Tax Act shall be effective on July 1 or

.207939.1

underscored material = new
 [bracketed material] = delete

1 January 1, whichever date occurs first after the expiration of
2 at least three months from the date the adopted ordinance is
3 mailed or delivered to the department. The ordinance shall
4 include that effective date."

5 SECTION 123. Section 7-19D-4 NMSA 1978 (being Laws 1993,
6 Chapter 346, Section 4) is amended to read:

7 "7-19D-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS
8 OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT
9 AND REQUIREMENTS OF THE DEPARTMENT.--

10 A. An ordinance imposing a tax [~~under~~] pursuant to
11 the provisions of the Municipal Local Option [~~Gross Receipts~~
12 ~~Taxes~~] Sales and Use Tax Act shall adopt by reference the same
13 definitions and the same provisions relating to exemptions and
14 deductions as are contained in the [~~Gross Receipts and~~
15 ~~Compensating~~] Sales and Use Tax Act then in effect and as it
16 may be amended from time to time.

17 B. The governing body of any municipality imposing
18 a tax [~~under~~] pursuant to provisions of the Municipal Local
19 Option [~~Gross Receipts Taxes~~] Sales and Use Tax Act shall
20 impose the tax by adopting the model ordinance with respect to
21 the tax furnished to the municipality by the department. An
22 ordinance that does not conform substantially to the model
23 ordinance of the department is not valid."

24 SECTION 124. Section 7-19D-5 NMSA 1978 (being Laws 1993,
25 Chapter 346, Section 5, as amended) is amended to read:

1 "7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the
2 provisions of the Municipal Local Option [~~Gross Receipts~~
3 ~~Taxes~~] Sales and Use Tax Act shall be imposed on the gross
4 receipts arising from [~~A.~~] transporting persons or property
5 for hire by railroad, motor vehicle, air transportation or any
6 other means from one point within the municipality to another
7 point outside the municipality [~~or~~

8 ~~B. a business located outside the boundaries of a~~
9 ~~municipality on land owned by that municipality for which a~~
10 ~~state gross receipts tax distribution is made pursuant to~~
11 ~~Section 7-1-6.4 NMSA 1978]."~~

12 SECTION 125. Section 7-19D-6 NMSA 1978 (being Laws 1993,
13 Chapter 346, Section 6) is amended to read:

14 "7-19D-6. COPY OF ORDINANCE TO BE SUBMITTED TO
15 DEPARTMENT.--A certified copy of the ordinance imposing or
16 repealing a tax authorized [~~under~~] by the Municipal Local
17 Option [~~Gross Receipts Taxes~~] Sales and Use Tax Act or
18 changing the tax rate imposed shall be mailed or delivered to
19 the department within five days after the later of the date
20 the ordinance is adopted or the date the results of any
21 election held with respect to the ordinance are certified to
22 be in favor of the ordinance."

23 SECTION 126. Section 7-19D-7 NMSA 1978 (being Laws 1993,
24 Chapter 346, Section 7, as amended) is amended to read:

25 "7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF

.207939.1

1 PROCEEDS--DEDUCTIONS.--

2 A. The department shall collect each tax imposed
3 pursuant to the provisions of the Municipal Local Option
4 [~~Gross Receipts Taxes~~] Sales and Use Tax Act in the same
5 manner and at the same time it collects the state [~~gross~~
6 ~~receipts tax~~] sales and use taxes.

7 B. Except as provided in Subsection C of this
8 section, the department shall withhold an administrative fee
9 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978.
10 The department shall transfer to each municipality for which
11 it is collecting a tax pursuant to the provisions of the
12 Municipal Local Option [~~Gross Receipts Taxes~~] Sales and Use
13 Tax Act the amount of each tax collected for that
14 municipality, less the administrative fee withheld and less
15 any 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.

19 C. With respect to the municipal [~~gross receipts~~]
20 sales tax imposed by a municipality pursuant to Section
21 7-19D-9 NMSA 1978, the department shall withhold the
22 administrative fee pursuant to Section [~~1 of this 1997 act~~]
23 7-1-6.41 NMSA 1978 only on that portion of the municipal
24 [~~gross receipts~~] sales tax arising from a municipal [~~gross~~
25 ~~receipts~~] sales tax rate in excess of one-half [~~of one~~]

underscored material = new
[bracketed material] = delete

1 percent."

2 SECTION 127. Section 7-19D-8 NMSA 1978 (being Laws 1993,
3 Chapter 346, Section 8) is amended to read:

4 "7-19D-8. INTERPRETATION OF ACT--ADMINISTRATION AND
5 ENFORCEMENT OF ACT.--

6 A. The department shall interpret the provisions
7 of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales and
8 Use Tax Act.

9 B. The department shall administer and enforce the
10 collection of each tax authorized [~~under~~] by the provisions of
11 the Municipal Local Option [~~Gross Receipts Taxes~~] Sales and
12 Use Tax Act, and the Tax Administration Act applies to the
13 administration and enforcement of each tax."

14 SECTION 128. Section 7-19D-9 NMSA 1978 (being Laws 1978,
15 Chapter 151, Section 1, as amended) is amended to read:

16 "7-19D-9. MUNICIPAL [~~GROSS RECEIPTS~~] SALES TAX--
17 AUTHORITY TO IMPOSE RATE.--

18 A. The majority of the members of the governing
19 body of any municipality may impose by ordinance an excise tax
20 [~~not to exceed a rate of one and one-half percent of~~] on the
21 gross receipts of any person engaging in business in the
22 municipality for the privilege of engaging in business in the
23 municipality. A tax imposed pursuant to this section shall be
24 imposed by the enactment of one or more ordinances [~~each~~
25 ~~imposing any number of municipal gross receipts tax rate~~

.207939.1

underscored material = new
[bracketed material] = delete

1 ~~increments, but the total municipal gross receipts tax rate~~
2 ~~imposed by all ordinances shall not exceed an aggregate rate~~
3 ~~of one and one-half percent of the gross receipts of a person~~
4 ~~engaging in business. Municipalities may impose increments of~~
5 ~~one-eighth of one]~~ in increments measured by hundredths of a
6 percent. [B.] The tax imposed pursuant to [Subsection A of]
7 this section may be referred to as the "municipal [gross
8 receipts] sales tax.

9 B. The maximum rate of the municipal sales tax on
10 the gross receipts of any person engaging in business in a
11 municipality shall be determined as follows for each
12 municipality:

13 (1) on and after July 1, 2018, and prior to
14 January 1, 2020, the rate shall be the quotient of baseline
15 revenue divided by estimated fiscal year 2019 base revenue,
16 multiplied by one hundred three percent and rounded up to the
17 nearest one-hundredth percent; and

18 (2) on and after January 1, 2020, the rate
19 shall be the quotient of baseline revenue divided by fiscal
20 year 2019 base revenue, multiplied by one hundred three
21 percent and rounded up to the nearest one-hundredth percent;
22 but a municipality may change the rate of municipal sales tax
23 in effect for the municipality on or after July 1, 2020, by
24 imposing or repealing municipal sales tax increments; provided
25 that:

.207939.1

1 (a) the total municipal sales tax in
2 effect for the municipality may not exceed the maximum rate
3 applicable to the municipality. For municipalities that, on
4 July 1, 2018, had a municipal sales tax in effect at a rate
5 greater than two and two-tenths percent, the maximum rate is
6 three percent. For all other municipalities, the maximum rate
7 is two and two-tenths percent; and

8 (b) if imposing an additional increment
9 authorized by Subparagraph (a) of this paragraph would cause
10 the total municipal sales tax rate in effect for the
11 municipality to exceed one and four-tenths percent, imposition
12 of the additional increment shall be subject to an election
13 pursuant to Subsection D of this section.

14 C. The governing body of a municipality may, at
15 the time of enacting an ordinance imposing the tax authorized
16 in Subsection A of this section, dedicate the revenue for a
17 specific purpose or area of municipal government services
18 [~~including but not limited to police protection, fire~~
19 ~~protection, public transportation or street repair and~~
20 ~~maintenance~~]. If the governing body proposes to dedicate such
21 revenue, the ordinance and, if any election is held, the
22 ballot shall clearly state the purpose to which the revenue
23 will be dedicated, and any revenue so dedicated shall be used
24 by the municipality for that purpose unless a subsequent
25 ordinance is adopted to change the purpose to which dedicated

.207939.1

1 or to place the revenue in the general fund of the
2 municipality.

3 D. An election shall be called on the questions of
4 disapproval or approval of any ordinance enacted pursuant to
5 ~~[Subsection A]~~ Subparagraph (b) of Paragraph (2) of Subsection
6 B of this section or any ordinance amending such ordinance.

