

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 202

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

AN ACT

RELATING TO TAXATION; MODIFYING THE TERMS THAT DETERMINE THE
DISTRIBUTION TO THE LEGISLATIVE RETIREMENT FUND; CLARIFYING
THAT THE SOURCE OF THE DISTRIBUTION IS THE NET RECEIPTS
ATTRIBUTABLE TO THE AMOUNT OF TAX DEDUCTED PURSUANT TO THE OIL
AND GAS PROCEEDS AND PASS-THROUGH ENTITY WITHHOLDING TAX ACT;
PROVIDING THAT THE PLACE OF BUSINESS OF A PERSON WITHOUT
PHYSICAL PRESENCE IN THIS STATE IS WHERE THE PROPERTY OR
SERVICE BEING SOLD IS DELIVERED; ALLOWING A REFUND OF GROSS
RECEIPTS TAX DUE A PERSON TO BE APPLIED AGAINST COMPENSATING
TAX OWED BY THE PERSON'S CUSTOMER AS A RESULT OF TRANSACTIONS
WITH THAT PERSON; CLARIFYING THAT A PERSON WITHOUT PHYSICAL
PRESENCE IN THE STATE THAT HAS LESS THAN ONE HUNDRED THOUSAND
DOLLARS (\$100,000) IN GROSS RECEIPTS IS NOT ENGAGING IN
BUSINESS PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX
ACT; BARRING THE TAXATION AND REVENUE DEPARTMENT FROM ENFORCING

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1 COLLECTION OF THE GROSS RECEIPTS TAX IN CERTAIN CIRCUMSTANCES;
2 ELIMINATING THE HOLD HARMLESS DISTRIBUTION TO OFFSET THE HEALTH
3 CARE PRACTITIONER DEDUCTION; IMPOSING THE STATE GROSS RECEIPTS
4 TAX ON THE NET PATIENT CARE REVENUE OF A NONPROFIT HOSPITAL;
5 IMPOSING THE GOVERNMENTAL GROSS RECEIPTS TAX ON THE NET PATIENT
6 CARE REVENUE OF A GOVERNMENT HOSPITAL; DISTRIBUTING THE NET
7 GOVERNMENTAL GROSS RECEIPTS ATTRIBUTABLE TO NET PATIENT CARE
8 REVENUE TO THE GENERAL FUND; ADJUSTING CERTAIN HEALTH CARE
9 INDUSTRY DEDUCTIONS AND EXEMPTIONS FROM GROSS RECEIPTS AND
10 GOVERNMENTAL GROSS RECEIPTS; INCREASING THE MOTOR VEHICLE
11 EXCISE TAX; CREATING THE WEIGHT DISTANCE TAX IDENTIFICATION
12 PERMIT TAX; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO
13 EVALUATE AND REPORT TO THE LEGISLATURE ON HEALTH-CARE-INDUSTRY-
14 RELATED REVENUE COLLECTIONS AND TAX EXPENDITURES; REPEALING THE
15 GROSS RECEIPTS TAX DEDUCTION FOR PAYMENTS BY CERTAIN FEDERAL
16 AGENCIES FOR CERTAIN MEDICAL AND HEALTH CARE SERVICES, A CREDIT
17 AGAINST THE GROSS RECEIPTS TAX FOR CERTAIN HOSPITALS AND THE
18 DEDUCTION FOR SALES TO NONPROFIT ORGANIZATIONS.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

23 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL GROSS RECEIPTS
24 TAX.--

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

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1 1978 shall be made in amounts equal to the following
 2 percentages of the net receipts attributable to the
 3 governmental gross receipts tax, less the net receipts
 4 attributable to net patient care revenue from a hospital
 5 licensed by the department of health:

6 (1) seventy-five percent to the public project
 7 revolving fund administered by the New Mexico finance
 8 authority; [~~in an amount equal to seventy-five percent of the~~
 9 ~~net receipts attributable to the governmental gross receipts~~
 10 ~~tax.~~

11 ~~B. A distribution pursuant to Section 7-1-6.1 NMSA~~
 12 ~~1978 shall be made]~~

13 (2) twenty-four percent to the energy,
 14 minerals and natural resources department [~~in an amount equal~~
 15 ~~to twenty-four percent of the net receipts attributable to the~~
 16 ~~governmental gross receipts tax]; provided that forty-one and
 17 two-thirds percent of the distribution is appropriated to the
 18 energy, minerals and natural resources department to implement
 19 the provisions of the New Mexico Youth Conservation Corps Act
 20 and fifty-eight and one-third percent of the distribution is
 21 appropriated to the energy, minerals and natural resources
 22 department for state park and recreation area capital
 23 improvements, including the costs of planning, engineering,
 24 design, construction, renovation, repair, equipment and
 25 furnishings; and~~

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1 ~~[C. A distribution pursuant to Section 7-1-6.1 NMSA~~
2 ~~1978 shall be made]~~

3 (3) one percent to the ~~[office of]~~ cultural
4 affairs ~~[in an amount equal to one percent of the net receipts~~
5 ~~attributable to the governmental gross receipts tax]~~ department
6 for capital improvements at state museums and monuments
7 administered by the ~~[office of]~~ cultural affairs department.

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

25 **SECTION 2.** Section 7-1-6.43 NMSA 1978 (being Laws 2003,

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1 Chapter 86, Section 1, as amended) is amended to read:

2 "7-1-6.43. DISTRIBUTION TO LEGISLATIVE RETIREMENT FUND.--

3 A. A distribution pursuant to Section 7-1-6.1
 4 NMSA 1978 from the net receipts attributable to the amount of
 5 tax deducted pursuant to the Oil and Gas Proceeds and Pass-
 6 Through Entity Withholding Tax Act shall be made to the
 7 legislative retirement fund in an amount equal to [~~seventy-five~~
 8 ~~thousand dollars (\$75,000) or, if larger~~] one-twelfth of the
 9 amount necessary to pay out the retirement benefits due under
 10 state legislator member coverage plan 2 and Paragraph (2) of
 11 Subsection C of Section 10-11-41 NMSA 1978 for the succeeding
 12 calendar year.