7 ~~[(1) if the governing body chooses to provide~~
8 ~~in the ordinance that it shall not be effective until the~~
9 ~~ordinance is approved by the majority of the registered voters~~
10 ~~voting on the question at an election to]~~ The election shall
11 be held pursuant to the provisions of a home-rule charter or
12 on a date set by the governing body and pursuant to the
13 provisions of the Municipal Election Code governing special
14 elections. ~~[or~~

15 ~~(2) if the ordinance does not contain a~~
16 ~~mandatory election provision as provided in Paragraph (1) of~~
17 ~~this subsection, upon the filing of a petition requesting such~~
18 ~~an election if the petition is filed:~~

19 ~~(a) pursuant to the requirements of a~~
20 ~~referendum provision contained in a municipal home-rule~~
21 ~~charter and signed by the number of registered voters in the~~
22 ~~municipality equal to the number of registered voters required~~
23 ~~in its charter to seek a referendum; or~~

24 ~~(b) in all other municipalities, with~~
25 ~~the municipal clerk within thirty days after the adoption of~~

1 ~~such ordinance and the petition has been signed by a number of~~
2 ~~registered voters in the municipality equal to at least five~~
3 ~~percent of the number of the voters in the municipality who~~
4 ~~were registered to vote in the most recent regular municipal~~
5 ~~election.~~

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

24 ~~F.] E.~~ If at an election called pursuant to
25 Subsection D of this section a majority of the registered

1 voters voting on the question approves the ordinance imposing
2 the tax, the ordinance shall become effective in accordance
3 with the provisions of the Municipal Local Option [~~Gross~~
4 ~~Receipts Taxes~~] Sales and Use Tax Act. If at such an election
5 a majority of the registered voters voting on the question
6 disapproves the ordinance, the ordinance imposing the tax
7 shall be deemed repealed and the question of imposing any
8 increment of the municipal [~~gross receipts~~] sales tax
9 authorized in this section shall not be considered again by
10 the governing body for a period of one year from the date of
11 the election.

12 ~~[G. Any municipality that has lawfully imposed by~~
13 ~~the requirements of the Special Municipal Gross Receipts Tax~~
14 ~~Act a rate of at least one-fourth of one percent shall be~~
15 ~~deemed to have imposed one-fourth of one percent municipal~~
16 ~~gross receipts tax pursuant to this section. Any rate of tax~~
17 ~~deemed to be imposed pursuant to this subsection shall~~
18 ~~continue to be dedicated to the payment of outstanding bonds~~
19 ~~issued by the municipality that pledged the tax revenues by~~
20 ~~ordinance until such time as the bonds are fully paid. A~~
21 ~~municipality may by ordinance change the purpose for any rate~~
22 ~~of tax deemed to be imposed at any time the revenues are not~~
23 ~~committed to payment of bonds.~~

24 H.] F. Any law that imposes or authorizes the
25 imposition of a municipal [~~gross receipts~~] sales tax or that

1 affects the municipal [~~gross receipts~~] sales tax, or any law
 2 supplemental thereto or otherwise appertaining thereto, shall
 3 not be repealed or amended or otherwise directly or indirectly
 4 modified in such a manner as to impair adversely any
 5 outstanding revenue bonds that may be secured by a pledge of
 6 such municipal [~~gross receipts~~] sales tax unless such
 7 outstanding revenue bonds have been discharged in full or
 8 provision has been fully made therefor.

9 G. As used in this section:

10 (1) "baseline revenue" means, for each
 11 municipality, the greater of the combined revenue for the
 12 municipality in fiscal year 2018 or the annual average of the
 13 combined revenue for the municipality in fiscal years 2015
 14 through 2017;

15 (2) "combined revenue" means:

16 (a) any distribution to a municipality
 17 pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;

18 (b) any transfer to a municipality with
 19 respect to any local option gross receipts tax imposed by that
 20 municipality; and

21 (c) any distribution to a municipality
 22 of compensating taxes pursuant to Section 7-1-6.55 NMSA 1978;

23 (3) "estimated fiscal year 2019 base revenue"
 24 means, for each municipality, the gross receipts of all
 25 persons expected to engage in business in the municipality in

.207939.1

1 fiscal year 2019 that will be subject to the state sales tax,
2 as conservatively estimated by the department, in consultation
3 with the department of finance and administration, the
4 legislative finance committee and the executive directors of
5 the New Mexico municipal league and the New Mexico association
6 of counties, or their designees, to ensure that revenue from
7 the municipal sales tax will exceed the baseline revenue; and

8 (4) "fiscal year 2019 base revenue" means,
9 for each municipality, the gross receipts of all persons
10 engaging in business in the municipality in fiscal year 2019
11 that are subject to the state sales tax, as determined by the
12 department, in consultation with the department of finance and
13 administration, the legislative finance committee and the
14 executive directors of the New Mexico municipal league and the
15 New Mexico association of counties, or their designees."

16 SECTION 129. A new section of the Municipal Local Option
17 Sales and Use Tax Act is enacted to read:

18 "[NEW MATERIAL] MUNICIPAL USE TAX.--

19 A. The majority of the members of the governing
20 body of a municipality shall impose by ordinance an excise tax
21 on a person using tangible personal property in the
22 municipality, for the privilege of using the tangible property
23 in the municipality, at a rate equal to the rate imposed and
24 in effect pursuant to Section 7-19D-9 NMSA 1978 of the value
25 of tangible property that was:

.207939.1

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

3 (2) acquired inside or outside of this state
4 as the result of a transaction with a person located outside
5 this state that would have been subject to the state sales tax
6 had the tangible personal property been acquired from a person
7 with nexus with New Mexico.

8 B. For the purpose of Subsection A of this
9 section, the value of tangible property shall be the adjusted
10 basis of the property for federal income tax purposes
11 determined as of the time of acquisition or introduction into
12 this state or of conversion to use, whichever is later. If no
13 adjusted basis for federal income tax purposes is established
14 for the property, a reasonable value of the property shall be
15 used.

16 C. For the privilege of using a license or
17 franchise in a municipality, there is imposed on the person
18 using the property an excise tax equal to the tax rate
19 provided in Subsection A of this section against the value of
20 the property in its use in the municipality. For use of a
21 license or franchise to be taxable under this subsection, the
22 property must have been sold, leased or licensed by a person
23 outside this state and the receipts from the sale, lease or
24 licensing of the license or franchise must not have been
25 subject to the state sales tax.

.207939.1

1 D. For the privilege of using services rendered in
2 a municipality, there is imposed on the person using such
3 services an excise tax at the rate provided in Subsection A of
4 this section of the value of the services at the time they
5 were rendered. For use of services to be taxable under this
6 subsection, the services must have been performed by a person
7 outside this state and receipts from the performance or sale
8 of the services not subject to the state sales tax.

9 E. The tax imposed by this section may be cited as
10 the "municipal use tax".

11 SECTION 130. Section 7-20E-1 NMSA 1978 (being Laws 1993,
12 Chapter 354, Section 1) is amended to read:

13 "7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA 1978
14 may be cited as the "County Local Option [~~Gross Receipts~~
15 ~~Taxes~~] Sales and Use Tax Act".

16 SECTION 131. Section 7-20E-2 NMSA 1978 (being Laws 1993,
17 Chapter 354, Section 2, as amended by Laws 1994, Chapter 93,
18 Section 1 and also by Laws 1994, Chapter 97, Section 1) is
19 amended to read:

20 "7-20E-2. DEFINITIONS.--As used in the County Local
21 Option [~~Gross Receipts Taxes~~] Sales and Use Tax Act:

22 A. "county" means, unless specifically defined
23 otherwise in the County Local Option [~~Gross Receipts Taxes~~]
24 Sales and Use Tax Act, a county, including an H class county;

25 B. "county area" means that portion of a county

1 located outside the boundaries of any municipality, except
 2 that for H class counties, "county area" means the entire
 3 county;

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

10 E. "person" means an individual or any other legal
 11 entity; and

12 F. "state [~~gross receipts~~] sales tax" means the
 13 [~~gross receipts~~] state sales tax imposed under the [~~Gross~~
 14 ~~Receipts and Compensating~~] Sales and Use Tax Act."

15 SECTION 132. Section 7-20E-3 NMSA 1978 (being Laws 1993,
 16 Chapter 354, Section 3, as amended) is amended to read:

17 "7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE
 18 OF ORDINANCE.--

19 A. The governing body of a county imposing a tax
 20 or an increment of tax authorized by the County [~~Local Option~~
 21 ~~Gross Receipts Taxes~~] Sales Tax Act [~~or any other county local~~
 22 ~~option gross receipts tax act~~] that is subject to optional
 23 referendum selection shall select, when enacting the ordinance
 24 imposing the tax, one of the following referendum options:

- 25 (1) the ordinance imposing the tax or

.207939.1

underscored material = new
 [bracketed material] = delete

1 increment of tax shall go into effect on July 1 or January 1
2 in accordance with the provisions of the County Local Option
3 [~~Gross Receipts Taxes~~] Sales and Use Tax Act, but an election
4 may be called in the county on the question of approving or
5 disapproving that ordinance as follows:

6 (a) an election shall be called when:

7 1) in a county having a referendum provision in its charter, a
8 petition requesting such an election is filed pursuant to the
9 requirements of that provision in the charter and signed by
10 the number of registered voters in the county equal to the
11 number of registered voters required in its charter to seek a
12 referendum; and 2) in all other counties, a petition
13 requesting such an election is filed with the county clerk
14 within sixty days of enactment of the ordinance by the
15 governing body and the petition has been signed by a number of
16 registered voters in the county equal to at least five percent
17 of the number of the voters in the county who were registered
18 to vote in the most recent general election;

19 (b) the signatures on the petition
20 requesting an election shall be verified by the county clerk.
21 If the petition is verified by the county clerk as containing
22 the required number of signatures of registered voters, the
23 governing body shall adopt a resolution calling an election on
24 the question of approving or disapproving the ordinance. The
25 election shall be held within sixty days after the date the

1 petition is verified by the county clerk, or it may be held in
2 conjunction with a general election if that election occurs
3 within sixty days after the date of the verification. The
4 election shall be called, held, conducted and canvassed in
5 substantially the same manner as provided by law for general
6 elections; and

7 (c) if a majority of the registered
8 voters voting on the question approves the ordinance, the
9 ordinance shall go into effect on July 1 or January 1 in
10 accordance with the provisions of the County Local Option
11 [~~Gross Receipts Taxes~~] Sales and Use Tax Act. If at such an
12 election a majority of the registered voters voting on the
13 question disapproves the ordinance, the ordinance imposing the
14 tax shall be deemed repealed and the question of imposing the
15 tax or increment of tax shall not be considered again by the
16 governing body for a period of one year from the date of the
17 election; or

18 (2) the ordinance imposing the tax or
19 increment of tax shall not go into effect until after an
20 election is held and a simple majority of the registered
21 voters of the county voting on the question votes in favor of
22 imposing the tax or increment of tax. The governing body
23 shall adopt a resolution calling for an election within
24 seventy-five days of the date the ordinance is adopted on the
25 question of imposing the tax or increment of tax. Such

.207939.1

1 question may be submitted to the voters and voted upon as a
2 separate question at any general election or at any special
3 election called for that purpose by the governing body. The
4 election upon the question shall be called, held, conducted
5 and canvassed in substantially the same manner as may be
6 provided by law for general elections. If the question of
7 imposing the tax or increment of tax fails, the governing body
8 shall not again propose the tax or increment of tax for a
9 period of one year after the election.

10 B. An ordinance imposing, amending or repealing a
11 tax or an increment of tax authorized by the County Local
12 Option [~~Gross Receipts Taxes~~] Sales and Use Tax Act shall be
13 effective on July 1 or January 1, whichever date occurs first
14 after the expiration of at least three months from the date
15 the adopted ordinance is mailed or delivered to the
16 department. The ordinance shall include that effective date."

17 SECTION 133. Section 7-20E-4 NMSA 1978 (being Laws 1993,
18 Chapter 354, Section 4) is amended to read:

19 "7-20E-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS
20 OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT
21 AND REQUIREMENTS OF THE DEPARTMENT.--

22 A. An ordinance imposing a tax [~~under~~] pursuant to
23 the provisions of the County Local Option [~~Gross Receipts~~
24 ~~Taxes~~] Sales and Use Tax Act shall adopt by reference the same
25 definitions and the same provisions relating to exemptions and

1 deductions as are contained in the [~~Gross Receipts and~~
 2 ~~Compensating~~] Sales and Use Tax Act then in effect and as it
 3 may be amended from time to time.

4 B. The governing body of any county imposing a tax
 5 [~~under~~] authorized by the County Local Option [~~Gross Receipts~~
 6 ~~Taxes~~] Sales and Use Tax Act shall impose the tax by adopting
 7 the model ordinance with respect to the tax furnished to the
 8 county by the department. An ordinance that does not conform
 9 substantially to the model ordinance of the department is not
 10 valid."

11 SECTION 134. Section 7-20E-5 NMSA 1978 (being Laws 1993,
 12 Chapter 354, Section 5, as amended) is amended to read:

13 "7-20E-5. SPECIFIC EXEMPTIONS.--No tax authorized under
 14 the provisions of the County Local Option [~~Gross Receipts~~
 15 ~~Taxes~~] Sales and Use Tax Act shall be imposed on the gross
 16 receipts arising from transporting persons or property for
 17 hire by railroad, motor vehicle, air transportation or any
 18 other means from one point within the county to another point
 19 outside the county."

20 SECTION 135. Section 7-20E-6 NMSA 1978 (being Laws 1993,
 21 Chapter 354, Section 6) is amended to read:

22 "7-20E-6. COPY OF ORDINANCE TO BE SUBMITTED TO
 23 DEPARTMENT.--A certified copy of any ordinance imposing or
 24 repealing a tax or an increment of a tax authorized [~~under~~] by
 25 the County Local Option [~~Gross Receipts Taxes~~] Sales and Use

.207939.1

1 Tax Act or changing the tax rate imposed shall be mailed or
2 delivered to the department within five days after the later
3 of the date the ordinance is adopted or the date the results
4 of any election held with respect to the ordinance are
5 certified to be in favor of the ordinance."

6 SECTION 136. Section 7-20E-7 NMSA 1978 (being Laws 1993,
7 Chapter 354, Section 7, as amended) is amended to read:

8 "7-20E-7. COLLECTION BY DEPARTMENT--TRANSFER OF
9 PROCEEDS--DEDUCTIONS.--

10 A. The department shall collect each tax imposed
11 pursuant to the provisions of the County Local Option [~~Gross~~
12 ~~Receipts Taxes~~] Sales and Use Tax Act in the same manner and
13 at the same time it collects the state [~~gross receipts tax~~]
14 sales and use taxes.

15 B. The department shall withhold an administrative
16 fee pursuant to Section 7-1-6.41 NMSA 1978. The department
17 shall transfer to each county for which it is collecting a tax
18 pursuant to the provisions of the County Local Option [~~Gross~~
19 ~~Receipts Taxes~~] Sales and Use Tax Act the amount of each tax
20 collected for that county, less the administrative fee
21 withheld and less any disbursements for tax credits, refunds
22 and the payment of interest applicable to the tax. The
23 transfer to the county shall be made within the month
24 following the month in which the tax is collected."

25 SECTION 137. Section 7-20E-8 NMSA 1978 (being Laws 1993,

1 Chapter 354, Section 8) is amended to read:

2 "7-20E-8. INTERPRETATION OF ACT--ADMINISTRATION AND
3 ENFORCEMENT OF ACT.--

4 A. The department shall interpret the provisions
5 of the County Local Option [~~Gross Receipts Taxes~~] Sales and
6 Use Tax Act.

7 B. The department shall administer and enforce the
8 collection of each tax authorized [~~under~~] by the provisions of
9 the County Local Option [~~Gross Receipts Taxes~~] Sales and Use
10 Tax Act, and the Tax Administration Act applies to the
11 administration and enforcement of each tax."

12 SECTION 138. Section 7-20E-9 NMSA 1978 (being Laws 1983,
13 Chapter 213, Section 30, as amended) is amended to read:

14 "7-20E-9. COUNTY [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY
15 TO IMPOSE RATE--COUNTY HEALTH CARE ASSISTANCE FUND
16 REQUIREMENTS.--

17 A. [~~Except as provided in Subsection E of this~~
18 ~~section~~] A majority of the members of the governing body of a
19 county may enact an ordinance imposing an excise tax [~~not to~~
20 ~~exceed a rate of seven-sixteenths percent of~~] on the gross
21 receipts of any person engaging in business in the county or
22 county area for the privilege of engaging in business in the
23 county or county area. [~~An ordinance imposing an excise tax~~
24 ~~pursuant to this subsection shall impose the tax in three~~
25 ~~independent increments of one-eighth percent and one~~

.207939.1

1 ~~independent increment of one-sixteenth percent, which shall be~~
2 ~~separately denominated as "the first one-eighth increment",~~
3 ~~"the second one-eighth increment", "the third one-eighth~~
4 ~~increment" and "the one-sixteenth increment", respectively,~~
5 ~~not to exceed an aggregate amount of seven-sixteenths percent.~~

6 B.] A tax imposed pursuant to this section shall be
7 imposed by the enactment of one or more ordinances in
8 increments measured by hundredths of a percent. The tax
9 authorized by this section is to be referred to as the "county
10 [gross receipts] sales tax".