13 B. In December [~~2003 and in each December~~
 14 ~~thereafter~~] of each year, the public employees retirement
 15 association, with the assistance of the legislative council
 16 service, shall determine the amount of those retirement
 17 benefits for the succeeding calendar year. [~~If the monthly~~
 18 ~~average exceeds seventy-five thousand dollars (\$75,000)] The
 19 association shall immediately notify [~~immediately~~] the
 20 department of the [~~average~~] amount. That [~~average~~] amount
 21 divided by twelve shall be [~~the amount~~] distributed pursuant to
 22 Subsection A of this section [~~as of~~] at the end of each [~~month~~]
 23 of the twelve consecutive months beginning with the December in
 24 which the determination was made."~~

25 SECTION 3. Section 7-1-6.46 NMSA 1978 (being Laws 2004,

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1 Chapter 116, Section 1, as amended) is amended to read:

2 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR
3 FOOD DEDUCTION [~~AND HEALTH CARE PRACTITIONER SERVICES~~
4 ~~DEDUCTION~~].--

5 A. For a municipality that [~~has not elected to~~
6 ~~impose~~] does not have in effect a municipal hold harmless gross
7 receipts tax through an ordinance and that has a population of
8 less than ten thousand according to the most recent federal
9 decennial census, a distribution pursuant to Section 7-1-6.1
10 NMSA 1978 shall be made to [~~a~~] the municipality in an amount,
11 subject to any increase or decrease made pursuant to Section
12 7-1-6.15 NMSA 1978, equal to the [~~sum of:~~

13 ~~(1) the total deductions claimed pursuant to~~
14 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
15 ~~business locations attributable to the municipality multiplied~~
16 ~~by the sum of the combined rate of all municipal local option~~
17 ~~gross receipts taxes in effect in the municipality for the~~
18 ~~month plus one and two hundred twenty-five thousandths percent;~~
19 and

20 ~~(2) the total deductions claimed pursuant to~~
21 ~~Section 7-9-93 NMSA 1978 for the month by taxpayers from~~
22 ~~business locations attributable to the municipality multiplied~~
23 ~~by the sum of the combined rate of all municipal local option~~
24 ~~gross receipts taxes in effect in the municipality for the~~
25 ~~month plus one and two hundred twenty-five thousandths percent]~~

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1 applicable maximum distribution for the municipality.

2 B. For a municipality not described in Subsection A
3 of this section, a distribution pursuant to Section 7-1-6.1
4 NMSA 1978 shall be made to the municipality in an amount,
5 subject to any increase or decrease made pursuant to Section
6 7-1-6.15 NMSA 1978, equal to the ~~[sum of:~~

7 ~~(1) the total deductions claimed pursuant to~~
8 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
9 ~~business locations attributable to the municipality multiplied~~
10 ~~by the sum of the combined rate of all municipal local option~~
11 ~~gross receipts taxes in effect in the municipality on January~~
12 ~~1, 2007 plus one and two hundred twenty-five thousandths~~
13 ~~percent in the following percentages:~~

14 ~~(a) prior to July 1, 2015, one hundred~~
15 ~~percent;~~

16 ~~(b) on or after July 1, 2015 and prior~~
17 ~~to July 1, 2016, ninety-four percent;~~

18 ~~(c) on or after July 1, 2016 and prior~~
19 ~~to July 1, 2017, eighty-eight percent;~~

20 ~~(d) on or after July 1, 2017 and prior~~
21 ~~to July 1, 2018, eighty-two percent;~~

22 ~~(e) on or after July 1, 2018 and prior~~
23 ~~to July 1, 2019, seventy-six percent;~~

24 ~~(f) on or after July 1, 2019 and prior~~
25 ~~to July 1, 2020, seventy percent;~~

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1 ~~(g) on or after July 1, 2020 and prior~~
2 ~~to July 1, 2021, sixty-three percent;~~

3 ~~(h) on or after July 1, 2021 and prior~~
4 ~~to July 1, 2022, fifty-six percent;~~

5 ~~(i) on or after July 1, 2022 and prior~~
6 ~~to July 1, 2023, forty-nine percent;~~

7 ~~(j) on or after July 1, 2023 and prior~~
8 ~~to July 1, 2024, forty-two percent;~~

9 ~~(k) on or after July 1, 2024 and prior~~
10 ~~to July 1, 2025, thirty-five percent;~~

11 ~~(l) on or after July 1, 2025 and prior~~
12 ~~to July 1, 2026, twenty-eight percent;~~

13 ~~(m) on or after July 1, 2026 and prior~~
14 ~~to July 1, 2027, twenty-one percent;~~

15 ~~(n) on or after July 1, 2027 and prior~~
16 ~~to July 1, 2028, fourteen percent; and~~

17 ~~(o) on or after July 1, 2028 and prior~~
18 ~~to July 1, 2029, seven percent; and~~

19 ~~(2) the total deductions claimed pursuant to~~
20 ~~Section 7-9-93 NMSA 1978 for the month by taxpayers from~~
21 ~~business locations attributable to the municipality multiplied~~
22 ~~by the sum of the combined rate of all municipal local option~~
23 ~~gross receipts taxes in effect in the municipality on January~~
24 ~~1, 2007 plus one and two hundred twenty-five thousandths~~
25 ~~percent in] applicable maximum distribution for the~~

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1 municipality multiplied by the following percentages:

2 ~~[(a) prior to July 1, 2015, one hundred~~
3 ~~percent;~~

4 ~~(b) on or after July 1, 2015 and prior~~
5 ~~to July 1, 2016, ninety-four percent;~~

6 ~~(c) on or after July 1, 2016 and prior~~
7 ~~to July 1, 2017, eighty-eight percent;~~

8 ~~(d)]~~ (1) on or after July 1, 2017 and prior to
9 July 1, 2018, eighty-two percent;

10 ~~[(e)]~~ (2) on or after July 1, 2018 and prior
11 to July 1, 2019, seventy-six percent;

12 ~~[(f)]~~ (3) on or after July 1, 2019 and prior
13 to July 1, 2020, seventy percent;

14 ~~[(g)]~~ (4) on or after July 1, 2020 and prior
15 to July 1, 2021, sixty-three percent;

16 ~~[(h)]~~ (5) on or after July 1, 2021 and prior
17 to July 1, 2022, fifty-six percent;

18 ~~[(i)]~~ (6) on or after July 1, 2022 and prior
19 to July 1, 2023, forty-nine percent;

20 ~~[(j)]~~ (7) on or after July 1, 2023 and prior
21 to July 1, 2024, forty-two percent;

22 ~~[(k)]~~ (8) on or after July 1, 2024 and prior
23 to July 1, 2025, thirty-five percent;

24 ~~[(l)]~~ (9) on or after July 1, 2025 and prior
25 to July 1, 2026, twenty-eight percent;

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1 ~~[(m)]~~ (10) on or after July 1, 2026 and prior
2 to July 1, 2027, twenty-one percent;

3 ~~[(n)]~~ (11) on or after July 1, 2027 and prior
4 to July 1, 2028, fourteen percent; ~~and~~

5 ~~(o)]~~ (12) on or after July 1, 2028 and prior
6 to July 1, 2029, seven percent; and

7 (13) on and after July 1, 2029, zero percent.

8 C. ~~[The]~~ A distribution pursuant to ~~[Subsections A~~
9 ~~and B of]~~ this section is in lieu of revenue that would have
10 been received by the municipality but for the deductions
11 provided by ~~[Sections]~~ Section 7-9-92 ~~[and 7-9-93]~~ NMSA 1978.
12 The distribution shall be considered gross receipts tax revenue
13 and shall be used by the municipality in the same manner as
14 gross receipts tax revenue, including payment of gross receipts
15 tax revenue bonds. ~~[A distribution pursuant to this section to~~
16 ~~a municipality not described in Subsection A of this section or~~
17 ~~to a municipality that has imposed a gross receipts tax through~~
18 ~~an ordinance that does not provide a deduction contained in the~~
19 ~~Gross Receipts and Compensating Tax Act shall not be made on or~~
20 ~~after July 1, 2029.]~~

21 D. If the ~~[reductions]~~ changes made by this ~~[2013]~~
22 2017 act to the distributions made pursuant to ~~[Subsections A~~
23 ~~and B of]~~ this section impair the ability of a municipality to
24 meet its principal or interest payment obligations for revenue
25 bonds that are outstanding prior to July 1, ~~[2013]~~ 2017 and

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1 that are secured by the pledge of all or part of the
 2 municipality's revenue from the distribution made pursuant to
 3 this section, then the amount distributed pursuant to this
 4 section to that municipality shall be increased by an amount
 5 sufficient to meet the required payment; provided that the
 6 total amount distributed to that municipality pursuant to this
 7 section does not exceed the amount that would have been due
 8 that municipality pursuant to this section as it was in effect
 9 on June 30, [~~2013~~] 2017.

10 E. For the purposes of this section:

11 (1) "business locations attributable to the
 12 municipality" means business locations:

13 [~~(1)~~] (a) within the municipality;

14 [~~(2)~~] (b) on land owned by the state,
 15 commonly known as the "state fairgrounds", within the exterior
 16 boundaries of the municipality;

17 [~~(3)~~] (c) outside the boundaries of the
 18 municipality on land owned by the municipality; and

19 [~~(4)~~] (d) on an Indian reservation or
 20 pueblo grant in an area that is contiguous to the municipality
 21 and in which the municipality performs services pursuant to a
 22 contract between the municipality and the Indian tribe or
 23 Indian pueblo if: [~~(a)~~] 1) the contract describes an area in
 24 which the municipality is required to perform services and
 25 requires the municipality to perform services that are

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1 substantially the same as the services the municipality
2 performs for itself; and [~~(b)~~] 2) the governing body of the
3 municipality has submitted a copy of the contract to the
4 secretary; and

5 (2) "maximum distribution" means:

6 (a) for a municipality that has a
7 population of less than ten thousand according to the most
8 recent federal decennial census, the total deductions claimed
9 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
10 from business locations attributable to the municipality
11 multiplied by the sum of the combined rate of all municipal
12 local option gross receipts taxes in effect in the municipality
13 for the month plus one and two hundred twenty-five thousandths
14 percent; and

15 (b) for a municipality that has a
16 population of ten thousand or more according to the most recent
17 federal decennial census, the total deductions claimed pursuant
18 to Section 7-9-92 NMSA 1978 for the month by taxpayers from
19 business locations attributable to the municipality multiplied
20 by the sum of the combined rate of all municipal local option
21 gross receipts taxes in effect in the municipality on January
22 1, 2007 plus one and two hundred twenty-five thousandths
23 percent.

24 F. A distribution pursuant to this section may be
25 adjusted for a distribution made to a tax increment development

1 district with respect to a portion of a gross receipts tax
 2 increment dedicated by a municipality pursuant to the Tax
 3 Increment for Development Act."

4 SECTION 4. Section 7-1-6.47 NMSA 1978 (being Laws 2004,
 5 Chapter 116, Section 2, as amended) is amended to read:

6 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD
 7 DEDUCTION [~~AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION~~].--

8 A. For a county that [~~has not elected to impose~~
 9 does not have in effect a county hold harmless gross receipts
 10 tax through an ordinance and that has a population of less than
 11 forty-eight thousand according to the most recent federal
 12 decennial census, a distribution pursuant to Section 7-1-6.1
 13 NMSA 1978 shall be made to [~~a~~] the county in an amount, subject
 14 to any increase or decrease made pursuant to Section 7-1-6.15
 15 NMSA 1978, equal to the [~~sum of:~~

16 ~~(1) the total deductions claimed pursuant to~~
 17 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
 18 ~~business locations within a municipality in the county~~
 19 ~~multiplied by the combined rate of all county local option~~
 20 ~~gross receipts taxes in effect for the month that are imposed~~
 21 ~~throughout the county;~~

22 ~~(2) the total deductions claimed pursuant to~~
 23 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
 24 ~~business locations in the county but not within a municipality~~
 25 ~~multiplied by the combined rate of all county local option~~

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1 ~~gross receipts taxes in effect for the month that are imposed~~
2 ~~in the county area not within a municipality;~~