11 B. The maximum rate of the county sales tax on the
12 gross receipts of any person engaging in business in a county
13 or county area shall be determined as follows for each county
14 and county area:

15 (1) on and after July 1, 2018, and prior to
16 January 1, 2020, the rate shall be the quotient of the
17 county's or county area's baseline revenue divided by
18 estimated fiscal year 2019 base revenue of the county or
19 county area, multiplied by one hundred three percent and
20 rounded up to the nearest one-hundredth percent; and

21 (2) on and after January 1, 2020, the rate
22 shall be the quotient of the county's or county area's
23 baseline revenue divided by fiscal year 2019 base revenue of
24 the county or county area, multiplied by one hundred three
25 percent and rounded up to the nearest one-hundredth percent;

.207939.1

underscored material = new
[bracketed material] = delete

1 but a county may change the rate of county sales tax in effect
2 for the county on or after July 1, 2020, by imposing or
3 repealing county sales tax increments; provided that the total
4 county sales tax in effect for the county may not exceed the
5 maximum rate applicable to the county. For counties that on
6 July 1, 2018:

7 (a) had a county sales tax in effect at
8 a rate greater than one percent on the gross receipts of any
9 person engaging in business in the county, the maximum rate is
10 one and thirty-five hundredths percent. For all other
11 counties, the maximum rate is one percent; provided further
12 that if imposing an additional increment authorized pursuant
13 to this subparagraph would cause the total county sales tax
14 rate in effect for the county to exceed six-tenths percent,
15 imposition of the increment shall be subject to an election
16 pursuant to Subsection A of Section 7-20E-3 NMSA 1978; and

17 (b) had a county sales tax in effect at
18 a rate greater than one and four-tenths percent on the gross
19 receipts of any person engaging in business in the county
20 area, the maximum rate is one and seventy-five hundredths
21 percent. For all other counties, the maximum rate is one and
22 four-tenths percent; provided further that if imposing an
23 additional increment authorized pursuant to this subparagraph
24 would cause the total county sales tax rate in effect for the
25 county area to exceed eight-tenths percent, imposition of the

.207939.1

1 increment shall be subject to an election pursuant to
2 Subsection A of Section 7-20E-3 NMSA 1978.

3 C. A class A county with a county hospital
4 operated and maintained pursuant to a lease or operating
5 agreement with a state educational institution named in
6 Article 12, Section 11 of the constitution of New Mexico
7 enacting [~~the second one-eighth~~] an increment of county [~~gross~~
8 ~~receipts~~] sales tax shall provide, each year that the tax is
9 in effect, not less than one million dollars (\$1,000,000) in
10 funds, and that amount shall be dedicated to the support of
11 indigent patients who are residents of that county. Funds for
12 indigent care shall be made available each month of each year
13 the tax is in effect in an amount not less than eighty-three
14 thousand three hundred thirty-three dollars thirty-three cents
15 (\$83,333.33). The interest from the investment of county
16 funds for indigent care may be used for other assistance to
17 indigent persons, not to exceed twenty thousand dollars
18 (\$20,000) for all other assistance in any year.

19 D. A county, except a class A county with a county
20 hospital operated and maintained pursuant to a lease or
21 operating agreement with a state educational institution named
22 in Article 12, Section 11 of the constitution of New Mexico,
23 imposing [~~the second one-eighth~~] an increment of a county
24 [~~gross receipts~~] sales tax shall be required to dedicate the
25 [~~entire~~] same amount of revenue that would have been produced

1 by the imposition of ~~[the second]~~ a one-eighth increment of a
 2 county gross receipts tax, if the county gross receipts tax
 3 was still in effect, for the support of indigent patients who
 4 are residents of that county. ~~[The revenue produced by the~~
 5 ~~imposition of the third one-eighth increment and the one-~~
 6 ~~sixteenth increment may be used for general purposes. Any] A~~
 7 county that has ~~[imposed the second one-eighth increment or~~
 8 ~~the third one-eighth increment, or both, on January 1, 1996~~
 9 ~~for support of indigent patients in the county or, after~~
 10 ~~January 1, 1996, imposes the second one-eighth increment or~~
 11 ~~imposes the third one-eighth increment and dedicates one-half~~
 12 ~~of that increment]~~ dedicated revenue from a county sales tax
 13 for county indigent patient purposes shall deposit the revenue
 14 ~~[dedicated for county indigent purposes]~~ that is transferred
 15 to the county in the county health care assistance fund, and
 16 such revenues shall be expended pursuant to the Indigent
 17 Hospital and County Health Care Act.

18 ~~[E. Until June 30, 2017, in addition to the~~
 19 ~~increments authorized pursuant to Subsection A of this~~
 20 ~~section, the majority of the members of the governing body of~~
 21 ~~a county, except a class A county with a hospital that is~~
 22 ~~operated and maintained pursuant to a lease or operating~~
 23 ~~agreement with a state educational institution named in~~
 24 ~~Article 12, Section 11 of the constitution of New Mexico, may~~
 25 ~~enact an ordinance imposing an excise tax of one-sixteenth~~

.207939.1

1 ~~percent or one-twelfth percent of the gross receipts of any~~
2 ~~person engaging in business in the county for the privilege of~~
3 ~~engaging in business in the county.]~~

4 E. As used in this section:

5 (1) "baseline revenue" means, for each county
6 and county area, the greater of the combined revenue for the
7 county in fiscal year 2018 or the annual average of the
8 combined revenue for the county in fiscal years 2015 through
9 2017;

10 (2) "combined revenue" means:

11 (a) any transfer to a county with
12 respect to any local option gross receipts tax imposed by that
13 county; and

14 (b) any distribution to a county
15 pursuant to Section 7-1-6.47 NMSA 1978;

16 (3) "estimated fiscal year 2019 base revenue"
17 means, for each county and county area, the gross receipts of
18 all persons expected to engage in business in the county or
19 county area in fiscal year 2019 that will be subject to the
20 state sales tax, as conservatively estimated by the
21 department, in consultation with the department of finance and
22 administration, the legislative finance committee and the
23 executive directors of the New Mexico municipal league and the
24 New Mexico association of counties, or their designees, to
25 ensure that revenue from the county sales tax will exceed the

.207939.1

1 baseline revenue; and

2 (4) "fiscal year 2019 base revenue" means,
 3 for each county and county area, the gross receipts of all
 4 persons engaging in business in the county or county area in
 5 fiscal year 2019 that are subject to the state sales tax, as
 6 determined by the department, in consultation with the
 7 department of finance and administration, the legislative
 8 finance committee and the executive directors of the New
 9 Mexico municipal league and the New Mexico association of
 10 counties, or their designees."

11 SECTION 139. A new section of the County Local Option
 12 Sales and Use Tax Act is enacted to read:

13 "[NEW MATERIAL] COUNTY USE TAX.--

14 A. The majority of the members of the governing
 15 body of a county shall impose by ordinance an excise tax on a
 16 person using tangible personal property in the county, for the
 17 privilege of using the tangible property in the county, at a
 18 rate equal to the rate imposed and in effect pursuant to
 19 Section 7-20E-9 NMSA 1978 of the value of tangible property
 20 that was:

21 (1) manufactured by the person using the
 22 property in the state; or

23 (2) acquired inside or outside of this state
 24 as the result of a transaction with a person located outside
 25 this state that would have been subject to the state sales tax

.207939.1

underscored material = new
 [bracketed material] = delete

1 had the tangible personal property been acquired from a person
2 with nexus with New Mexico.

3 B. For the purpose of Subsection A of this
4 section, the value of tangible property shall be the adjusted
5 basis of the property for federal income tax purposes
6 determined as of the time of acquisition or introduction into
7 this state or of conversion to use, whichever is later. If no
8 adjusted basis for federal income tax purposes is established
9 for the property, a reasonable value of the property shall be
10 used.

11 C. For the privilege of using a license or
12 franchise in a county, there is imposed on the person using
13 the property an excise tax equal to the tax rate provided in
14 Subsection A of this section against the value of the property
15 in its use in the county. For use of a license or franchise
16 to be taxable under this subsection, the property must have
17 been sold, leased or licensed by a person outside this state
18 and the receipts from the sale, lease or licensing of the
19 license or franchise must not have been subject to the state
20 sales tax.

21 D. For the privilege of using services rendered in
22 a county, there is imposed on the person using such services
23 an excise tax at the rate provided in Subsection A of this
24 section of the value of the services at the time they were
25 rendered. For use of services to be taxable under this

.207939.1

1 subsection, the services must have been performed by a person
2 outside this state and receipts from the performance or sale
3 of the services not subject to the state sales tax.

4 E. The tax imposed by this section may be cited as
5 the "county use tax".

6 SECTION 140. Section 9-6-5.2 NMSA 1978 (being Laws 2011,
7 Chapter 106, Section 5) is amended to read:

8 "9-6-5.2. FAILURE TO TIMELY SUBMIT AUDIT REPORTS OR
9 FINANCIAL REPORTS--ENFORCEMENT POWERS OF SECRETARY.--

10 A. Upon notification by the state auditor pursuant
11 to Subsection G of Section 12-6-3 NMSA 1978 that a state
12 agency, state institution, municipality or county has failed
13 to submit an audit report as required by the Audit Act, the
14 secretary of finance and administration shall order the
15 agency, institution, municipality or county to submit monthly
16 financial reports to the department of finance and
17 administration until all past-due audit reports have been
18 submitted to the state auditor and the secretary is satisfied
19 that the agency, institution, municipality or county is in
20 compliance with all financial and audit requirements.