3 ~~(3) the total deductions claimed pursuant to~~
4 ~~Section 7-9-93 NMSA 1978 for the month by taxpayers from~~
5 ~~business locations within a municipality in the county~~
6 ~~multiplied by the combined rate of all county local option~~
7 ~~gross receipts taxes in effect for the month that are imposed~~
8 ~~throughout the county; and~~

9 ~~(4) the total deductions claimed pursuant to~~
10 ~~Section 7-9-93 NMSA 1978 for the month by taxpayers from~~
11 ~~business locations in the county but not within a municipality~~
12 ~~multiplied by the combined rate of all county local option~~
13 ~~gross receipts taxes in effect for the month that are imposed~~
14 ~~in the county area not within a municipality] applicable~~
15 ~~maximum distribution for the county.~~

16 B. For a county not described in Subsection A of
17 this section, a distribution pursuant to Section 7-1-6.1 NMSA
18 1978 shall be made to the county in an amount, subject to any
19 increase or decrease made pursuant to Section 7-1-6.15 NMSA
20 1978, equal to the ~~[sum of:~~

21 ~~(1) the total deductions claimed pursuant to~~
22 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
23 ~~business locations within a municipality in the county~~
24 ~~multiplied by the combined rate of all county local option~~
25 ~~gross receipts taxes in effect on January 1, 2007 that are~~

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1 ~~imposed throughout the county in the following percentages:~~

2 ~~(a) prior to July 1, 2015, one hundred~~
3 ~~percent;~~

4 ~~(b) on or after July 1, 2015 and prior~~
5 ~~to July 1, 2016, ninety-four percent;~~

6 ~~(c) on or after July 1, 2016 and prior~~
7 ~~to July 1, 2017, eighty-eight percent;~~

8 ~~(d) on or after July 1, 2017 and prior~~
9 ~~to July 1, 2018, eighty-two percent;~~

10 ~~(e) on or after July 1, 2018 and prior~~
11 ~~to July 1, 2019, seventy-six percent;~~

12 ~~(f) on or after July 1, 2019 and prior~~
13 ~~to July 1, 2020, seventy percent;~~

14 ~~(g) on or after July 1, 2020 and prior~~
15 ~~to July 1, 2021, sixty-three percent;~~

16 ~~(h) on or after July 1, 2021 and prior~~
17 ~~to July 1, 2022, fifty-six percent;~~

18 ~~(i) on or after July 1, 2022 and prior~~
19 ~~to July 1, 2023, forty-nine percent;~~

20 ~~(j) on or after July 1, 2023 and prior~~
21 ~~to July 1, 2024, forty-two percent;~~

22 ~~(k) on or after July 1, 2024 and prior~~
23 ~~to July 1, 2025, thirty-five percent;~~

24 ~~(l) on or after July 1, 2025 and prior~~
25 ~~to July 1, 2026, twenty-eight percent;~~

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1 ~~(m) on or after July 1, 2026 and prior~~
2 ~~to July 1, 2027, twenty-one percent;~~

3 ~~(n) on or after July 1, 2027 and prior~~
4 ~~to July 1, 2028, fourteen percent; and~~

5 ~~(o) on or after July 1, 2028 and prior~~
6 ~~to July 1, 2029, seven percent;~~

7 ~~(2) the total deductions claimed pursuant to~~
8 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
9 ~~business locations in the county but not within a municipality~~
10 ~~multiplied by the combined rate of all county local option~~
11 ~~gross receipts taxes in effect on January 1, 2007 that are~~
12 ~~imposed in the county area not within a municipality in the~~
13 ~~following percentages:~~

14 ~~(a) prior to July 1, 2015, one hundred~~
15 ~~percent;~~

16 ~~(b) on or after July 1, 2015 and prior~~
17 ~~to July 1, 2016, ninety-four percent;~~

18 ~~(c) on or after July 1, 2016 and prior~~
19 ~~to July 1, 2017, eighty-eight percent;~~

20 ~~(d) on or after July 1, 2017 and prior~~
21 ~~to July 1, 2018, eighty-two percent;~~

22 ~~(e) on or after July 1, 2018 and prior~~
23 ~~to July 1, 2019, seventy-six percent;~~

24 ~~(f) on or after July 1, 2019 and prior~~
25 ~~to July 1, 2020, seventy percent;~~

1 ~~(g) on or after July 1, 2020 and prior~~
 2 ~~to July 1, 2021, sixty-three percent;~~

3 ~~(h) on or after July 1, 2021 and prior~~
 4 ~~to July 1, 2022, fifty-six percent;~~

5 ~~(i) on or after July 1, 2022 and prior~~
 6 ~~to July 1, 2023, forty-nine percent;~~

7 ~~(j) on or after July 1, 2023 and prior~~
 8 ~~to July 1, 2024, forty-two percent;~~

9 ~~(k) on or after July 1, 2024 and prior~~
 10 ~~to July 1, 2025, thirty-five percent;~~

11 ~~(l) on or after July 1, 2025 and prior~~
 12 ~~to July 1, 2026, twenty-eight percent;~~

13 ~~(m) on or after July 1, 2026 and prior~~
 14 ~~to July 1, 2027, twenty-one percent;~~

15 ~~(n) on or after July 1, 2027 and prior~~
 16 ~~to July 1, 2028, fourteen percent; and~~

17 ~~(o) on or after July 1, 2028 and prior~~
 18 ~~to July 1, 2029, seven percent;~~

19 ~~(3) the total deductions claimed pursuant to~~
 20 ~~Section 7-9-93 NMSA 1978 for the month by taxpayers from~~
 21 ~~business locations within a municipality in the county~~
 22 ~~multiplied by the combined rate of all county local option~~
 23 ~~gross receipts taxes in effect on January 1, 2007 that are~~
 24 ~~imposed throughout the county in the following percentages:~~

25 ~~(a) prior to July 1, 2015, one hundred~~

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1 percent;

2 ~~(b) on or after July 1, 2015 and prior~~
3 ~~to July 1, 2016, ninety-four percent;~~

4 ~~(c) on or after July 1, 2016 and prior~~
5 ~~to July 1, 2017, eighty-eight percent;~~

6 ~~(d) on or after July 1, 2017 and prior~~
7 ~~to July 1, 2018, eighty-two percent;~~

8 ~~(e) on or after July 1, 2018 and prior~~
9 ~~to July 1, 2019, seventy-six percent;~~

10 ~~(f) on or after July 1, 2019 and prior~~
11 ~~to July 1, 2020, seventy percent;~~

12 ~~(g) on or after July 1, 2020 and prior~~
13 ~~to July 1, 2021, sixty-three percent;~~

14 ~~(h) on or after July 1, 2021 and prior~~
15 ~~to July 1, 2022, fifty-six percent;~~

16 ~~(i) on or after July 1, 2022 and prior~~
17 ~~to July 1, 2023, forty-nine percent;~~

18 ~~(j) on or after July 1, 2023 and prior~~
19 ~~to July 1, 2024, forty-two percent;~~

20 ~~(k) on or after July 1, 2024 and prior~~
21 ~~to July 1, 2025, thirty-five percent;~~

22 ~~(l) on or after July 1, 2025 and prior~~
23 ~~to July 1, 2026, twenty-eight percent;~~

24 ~~(m) on or after July 1, 2026 and prior~~
25 ~~to July 1, 2027, twenty-one percent;~~

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1 ~~(n) on or after July 1, 2027 and prior~~
2 ~~to July 1, 2028, fourteen percent; and~~

3 ~~(o) on or after July 1, 2028 and prior~~
4 ~~to July 1, 2029, seven percent; and~~

5 ~~(4) the total deductions claimed pursuant to~~
6 ~~Section 7-9-93 NMSA 1978 for the month by taxpayers from~~
7 ~~business locations in the county but not within a municipality~~
8 ~~multiplied by the combined rate of all county local option~~
9 ~~gross receipts taxes in effect on January 1, 2007 that are~~
10 ~~imposed in the county area not within a municipality in]~~
11 applicable maximum distribution multiplied by the following
12 percentages:

13 ~~[(a) prior to July 1, 2015, one hundred~~
14 ~~percent;~~

15 ~~(b) on or after July 1, 2015 and prior~~
16 ~~to July 1, 2016, ninety-four percent;~~

17 ~~(c) on or after July 1, 2016 and prior~~
18 ~~to July 1, 2017, eighty-eight percent;~~

19 ~~(d)]~~ (1) on or after July 1, 2017 and prior to
20 July 1, 2018, eighty-two percent;

21 ~~[(e)]~~ (2) on or after July 1, 2018 and prior
22 to July 1, 2019, seventy-six percent;

23 ~~[(f)]~~ (3) on or after July 1, 2019 and prior
24 to July 1, 2020, seventy percent;

25 ~~[(g)]~~ (4) on or after July 1, 2020 and prior

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1 to July 1, 2021, sixty-three percent;

2 ~~[(h)]~~ (5) on or after July 1, 2021 and prior
3 to July 1, 2022, fifty-six percent;

4 ~~[(i)]~~ (6) on or after July 1, 2022 and prior
5 to July 1, 2023, forty-nine percent;

6 ~~[(j)]~~ (7) on or after July 1, 2023 and prior
7 to July 1, 2024, forty-two percent;

8 ~~[(k)]~~ (8) on or after July 1, 2024 and prior
9 to July 1, 2025, thirty-five percent;

10 ~~[(l)]~~ (9) on or after July 1, 2025 and prior
11 to July 1, 2026, twenty-eight percent;

12 ~~[(m)]~~ (10) on or after July 1, 2026 and prior
13 to July 1, 2027, twenty-one percent;

14 ~~[(n)]~~ (11) on or after July 1, 2027 and prior
15 to July 1, 2028, fourteen percent; ~~and~~

16 ~~[(o)]~~ (12) on or after July 1, 2028 and prior
17 to July 1, 2029, seven percent; and

18 (13) on and after July 1, 2029, zero percent.

19 C. ~~[The]~~ A distribution pursuant to ~~[Subsections A~~
20 ~~and B of]~~ this section is in lieu of revenue that would have
21 been received by the county but for the deductions provided by
22 ~~[Sections]~~ Section 7-9-92 ~~[and 7-9-93]~~ NMSA 1978. The
23 distribution shall be considered gross receipts tax revenue and
24 shall be used by the county in the same manner as gross
25 receipts tax revenue, including payment of gross receipts tax

1 revenue bonds. [~~A distribution pursuant to this section to a~~
 2 ~~county not described in Subsection A of this section or to a~~
 3 ~~county that has imposed a gross receipts tax through an~~
 4 ~~ordinance that does not provide a deduction contained in the~~
 5 ~~Gross Receipts and Compensating Tax Act shall not be made on or~~
 6 ~~after July 1, 2029.~~]

7 D. If the [~~reductions~~] changes made by this [~~2013~~]
 8 2017 act to the distributions made pursuant to [~~Subsections A~~
 9 ~~and B of~~] this section impair the ability of a county to meet
 10 its principal or interest payment obligations for revenue bonds
 11 that are outstanding prior to July 1, [~~2013~~] 2017 and that are
 12 secured by the pledge of all or part of the county's revenue
 13 from the distribution made pursuant to this section, then the
 14 amount distributed pursuant to this section to that county
 15 shall be increased by an amount sufficient to meet the required
 16 payment; provided that the total amount distributed to that
 17 county pursuant to this section does not exceed the amount that
 18 would have been due that county pursuant to this section as it
 19 was in effect on June 30, [~~2013~~] 2017.

20 E. A distribution pursuant to this section may be
 21 adjusted for a distribution made to a tax increment development
 22 district with respect to a portion of a gross receipts tax
 23 increment dedicated by a county pursuant to the Tax Increment
 24 for Development Act.