21 B. If, ninety days after an order has been issued
22 pursuant to Subsection A of this section to a state agency or
23 state institution subject to periodic allotments, the agency
24 or institution has not submitted all past-due reports or has
25 not otherwise made progress, satisfactory to the state

.207939.1

1 auditor, toward compliance with the Audit Act, the secretary
2 may direct the state budget division to temporarily withhold
3 periodic allotments to the agency or institution pursuant to
4 Section 6-3-6 NMSA 1978. The amounts withheld and the period
5 of time for which the allotments are to be withheld shall be
6 determined by the secretary subject to the following
7 guidelines:

8 (1) the initial amount withheld shall not
9 exceed five percent of the allotment and shall be for a period
10 of no more than three months;

11 (2) every three months, the secretary shall
12 determine if the agency or institution has submitted all past-
13 due audit reports or has otherwise made progress, satisfactory
14 to the state auditor, toward compliance with the Audit Act.
15 If the secretary determines that past-due reports have not
16 been submitted and that there has been inadequate progress,
17 the secretary may direct that the amount being currently
18 withheld be increased by an additional amount, up to another
19 five percent of the allotment, for an additional period of up
20 to three months; and

21 (3) upon a determination that all past-due
22 audit reports have been submitted or that the agency or
23 institution is otherwise making progress, satisfactory to the
24 state auditor, toward compliance with the Audit Act, the
25 secretary shall direct that all withheld amounts be

1 distributed to the agency or institution and that future
2 allotments shall be made in full.

3 C. If, ninety days after an order has been issued
4 pursuant to Subsection A of this section to a municipality or
5 county, the municipality or county has not submitted all past-
6 due reports or has not otherwise made progress, satisfactory
7 to the state auditor, toward compliance with the Audit Act,
8 the secretary may direct the secretary of taxation and revenue
9 to temporarily withhold distributions to the municipality or
10 county pursuant to Section 7-1-6.15 NMSA 1978. The amounts
11 withheld, the source of the amounts and the period of time for
12 which the distributions are to be withheld shall be determined
13 by the secretary of finance and administration subject to the
14 following guidelines:

15 (1) transfers to a county or municipality of
16 receipts from [~~any local option gross receipts tax or from~~] a
17 tax imposed pursuant to the Municipal Local Option Sales and
18 Use Tax Act, the County Local Option Sales and Use Tax Act and
19 the Local Liquor Excise Tax Act shall not be withheld;

20 (2) the source and amount of a withheld
21 distribution shall be determined in a manner that will not:

22 (a) impair any outstanding bonds or
23 other obligations of the municipality or county; or

24 (b) interrupt a redirected distribution
25 to the New Mexico finance authority pursuant to an ordinance

.207939.1

1 or a resolution passed by the county or municipality and a
2 written agreement of the municipality or county and the New
3 Mexico finance authority;

4 (3) the initial amount withheld shall not
5 exceed five percent of the amount that would otherwise be
6 distributed to the municipality or county pursuant to the Tax
7 Administration Act and shall be for a period of no more than
8 three months;

9 (4) every three months, the secretary of
10 finance and administration shall determine if the municipality
11 or county has submitted all past-due audit reports or has
12 otherwise made progress, satisfactory to the state auditor,
13 toward compliance with the Audit Act. If the secretary
14 determines that past-due reports have not been submitted and
15 that there has been inadequate progress, the secretary may
16 direct that the amount being currently withheld be increased
17 by an additional amount, up to another five percent of the
18 amount that would otherwise be distributed, for an additional
19 period of up to three months; and

20 (5) upon a determination that all past-due
21 audit reports have been submitted or that the municipality or
22 county is otherwise making progress, satisfactory to the state
23 auditor, toward compliance with the Audit Act, the secretary
24 shall direct that all withheld amounts be distributed to the
25 municipality or county and that future distributions shall be

1 made in full.

2 D. After receiving notice from the local
3 government division of the department of finance and
4 administration required by Subsection G of Section 6-6-2 NMSA
5 1978 that a municipality or county has failed to submit two
6 consecutive financial reports pursuant to Subsection F of that
7 section, the secretary may direct the secretary of taxation
8 and revenue to temporarily withhold distributions to the
9 municipality or county pursuant to Section 7-1-6.15 NMSA 1978.
10 The amounts withheld, the source of the amounts and the period
11 of time for which the distributions are to be withheld shall
12 be determined by the secretary of finance and administration
13 subject to the following guidelines:

14 (1) transfers to a county or municipality of
15 receipts from [~~any local option gross receipts tax or from~~] a
16 tax imposed pursuant to the Municipal Local Option Sales and
17 Use Tax Act, the County Local Option Sales and Use Tax Act and
18 the Local Liquor Excise Tax Act shall not be withheld;

19 (2) the source and amount of a withheld
20 distribution shall be determined in a manner that will not:

21 (a) impair any outstanding bonds or
22 other obligations of the municipality or county; or

23 (b) interrupt a redirected distribution
24 to the New Mexico finance authority pursuant to an ordinance
25 or a resolution passed by the county or municipality and a

.207939.1

1 written agreement of the municipality or county and the New
2 Mexico finance authority;

3 (3) the initial amount withheld shall not
4 exceed five percent of the amount that would otherwise be
5 distributed to the municipality or county pursuant to the Tax
6 Administration Act and shall be for a period of no more than
7 three months;

8 (4) every three months, the secretary of
9 finance and administration shall determine if the municipality
10 or county has submitted all past-due financial reports or has
11 otherwise made progress, satisfactory to the local government
12 division, toward compliance with the law. If the secretary
13 determines that past-due reports have not been submitted and
14 that there has been inadequate progress, the secretary may
15 direct that the amount being currently withheld be increased
16 by an additional amount, up to another five percent of the
17 amount that would otherwise be distributed, for an additional
18 period of up to three months; and

19 (5) upon a determination that all past-due
20 financial reports have been submitted or that the municipality
21 or county is otherwise making progress, satisfactory to the
22 local government division, toward compliance with the law, the
23 secretary shall direct that all withheld amounts be
24 distributed to the municipality or county and that future
25 distributions shall be made in full."

1 SECTION 141. Section 27-5-6.2 NMSA 1978 (being Laws
2 2014, Chapter 79, Section 16) is amended to read:

3 "27-5-6.2. TRANSFER TO SAFETY NET CARE POOL FUND.--

4 A. A county shall ~~[by ordinance to be effective~~
5 ~~July 1, 2014]~~ dedicate to the safety net care pool fund an
6 amount equal to a ~~[gross receipts]~~ county sales tax rate ~~[of~~
7 ~~one-twelfth percent]~~ as determined pursuant to Subsection H of
8 Section 7-1-84 NMSA 1978 applied to the taxable gross receipts
9 reported during the prior fiscal year by persons engaging in
10 business in the county. For purposes of this ~~[subsection]~~
11 section, a county may use public funds from any existing
12 authorized revenue source of the county.

13 B. A county ~~[enacting an ordinance pursuant to~~
14 ~~Subsection A of this section]~~ shall transfer the dedicated
15 amounts to the safety net care pool fund by the last day of
16 March, June, September and December of each year an amount
17 equal to one-fourth of the county's payment to the safety net
18 care pool fund."

19 SECTION 142. Section 27-10-4 NMSA 1978 (being Laws 1991,
20 Chapter 212, Section 4, as amended) is amended to read:

21 "27-10-4. ~~[ALTERNATIVE REVENUE SOURCE TO IMPOSITION OF~~
22 ~~COUNTY HEALTH CARE GROSS RECEIPTS TAX]~~ COUNTY TRANSFER TO
23 COUNTY-SUPPORTED MEDICAID FUND.--

24 A. ~~[In the event a county does not enact an~~
25 ~~ordinance imposing a county health care gross receipts tax~~

.207939.1

1 ~~pursuant to Section 7-20D-3 NMSA 1978, the~~ A county shall [by
2 ~~ordinance to be effective July 1, 1993~~] dedicate to the
3 county-supported medicaid fund an amount equal to a [~~gross~~
4 ~~receipts~~] county sales tax rate [~~of one-sixteenth of one~~
5 ~~percent~~] as determined pursuant to Subsection I of Section
6 7-1-84 NMSA 1978 applied to the taxable gross receipts
7 reported during the prior fiscal year by persons engaging in
8 business in the county. For purposes of this subsection, a
9 county may use funds from any existing authorized revenue
10 source of the county.

11 B. For each county, [~~that has in effect an~~
12 ~~ordinance enacted pursuant to Subsection A of this section on~~
13 ~~July 1 of each year~~] the taxation and revenue department shall
14 certify to the county [~~by September 15, 1993 and~~] by September
15 15 of each [~~subsequent~~] fiscal year the amount of gross
16 receipts reported for the county [~~for purposes of the gross~~
17 ~~receipts tax~~] during the prior fiscal year. Upon
18 certification by the taxation and revenue department, [~~any~~
19 ~~county enacting an ordinance pursuant to Subsection A of this~~
20 ~~section~~] a county shall transfer one-fourth of the dedication
21 to the county-supported medicaid fund by the last day of
22 March, June, September and December of each year [~~an amount~~
23 ~~equal to a rate of one sixty-fourth of one percent applied to~~
24 ~~the certified amount.~~

25 C. ~~The requirements of an ordinance enacted~~

1 ~~pursuant to this section may be terminated for a county only~~
 2 ~~on the effective date of an ordinance enacted by the county~~
 3 ~~imposing the county health care gross receipts tax; provided~~
 4 ~~that if the effective date of the ordinance imposing the tax~~
 5 ~~is January 1, the termination does not apply to the payments~~
 6 ~~required for September and December of that year]."~~

7 SECTION 143. Section 47-14-18 NMSA 1978 (being Laws
 8 2009, Chapter 214, Section 18, as amended) is amended to read:

9 "47-14-18. PAYMENT--LIMITS--DISCLOSURE [~~NON~~TAXABLE
 10 ~~TRANSACTION CERTIFICATE]~~.--

11 A. The fees paid to an appraiser for completion of
 12 the appraisal shall not include a fee for management of the
 13 appraisal process or any activity other than the performance
 14 of the appraisal.

15 B. An appraisal management company shall
 16 separately state the fees paid to an appraiser for appraisal
 17 services and the fees charged by the appraisal management
 18 company for services associated with the management of the
 19 appraisal process, including procurement of the appraiser's
 20 services to the client, borrower and any other payor.

21 C. Appraisers shall not be prohibited by the
 22 appraisal management company, client or other third party from
 23 disclosing the fee paid to the appraiser for the performance
 24 of the appraisal in the appraisal report.

25 D. As used in this section, "payor" means any

.207939.1

1 person or entity who is responsible for making payment for the
2 appraisal.

3 E. An appraisal management company shall, except
4 in cases of breach of contract or substandard performance of
5 services, make payment to an independent appraiser for the
6 completion of an appraisal or valuation assignment within
7 sixty days of the date on which the independent appraiser
8 transmits or otherwise provides the completed appraisal or
9 valuation study to the appraisal management company or its
10 assignee.

11 ~~[F. An appraisal management company shall provide~~
12 ~~an appraiser with the appropriate nontaxable transaction~~
13 ~~certificate pursuant to Section 7-9-48 NMSA 1978.]"~~

14 SECTION 144. Section 58-31-3 NMSA 1978 (being Laws 2005,
15 Chapter 128, Section 3, as amended) is amended to read:

16 "58-31-3. DEFINITIONS.--As used in the Spaceport
17 Development Act:

18 A. "authority" means the spaceport authority;

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

24 C. "revenue" means municipal [~~regional spaceport~~
25 ~~gross receipts tax~~] and county [~~regional spaceport gross~~

1 ~~receipts]~~ local option sales tax revenue dedicated by the
 2 municipality or county for the financing, planning, designing,
 3 engineering and construction of a regional spaceport pursuant
 4 to the Regional Spaceport District Act and received from a
 5 regional spaceport district, revenue generated by a project
 6 and any other legally available funds of the authority;

7 D. "space vehicle" means a vehicle capable of
 8 being flown in space or launching a payload into space; and

9 E. "spaceport" means a facility in New Mexico at
 10 which space vehicles may be launched or landed, including all
 11 facilities and support infrastructure related to launch,
 12 landing or payload processing."

13 SECTION 145. Section 58-31-5 NMSA 1978 (being Laws 2005,
 14 Chapter 128, Section 5, as amended) is amended to read:

15 "58-31-5. AUTHORITY POWERS AND DUTIES.--

16 A. The authority shall:

17 (1) hire an executive director, who shall
 18 employ the necessary professional, technical and clerical
 19 staff to enable the authority to function efficiently and
 20 shall direct the affairs and business of the authority,
 21 subject to the direction of the authority;

22 (2) be located within fifty miles of a
 23 southwest regional spaceport;

24 (3) advise the governor, the governor's staff
 25 and the New Mexico finance authority oversight committee on

.207939.1

1 methods, proposals, programs and initiatives involving a
2 southwest regional spaceport that may further stimulate space-
3 related business and employment opportunities in New Mexico;

4 (4) initiate, develop, acquire, own,
5 construct, maintain and lease space-related projects;

6 (5) make and execute all contracts and other
7 instruments necessary or convenient to the exercise of its
8 powers and duties;

9 (6) create programs to expand high-technology
10 economic opportunities within New Mexico;

11 (7) create avenues of communication among
12 federal government agencies, the space industry, users of
13 space launch services and academia concerning space business;

14 (8) promote legislation that will further the
15 goals of the authority and development of space business;

16 (9) oversee and fund production of
17 promotional literature related to the authority's goals;

18 (10) identify science and technology trends
19 that are significant to space enterprise and the state and act
20 as a clearinghouse for space enterprise issues and
21 information;

22 (11) coordinate and expedite the involvement
23 of the state executive branch's space-related development
24 efforts; and

25 (12) perform environmental, transportation,

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

1 communication, land use and other technical studies necessary
2 or advisable for projects and programs or to secure licensing
3 by appropriate United States agencies.

4 B. The authority may:

5 (1) advise and cooperate with municipalities,
6 counties, state agencies and organizations, appropriate
7 federal agencies and organizations and other interested
8 persons and groups;

9 (2) solicit and accept federal, state, local
10 and private grants of funds or property and financial or other
11 aid for the purpose of carrying out the provisions of the
12 Spaceport Development Act;

13 (3) adopt rules governing the manner in which
14 its business is transacted and the manner in which the powers
15 of the authority are exercised and its duties performed;

16 (4) operate spaceport facilities, including
17 acquisition of real property necessary for spaceport
18 facilities and the filing of necessary documents with
19 appropriate agencies;

20 (5) construct, purchase, accept donations of
21 or lease projects located within the state;

22 (6) sell, lease or otherwise dispose of a
23 project upon terms and conditions acceptable to the authority
24 and in the best interests of the state;

25 (7) issue revenue bonds and borrow money for

.207939.1

1 the purpose of defraying the cost of acquiring a project by
2 purchase or construction and of securing the payment of the
3 bonds or repayment of a loan;

4 (8) enter into contracts with regional
5 spaceport districts and issue bonds on behalf of regional
6 spaceport districts for the purpose of financing the purchase,
7 construction, renovation, equipping or furnishing of a
8 regional spaceport or a spaceport-related project;

9 (9) refinance a project;

10 (10) contract with any competent private or
11 public organization or individual to assist in the fulfillment
12 of its duties;

13 (11) fix, alter, charge and collect tolls,
14 fees or rentals and impose any other charges for the use of or
15 for services rendered by any authority facility, program or
16 service; and

17 (12) contract with regional spaceport
18 districts to receive revenue from a municipal [~~spaceport gross~~
19 ~~receipts tax and~~] or county [~~regional spaceport gross~~
20 ~~receipts~~] local option sales tax [~~revenues~~].

21 C. The authority shall not:

22 (1) incur debt as a general obligation of the
23 state or pledge the full faith and credit of the state to
24 repay debt; or

25 (2) expend funds or incur debt for the

1 improvement, maintenance, repair or addition to property
2 unless it is owned by the authority, the state or a political
3 subdivision of the state."

4 SECTION 146. Section 58-31-6 NMSA 1978 (being Laws 2005,
5 Chapter 128, Section 6, as amended) is amended to read:

6 "58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER
7 TO ISSUE REVENUE BONDS.--

8 A. The authority may issue revenue bonds on its
9 own behalf or on behalf of a regional spaceport district, for
10 regional spaceport purposes and spaceport-related projects.
11 Revenue bonds so issued may be considered appropriate
12 investments for the severance tax permanent fund or collateral
13 for the deposit of public funds if the bonds are rated not
14 less than "A" by a national rating service and both the
15 principal and interest of the bonds are fully and
16 unconditionally guaranteed by a lease agreement executed by an
17 agency of the United States government or by a corporation
18 organized and operating within the United States, that
19 corporation or the long-term debt of that corporation being
20 rated not less than "A" by a national rating service. All
21 bonds issued by the authority are legal and authorized
22 investments for banks, trust companies, savings and loan
23 associations and insurance companies.

24 B. The authority may pay from the bond proceeds
25 all expenses, premiums and commissions that the authority

.207939.1

1 deems necessary or advantageous in connection with the
2 authorization, sale and issuance of the bonds.