25 F. For purposes of this section, "maximum

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1 distribution" means:

2 (1) for counties that have a population of
3 less than forty-eight thousand according to the most recent
4 federal decennial census, the sum of:

5 (a) the total deductions claimed
6 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
7 from business locations within a municipality in the county
8 multiplied by the combined rate of all county local option
9 gross receipts taxes in effect for the month that are imposed
10 throughout the county; and

11 (b) the total deductions claimed
12 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
13 from business locations in the county but not within a
14 municipality multiplied by the combined rate of all county
15 local option gross receipts taxes in effect for the month that
16 are imposed in the county area not within a municipality; and

17 (2) for counties that have a population of
18 forty-eight thousand or more according to the most recent
19 federal decennial census, the sum of:

20 (a) the total deductions claimed
21 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
22 from business locations within a municipality in the county
23 multiplied by the combined rate of all county local option
24 gross receipts taxes in effect on January 1, 2007 that are
25 imposed throughout the county; and

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underscored material = new
[bracketed material] = delete

1 (b) the total deductions claimed
 2 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
 3 from business locations in the county but not within a
 4 municipality multiplied by the combined rate of all county
 5 local option gross receipts taxes in effect on January 1, 2007
 6 that are imposed in the county area not within a municipality."

7 SECTION 5. Section 7-1-14 NMSA 1978 (being Laws 1969,
 8 Chapter 145, Section 1, as amended) is amended to read:

9 "7-1-14. SECRETARY MAY DETERMINE WHERE CERTAIN GROSS
 10 RECEIPTS ARE TO BE REPORTED--PLACE OF BUSINESS FOR CONSTRUCTION
 11 PROJECTS, [~~AND~~] CERTAIN REAL PROPERTY SALES AND SALES BY OUT-
 12 OF-STATE VENDORS.--

13 A. By regulation, the secretary may require any
 14 person maintaining one or more places of business to report the
 15 person's taxable gross receipts and deductions for each
 16 municipality or county or area within an Indian reservation or
 17 pueblo grant in which the person maintains a place of business.

18 B. For persons engaged in the construction
 19 business, the place where the construction project is performed
 20 is a "place of business", and all receipts from that project
 21 are to be reported from that place of business.

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

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1 D. For a person engaged in the business of selling
2 real estate, the location of the real property sold is the
3 "place of business", and all receipts from that sale are to be
4 reported from that place of business.

5 E. For a person engaging in business but is without
6 physical presence in this state, "place of business" is the
7 location where the property or the product of a service being
8 sold by the person is delivered."

9 SECTION 6. Section 7-1-29 NMSA 1978 (being Laws 1965,
10 Chapter 248, Section 31, as amended) is amended to read:

11 "7-1-29. AUTHORITY TO MAKE REFUNDS OR CREDITS.--

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

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1 Emergency School Tax Act, the Oil and Gas Ad Valorem Production
2 Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas
3 Production Equipment Ad Valorem Tax Act, Section 7-13-17 NMSA
4 1978 and the Cigarette Tax Act without the prior approval of
5 the attorney general regardless of the amount.

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

13 C. In the discretion of the secretary, any amount
14 of credit or rebate to be paid or tax to be refunded may be
15 offset against any amount of tax for which the person due to
16 receive the credit, rebate payment or refund is liable, or in
17 the case of a refund of gross receipts tax, any compensating
18 tax owed by that person's customer as a result of transactions
19 with that person. The secretary or the secretary's delegate
20 shall give notice to the taxpayer that the credit, rebate
21 payment or refund will be made in this manner, and the taxpayer
22 shall be entitled to interest pursuant to Section 7-1-68 NMSA
23 1978 until the tax liability is credited with the credit,
24 rebate or refund amount.

25 D. In an audit by the department or a managed audit

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

15 E. When a taxpayer makes a payment identified to a
16 particular return or assessment, and the department determines
17 that the payment exceeds the amount due pursuant to that return
18 or assessment, the secretary may apply the excess to the
19 taxpayer's other liabilities pursuant to the tax acts to which
20 the return or assessment applies, without requiring the
21 taxpayer to file a claim for a refund. The liability to which
22 an overpayment is applied pursuant to this section shall be
23 deemed paid in the period in which the overpayment was made or
24 the period to which the overpayment was applied, whichever is
25 later.

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

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

16 H. In response to a timely refund claim pursuant to
17 Section 7-1-26 NMSA 1978 and notwithstanding any other
18 provision of the Tax Administration Act, the secretary or the
19 secretary's delegate may refund or credit a portion of an
20 assessment of tax paid, including applicable penalties and
21 interest representing the amount of tax previously paid by
22 another person on behalf of the taxpayer on the same
23 transaction; provided that the requirements of equitable
24 recoupment are met. For purposes of this subsection, the
25 refund claim may be filed by the taxpayer to whom the

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1 assessment was issued or by another person who claims to have
2 previously paid the tax on behalf of the taxpayer. Prior to
3 granting the refund or credit, the secretary may require a
4 waiver of all rights to claim a refund or credit of the tax
5 previously paid by another person paying a tax on behalf of the
6 taxpayer."

7 SECTION 7. 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 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 loan
19 association or an incorporated savings and loan company, trust
20 company, mortgage banking company, consumer finance company or
21 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

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 and
6 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 tax" means a tax
15 authorized to be imposed by a county or municipality upon the
16 taxpayer's gross receipts and required to be collected by the
17 department at the same time and in the same manner as the gross
18 receipts tax; "local option gross receipts tax" includes the
19 taxes imposed pursuant to the Municipal Local Option Gross
20 Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax
21 Act, County Local Option Gross Receipts Taxes Act, Local
22 Hospital Gross Receipts Tax Act and County Correctional
23 Facility Gross Receipts Tax Act and such other acts as may be
24 enacted authorizing counties or municipalities to impose taxes
25 on gross receipts, which taxes are to be collected by the

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1 department;

2 G. "manufactured home" means a movable or portable
3 housing structure for human occupancy that exceeds either a
4 width of eight feet or a length of forty feet constructed to be
5 towed on its own chassis and designed to be installed with or
6 without a permanent foundation;

7 H. "manufacturing" means combining or processing
8 components or materials to increase their value for sale in the
9 ordinary course of business, but does not include construction;

10 I. "net patient care revenue" means the revenue
11 that a nonprofit or governmental hospital generates from
12 treating patients, less any amounts from contractual
13 adjustments, bad debts and charitable treatment of patients;

14 [~~F.~~] J. "person" means:

15 (1) an individual, estate, trust, receiver,
16 cooperative association, club, corporation, company, firm,
17 partnership, limited liability company, limited liability
18 partnership, joint venture, syndicate or other entity,
19 including any gas, water or electric utility owned or operated
20 by a county, municipality or other political subdivision of the
21 state; or