3 C. Authority revenue bonds:

4 (1) may have interest or appreciated
5 principal value or any part thereof payable at intervals
6 determined by the authority;

7 (2) may be subject to prior redemption or
8 mandatory redemption at the authority's option at the time and
9 upon such terms and conditions with or without the payment of
10 a premium as may be provided by resolution of the authority;

11 (3) may mature at any time not exceeding
12 twenty years after the date of issuance if secured by revenue
13 from ~~[the]~~ a county or municipal ~~[regional spaceport gross~~
14 ~~receipts]~~ sales tax or thirty years if secured by revenue from
15 other sources;

16 (4) may be serial in form and maturity; may
17 consist of one or more bonds payable at one time or in
18 installments; or may be in such other form as determined by
19 the authority;

20 (5) may be in registered or bearer form or in
21 book-entry form through facilities of a securities depository
22 either as to principal or interest or both;

23 (6) shall be sold for cash at, above or below
24 par and at a price that results in a net effective interest
25 rate that conforms to the Public Securities Act; and

.207939.1

1 (7) may be sold at public or negotiated sale.

2 D. Subject to the approval of the state board of
3 finance, the authority may enter into other financial
4 arrangements if it determines that the arrangements will
5 assist the authority."

6 SECTION 147. Section 59A-6-6 NMSA 1978 (being Laws 1984,
7 Chapter 127, Section 106, as amended) is amended to read:

8 "59A-6-6. [~~PREEMPTION AND~~] IN LIEU PROVISION.--~~[The~~
9 ~~state government of New Mexico preempts the field of taxation~~
10 ~~of insurers, nonprofit health care plans, health maintenance~~
11 ~~organizations, prepaid dental plans, prearranged funeral plans~~
12 ~~and insurance producers as such, and payment of the taxes,~~
13 ~~licenses and fees provided for in the Insurance Code] The
14 premium tax imposed pursuant to Section 59A-6-2 NMSA 1978
15 shall be in lieu of all other taxes, licenses and fees [~~of~~
16 ~~every kind now or hereafter imposed by this state or any~~
17 ~~political subdivision thereof on any of the foregoing~~
18 ~~specified entities, excepting the regular state, county and~~
19 ~~city taxes on property located in New Mexico and excepting the~~
20 ~~income tax on insurance producers. No provision of law~~
21 ~~enacted after January 1, 1985 shall be deemed to modify this~~
22 ~~provision except by express reference to this section] on
23 revenue or receipts for which the premium tax is assessed."~~~~

24 SECTION 148. TEMPORARY PROVISION--REFERENCES IN LAW.--

25 A. References in law to the compensating tax shall

.207939.1

1 be deemed to be references to the use tax.

2 B. References in law to the county gross receipts
3 tax shall be deemed to be references to county sales tax.

4 C. References in law to a county local option
5 gross receipts tax shall be deemed to be references to a
6 county sales tax.

7 D. References in law to the County Local Option
8 Gross Receipts Taxes Act shall be deemed to be references to
9 the County Local Option Sales and Use Tax Act.

10 E. References in law to the governmental gross
11 receipts tax shall be deemed to be references to the
12 governmental sales tax.

13 F. References in law to the Gross Receipts and
14 Compensating Tax Act shall be deemed to be references to the
15 Sales and Use Tax Act.

16 G. References in law to the gross receipts tax
17 shall be deemed to be references to the state sales tax.

18 H. References in law to the interstate
19 telecommunications gross receipts tax shall be deemed to be
20 references to the interstate telecommunications sales tax.

21 I. References in law to the Interstate
22 Telecommunications Gross Receipts Tax Act shall be deemed to
23 be references to the Interstate Telecommunications Sales Tax
24 Act.

25 J. References in law to the interstate

1 telecommunications gross receipts tax shall be deemed to be
2 references to the interstate telecommunications sales tax.

3 K. References in law to the leased vehicle gross
4 receipts tax shall be deemed to be references to the leased
5 vehicle sales tax.

6 L. References in law to the Leased Vehicle Gross
7 Receipts Tax Act shall be deemed to be references to the
8 Leased Vehicle Sales Tax Act.

9 M. References in law to a local option gross
10 receipts tax shall be deemed to be references to a local
11 option sales tax.

12 N. References in law to the municipal gross
13 receipts tax shall be deemed to be references to the municipal
14 sales tax.

15 O. References in law to the Municipal Local Option
16 Gross Receipts Taxes Act shall be deemed to be references to
17 the Municipal Local Option Sales and Use Tax Act.

18 P. References in law to the state gross receipts
19 tax shall be deemed to be references to the state sales tax.

20 SECTION 149. TEMPORARY PROVISION--REPORTS ON ESTIMATING
21 THE STATE AND LOCAL OPTION SALES TAX RATES.--

22 A. In July and December of 2018, the secretary of
23 taxation and revenue, the secretary of finance and
24 administration, the director of the legislative finance
25 committee, the executive director of the New Mexico municipal

.207939.1

1 league and the executive director of New Mexico association of
2 counties, or the secretaries' or executive directors'
3 designees, shall report to the interim legislative revenue
4 stabilization and tax policy committee on the progress of
5 estimating the state sales tax rate and local option sales tax
6 rates pursuant to Sections 7-9-4, 7-19D-9 and 7-20E-9 NMSA
7 1978.

8 B. The taxation and revenue department, the
9 department of finance and administration, the legislative
10 finance committee, the New Mexico municipal league and the New
11 Mexico association of counties shall have estimated the state
12 sales tax rate and the local option sales tax rates on or
13 before January 15, 2018. On January 15, 2018, the secretaries
14 and directors of those entities shall submit a report to the
15 legislature of the estimated rates, including a detailed
16 summary of how the entities estimated the rates and the
17 analysis required to make the estimation.

18 SECTION 150. TEMPORARY PROVISION--MORATORIUM OF
19 ENACTMENT OF ADDITIONAL LOCAL OPTION GROSS RECEIPTS TAXES.--

20 A. Notwithstanding the provisions of the Municipal
21 Local Option Gross Receipts Taxes Act or the County Local
22 Option Gross Receipts Taxes Act, on and after the effective
23 date of this act, a municipality or county shall not impose
24 any local option gross receipts tax increments in addition to
25 those in effect on the effective date of this act.

.207939.1

1 B. Notwithstanding the provisions of the Municipal
 2 Local Option Sales and Use Tax Act or the County Local Option
 3 Sales and Use Tax Act, on and after the effective date of this
 4 act, a municipality or county shall not impose any local
 5 option sales tax increments in addition to those in effect on
 6 July 1, 2020, if the additional increment is be effective
 7 prior to July 1, 2020.

8 **SECTION 151. TEMPORARY PROVISION--OUTSTANDING REVENUE**
 9 **BONDS.--**

10 A. The repeal of and changes to certain taxes made
 11 in this act shall not impair outstanding bonds that are
 12 secured by a pledge of those taxes.

13 B. If a municipality or county has issued a
 14 revenue bond that is secured by a pledge of any tax being
 15 amended by Sections 128 or 138 of this act, or being repealed
 16 by Section 153 of this act, the local option sales tax revenue
 17 received by the municipality or county is impressed with the
 18 obligation to repay the outstanding bond and is dedicated to
 19 that repayment until the bond is fully discharged or otherwise
 20 provided for in full.

21 **SECTION 152. TEMPORARY PROVISION--PREVIOUSLY IMPOSED**
 22 **LOCAL OPTION GROSS RECEIPTS TAXES--DEDICATIONS.--**If a
 23 municipality or county has dedicated any amount of revenue
 24 attributable to a municipal or county gross receipts tax, the
 25 municipality or county shall continue to dedicate the same

.207939.1

1 amount of municipal or county sales tax revenue until the
2 ordinance dedicating the revenue expires, the term of the
3 dedication expires, the governing body acts to change the
4 dedication or, in the case of bonded indebtedness, the debt is
5 fully discharged or otherwise provided for in full.

6 SECTION 153. REPEAL.--

7 A. Sections 6-21-5.1, 6-23-8 and 6-23-9 NMSA 1978
8 (being Laws 1998, Chapter 65, Section 1 and Laws 1993, Chapter
9 231, Sections 8 and 9, as amended) are repealed.

10 B. Sections 7-1-6.4, 7-1-6.33, 7-1-6.52, 7-1-6.55,
11 7-1-6.57, 7-1-6.60 and 7-1-69.2 NMSA 1978 (being Laws 1983,
12 Chapter 211, Section 9, Laws 1991, Chapter 212, Section 15,
13 Laws 2005, Chapter 104, Section 1, Laws 2007, Chapter 331,
14 Section 4, Laws 2007, Chapter 361, Section 1, Laws 2010,
15 Chapter 31, Section 2 and Laws 2016 (2nd S.S.), Chapter 3,
16 Section 3, as amended) are repealed.