22 (2) a national, federal, state, Indian or
23 other governmental unit or subdivision, or an agency,
24 department or instrumentality of any of the foregoing;

25 [~~J.~~] K. "property" means real property, tangible

1 personal property, licenses other than the licenses of
2 copyrights, trademarks or patents and franchises. Tangible
3 personal property includes electricity and manufactured homes;

4 ~~[K-]~~ L. "research and development services" means
5 an activity engaged in for other persons for consideration, for
6 one or more of the following purposes:

7 (1) advancing basic knowledge in a recognized
8 field of natural science;

9 (2) advancing technology in a field of
10 technical endeavor;

11 (3) developing a new or improved product,
12 process or system with new or improved function, performance,
13 reliability or quality, whether or not the new or improved
14 product, process or system is offered for sale, lease or other
15 transfer;

16 (4) developing new uses or applications for an
17 existing product, process or system, whether or not the new use
18 or application is offered as the rationale for purchase, lease
19 or other transfer of the product, process or system;

20 (5) developing analytical or survey activities
21 incorporating technology review, application, trade-off study,
22 modeling, simulation, conceptual design or similar activities,
23 whether or not offered for sale, lease or other transfer; or

24 (6) designing and developing prototypes or
25 integrating systems incorporating the advances, developments or

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1 improvements included in Paragraphs (1) through (5) of this
2 subsection;

3 ~~[E.]~~ M. "secretary" means the secretary of taxation
4 and revenue or the secretary's delegate;

5 ~~[M.]~~ N. "service" means all activities engaged in
6 for other persons for a consideration, which activities involve
7 predominantly the performance of a service as distinguished
8 from selling or leasing property. "Service" includes
9 activities performed by a person for its members or
10 shareholders. In determining what is a service, the intended
11 use, principal objective or ultimate objective of the
12 contracting parties shall not be controlling. "Service"
13 includes construction activities and all tangible personal
14 property that will become an ingredient or component part of a
15 construction project. That tangible personal property retains
16 its character as tangible personal property until it is
17 installed as an ingredient or component part of a construction
18 project in New Mexico. Sales of tangible personal property
19 that will become an ingredient or component part of a
20 construction project to persons engaged in the construction
21 business are sales of tangible personal property; and

22 ~~[N.]~~ O. "use" or "using" includes use, consumption
23 or storage other than storage for subsequent sale in the
24 ordinary course of business or for use solely outside this
25 state."

1 SECTION 8. Section 7-9-3.2 NMSA 1978 (being Laws 1991,
2 Chapter 8, Section 1, as amended) is amended to read:

3 "7-9-3.2. ADDITIONAL DEFINITION.--

4 A. As used in the Gross Receipts and Compensating
5 Tax Act, "governmental gross receipts" means:

6 (1) receipts of the state or an agency,
7 institution, instrumentality or political subdivision from:

8 ~~(1)~~ (a) the sale of tangible personal
9 property other than water from facilities open to the general
10 public;

11 ~~(2)~~ (b) the performance of or
12 admissions to recreational, athletic or entertainment services
13 or events in facilities open to the general public;

14 ~~(3)~~ (c) refuse collection or refuse
15 disposal or both;

16 ~~(4)~~ (d) sewage services;

17 ~~(5)~~ (e) the sale of water by a utility
18 owned or operated by a county, municipality or other political
19 subdivision of the state; ~~and~~

20 ~~(6)~~ (f) the renting of parking, docking
21 or tie-down spaces or the granting of permission to park
22 vehicles, tie down aircraft or dock boats; and

23 (g) net patient care revenue from a
24 hospital licensed by the department of health and subject to
25 the governmental gross receipts tax; and

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1 ~~["Governmental gross receipts"]~~ (2) includes
2 receipts from the sale of tangible personal property handled on
3 consignment when sold from facilities open to the general
4 public but excludes cash discounts taken and allowed,
5 governmental gross receipts tax payable on transactions
6 reportable for the period and any type of time-price
7 differential.

8 B. As used in this section, "facilities open to the
9 general public" does not include point of sale registers or
10 electronic devices at a bookstore owned or operated by a public
11 post-secondary educational institution when the registers or
12 devices are utilized in the sale of textbooks or other
13 materials required for courses at the institution to a student
14 enrolled at the institution who displays a valid student
15 identification card."

16 SECTION 9. Section 7-9-3.3 NMSA 1978 (being Laws 2003,
17 Chapter 272, Section 4) is amended to read:

18 "7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in
19 the Gross Receipts and Compensating Tax Act, "engaging in
20 business" means carrying on or causing to be carried on any
21 activity with the purpose of direct or indirect benefit,
22 without regard to having physical presence, including the
23 presence of a representative acting on behalf of the person, in
24 the state, except that "engaging in business" does not include:

25 A. ~~["engaging in business" does not include]~~ having

1 a worldwide [~~web site~~] website as a third-party content
 2 provider on a computer physically located in New Mexico but
 3 owned by another nonaffiliated person; [~~and~~]

4 B. [~~"engaging in business" does not include~~] using
 5 a nonaffiliated third-party call center to accept and process
 6 telephone or electronic orders of tangible personal property or
 7 licenses primarily from non-New Mexico buyers, which orders are
 8 forwarded to a location outside New Mexico for filling, or to
 9 provide services primarily to non-New Mexico customers; and

10 C. the activities of a person without physical
 11 presence in this state if the person and the person's
 12 affiliates have less than one hundred thousand dollars
 13 (\$100,000) of gross receipts in the state, based on receipts
 14 during the prior calendar year. As used in this subsection,
 15 "affiliate" means a business entity that, directly or
 16 indirectly, through one or more intermediaries, controls, is
 17 controlled by or is under common control with another business
 18 entity."