17 C. Sections 7-9-2, 7-9-13.4, 7-9-15, 7-9-16,
18 7-9-18, 7-9-19, 7-9-26.1, 7-9-29, 7-9-41.4, 7-9-54.1 through
19 7-9-54.5, 7-9-56 through 7-9-57, 7-9-57.2 through 7-9-60,
20 7-9-61.1, 7-9-63 through 7-9-66.1, 7-9-68 through 7-9-70,
21 7-9-73 through 7-9-76.2, 7-9-77.1 through 7-9-78.1, 7-9-79.2,
22 7-9-83, 7-9-84, 7-9-86, 7-9-87, 7-9-90, 7-9-91, 7-9-93 through
23 7-9-96.1, 7-9-97 through 7-9-109, 7-9-110.2 through 7-9-112
24 and 7-9-114 NMSA 1978 (being Laws 1966, Chapter 47, Section 2;
25 Laws 2002, Chapter 20, Section 1; Laws 1970, Chapter 12,

.207939.1

1 Section 1; Laws 1969, Chapter 144, Sections 9, 11 and 12; Laws
2 2003, Chapter 62, Section 1; Laws 1970, Chapter 12, Section 3;
3 Laws 2009, Chapter 62, Section 1; Laws 1992, Chapter 40,
4 Section 1; Laws 1995, Chapter 183, Section 2; Laws 2002,
5 Chapter 37, Section 8; Laws 2003, Chapter 62, Section 4; Laws
6 2004, Chapter 16, Section 3; Laws 1994, Chapter 112, Section
7 2; Laws 1998, Chapter 92, Sections 1 and 2; Laws 2003, Chapter
8 232, Section 1; Laws 1969, Chapter 144, Section 47; Laws 2002,
9 Chapter 10, Section 1; Laws 1969, Chapter 144, Sections 48 and
10 49; Laws 1970, Chapter 12, Section 4; Laws 1981, Chapter 37,
11 Section 52; Laws 1969, Chapter 144, Sections 53, 54, 56 and
12 57; Laws 1984, Chapter 129, Section 2; Laws 1969, Chapter 144,
13 Sections 60 through 62; Laws 1970, Chapter 78, Section 2; Laws
14 1991, Chapter 8, Section 3; Laws 1998, Chapter 95, Section 2
15 and Laws 1998, Chapter 99, Section 4; Laws 2014, Chapter 26,
16 Section 1; Laws 1971, Chapter 217, Section 2; Laws 1972,
17 Chapter 39, Section 2; Laws 1977, Chapter 288, Section 2; Laws
18 1979, Chapter 338, Section 7; Laws 1984, Chapter 2, Section 6;
19 Laws 1998, Chapter 96, Section 1; Laws 1969, Chapter 144,
20 Section 65; Laws 1999, Chapter 231, Section 4; Laws 2007,
21 Chapter 204, Section 9; Laws 1993, Chapter 364, Sections 1 and
22 2; Laws 1995, Chapter 80, Section 1; Laws 1995, Chapter 155,
23 Section 35; Laws 1999, Chapter 231, Section 3; Laws 2001,
24 Chapter 135, Section 1; Laws 2004, Chapter 116, Section 6;
25 Laws 2005, Chapter 104, Sections 23, 25 and 26; Laws 2007,

.207939.1

1 Chapter 361, Section 7; Laws 2005, Chapter 169, Section 1;
2 Laws 2005, Chapter 179, Section 1; Laws 2006, Chapter 35,
3 Sections 1 and 2; Laws 2007, Chapter 3, Sections 16 through
4 18; Laws 2012, Chapter 12, Sections 2 and 3; Laws 2007,
5 Chapter 33, Section 1; Laws 2007, Chapter 45, Section 6; Laws
6 2007, Chapter 172, Sections 8 through 11; Laws 2011, Chapter
7 60, Section 2 and Laws 2011, Chapter 61, Section 2; Laws 2011,
8 Chapter 60, Section 3 and Laws 2011, Chapter 61, Section 3;
9 Laws 2007, Chapter 361, Section 6; Laws 2007, Chapter 204,
10 Section 10; and Laws 2010, Chapter 77, Section 1 and Laws
11 2010, Chapter 78, Section 1, as amended) are repealed.

12 D. Sections 7-9A-1 through 7-9A-9 and 7-9A-11 NMSA
13 1978 (being Laws 1979, Chapter 347, Sections 1 and 2; Laws
14 2001, Chapter 57, Section 2 and Laws 2001, Chapter 337,
15 Section 2; Laws 1979, Chapter 347, Sections 3 through 7; Laws
16 1983, Chapter 206, Section 6; Laws 1979, Chapter 347, Sections
17 8 and 9; and Laws 1997, Chapter 62, Section 2, as amended) are
18 repealed.

19 E. Sections 7-9G-1 and 7-9G-2 NMSA 1978 (being
20 Laws 2004, Chapter 15, Section 1 and Laws 2007, Chapter 229,
21 Section 1, as amended) are repealed.

22 F. Sections 7-9J-1 through 7-9J-8 NMSA 1978 (being
23 Laws 2007, Chapter 204, Sections 11 through 18, as amended)
24 are repealed.

25 G. Section 7-10-2 NMSA 1978 (being Laws 1970,

.207939.1

1 Chapter 26, Section 2, as amended) is repealed.

2 H. Sections 7-19-10 through 7-19-18 NMSA 1978
3 (being Laws 1979, Chapter 397, Sections 1 through 8, Laws
4 1997, Chapter 219, Section 4 and Laws 1979, Chapter 397,
5 Section 9, as amended) are repealed.

6 I. Sections 7-19D-10 through 7-19D-12 and 7-19D-14
7 through 7-19D-18 NMSA 1978 (being Laws 1990, Chapter 99,
8 Section 51, Laws 1991, Chapter 9, Section 3, Laws 2001,
9 Chapter 172, Section 1, Laws 2005, Chapter 212, Section 2,
10 Laws 2006, Chapter 15, Section 14, Laws 2007, Chapter 148,
11 Section 1, Laws 2012, Chapter 58, Section 1 and Laws 2013,
12 Chapter 160, Section 11, as amended) are repealed.

13 J. Sections 7-20C-1 through 7-20C-17 NMSA 1978
14 (being Laws 1991, Chapter 176, Sections 1 through 9, Laws
15 1993, Chapter 306, Section 4, Laws 1991, Chapter 176, Sections
16 10 through 15 and Laws 1996, Chapter 18, Sections 3 and 4, as
17 amended) are repealed.

18 K. Sections 7-20E-10 through 7-20E-28 NMSA 1978
19 (being Laws 1983, Chapter 213, Sections 32 and 35, Laws 1989,
20 Chapter 239, Section 1, Laws 1994, Chapter 14, Section 1, Laws
21 1987, Chapter 45, Sections 3 and 8, Laws 1979, Chapter 398,
22 Sections 3 and 8, Laws 1990, Chapter 99, Section 58, Laws
23 1991, Chapter 212, Section 7, Laws 1998, Chapter 90, Section
24 7, Laws 2001, Chapter 328, Section 1, Laws 2001, Chapter 172,
25 Section 2, Laws 2002, Chapter 14, Section 1, Laws 2004,

.207939.1

1 Chapter 17, Section 2, Laws 2005, Chapter 212, Section 1, Laws
2 2006, Chapter 15, Section 15, Laws 2007, Chapter 346, Section
3 1, Laws 2010, Chapter 31, Section 1 and Laws 2013, Chapter
4 160, Section 12, as amended) are repealed.

5 L. Sections 7-20F-1 through 7-20F-12 NMSA 1978
6 (being Laws 1993, Chapter 303, Sections 1 through 12, as
7 amended) are repealed.

8 M. Sections 7-24B-1 through 7-24B-4 and 7-24B-5.1
9 through 7-24B-9 NMSA 1978 (being Laws 1987, Chapter 45,
10 Sections 10 through 13, Laws 1990, Chapter 88, Section 16 and
11 Laws 1987, Chapter 45, Sections 15 through 18, as amended) are
12 repealed.

13 N. Section 60-2E-47.1 NMSA 1978 (being Laws 2010,
14 Chapter 31, Section 3) is repealed.

15 SECTION 154. APPLICABILITY.--

16 A. The provisions of Sections 51 through 57 and
17 100 through 102 of this act apply to taxable years beginning
18 on or after January 1, 2018.

19 B. The provisions of Section 109 of this act apply
20 to receipts of the motor vehicle excise tax and any associated
21 interest and penalties that are collected on and after July 1,
22 2018.

23 SECTION 155. EFFECTIVE DATE.--

24 A. The effective date of the provisions of
25 Sections 1 through 32, 34 through 41, 43 through 46, 48

1 through 60, 62, 63, 65 through 70, 72 through 108, 110 through
2 148 and 150 through 153 of this act is July 1, 2018.

3 B. The effective date of the provisions of
4 Sections 33, 42, 47, 61, 64, 71 and 149 of this act is July 1,
5 2017.

6 - 333 -
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscoring material = new
~~bracketed material~~ = delete