19 SECTION 10. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
 20 Chapter 272, Section 3, as amended) is amended to read:

21 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

22 A. As used in the Gross Receipts and Compensating
 23 Tax Act:

24 (1) "gross receipts" means the total amount of
 25 money or the value of other consideration received from selling

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1 property in New Mexico, from leasing or licensing property
2 employed in New Mexico, from granting a right to use a
3 franchise employed in New Mexico, from selling services
4 performed outside New Mexico, the product of which is initially
5 used in New Mexico, or from performing services in New Mexico.
6 In an exchange in which the money or other consideration
7 received does not represent the value of the property or
8 service exchanged, "gross receipts" means the reasonable value
9 of the property or service exchanged;

10 (2) "gross receipts" includes:

11 (a) any receipts from sales of tangible
12 personal property handled on consignment, including third-party
13 sales made over a multi-vendor marketplace platform that acts
14 as the intermediary, typically as the processor of the
15 transaction, between the seller and the purchaser;

16 (b) the total commissions or fees
17 derived from the business of buying, selling or promoting the
18 purchase, sale or lease, as an agent or broker on a commission
19 or fee basis, of any property, service, stock, bond or
20 security;

21 (c) amounts paid by members of any
22 cooperative association or similar organization for sales or
23 leases of personal property or performance of services by such
24 organization;

25 (d) amounts received from transmitting

1 messages or conversations by persons providing telephone or
2 telegraph services;

3 (e) amounts received by a New Mexico
4 florist from the sale of flowers, plants or other products that
5 are customarily sold by florists where the sale is made
6 pursuant to orders placed with the New Mexico florist that are
7 filled and delivered outside New Mexico by an out-of-state
8 florist; and

9 (f) the receipts of a home service
10 provider from providing mobile telecommunications services to
11 customers whose place of primary use is in New Mexico if: 1)
12 the mobile telecommunications services originate and terminate
13 in the same state, regardless of where the services originate,
14 terminate or pass through; and 2) the charges for mobile
15 telecommunications services are billed by or for a customer's
16 home service provider and are deemed provided by the home
17 service provider. For the purposes of this section, "home
18 service provider", "mobile telecommunications services",
19 "customer" and "place of primary use" have the meanings given
20 in the federal Mobile Telecommunications Sourcing Act; and

21 (3) "gross receipts" excludes:

22 (a) cash discounts allowed and taken;
23 (b) New Mexico gross receipts tax,
24 governmental gross receipts tax and leased vehicle gross
25 receipts tax payable on transactions for the reporting period;

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1 (c) taxes imposed pursuant to the
2 provisions of any local option gross receipts tax that is
3 payable on transactions for the reporting period;

4 (d) any gross receipts or sales taxes
5 imposed by an Indian nation, tribe or pueblo; provided that the
6 tax is approved, if approval is required by federal law or
7 regulation, by the secretary of the interior of the United
8 States; and provided further that the gross receipts or sales
9 tax imposed by the Indian nation, tribe or pueblo provides a
10 reciprocal exclusion for gross receipts, sales or gross
11 receipts-based excise taxes imposed by the state or its
12 political subdivisions;

13 (e) any type of time-price differential;

14 (f) amounts received solely on behalf of
15 another in a disclosed agency capacity; and

16 (g) amounts received by a New Mexico
17 florist from the sale of flowers, plants or other products that
18 are customarily sold by florists where the sale is made
19 pursuant to orders placed with an out-of-state florist for
20 filling and delivery in New Mexico by a New Mexico florist.

21 B. When the sale of property or service is made
22 under any type of charge, conditional or time-sales contract or
23 the leasing of property is made under a leasing contract, the
24 seller or lessor may elect to treat all receipts, excluding any
25 type of time-price differential, under such contracts as gross

1 receipts as and when the payments are actually received. If
 2 the seller or lessor transfers the seller's or lessor's
 3 interest in any such contract to a third person, the seller or
 4 lessor shall pay the gross receipts tax upon the full sale or
 5 leasing contract amount, excluding any type of time-price
 6 differential."

7 SECTION 11. Section 7-9-4.3 NMSA 1978 (being Laws 1991,
 8 Chapter 8, Section 2, as amended by Laws 1993, Chapter 332,
 9 Section 1 and by Laws 1993, Chapter 352, Section 1) is amended
 10 to read:

11 "7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
 12 "GOVERNMENTAL GROSS RECEIPTS TAX"--For the privilege of
 13 engaging in certain activities by governments, there is imposed
 14 on every agency, institution, instrumentality or political
 15 subdivision of the state, except any school district [~~and any~~
 16 ~~entity licensed by the department of health that is principally~~
 17 ~~engaged in providing health care services], an excise tax of
 18 five percent of governmental gross receipts. The tax imposed
 19 by this section shall be referred to as the "governmental gross
 20 receipts tax"."~~

21 SECTION 12. A new Section 7-9-4.4 NMSA 1978 is enacted to
 22 read:

23 "7-9-4.4. [NEW MATERIAL] EXEMPTION--GOVERNMENTAL GROSS
 24 RECEIPTS TAX--CERTAIN SERVICES PROVIDED BY A HOSPITAL LICENSED
 25 BY THE DEPARTMENT OF HEALTH.--Exempted from the governmental

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1 gross receipts tax are the receipts of an entity licensed by
2 the department of health that is principally engaged in
3 providing health care services; provided that the receipts are
4 not receipts of net patient care revenue."

5 SECTION 13. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
6 Chapter 45, Section 1, as amended) is amended to read:

7 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION
8 ACTIONS WITH RESPECT TO CERTAIN COMPENSATING AND GROSS RECEIPTS
9 TAX LIABILITIES.--

10 A. The department shall take no action to enforce
11 collection of compensating tax due on purchases made by an
12 individual if:

13 (1) the property is used only for nonbusiness
14 purposes;

15 (2) the property is not a manufactured home;
16 and

17 (3) the individual is not an agent for
18 collection of compensating tax pursuant to Section 7-9-10 NMSA
19 1978.

20 B. The department shall take no action to enforce
21 collection of gross receipts tax for a tax period prior to July
22 1, 2017 on persons engaging in business if, for those tax
23 periods, those persons:

24 (1) lacked physical presence in the state; and

25 (2) did not report taxable gross receipts.

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

9 **SECTION 14.** Section 7-9-29 NMSA 1978 (being Laws 1970,
 10 Chapter 12, Section 3, as amended) is amended to read:

11 "7-9-29. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN
 12 ORGANIZATIONS.--

13 A. Exempted from the gross receipts tax are the
 14 receipts of organizations that demonstrate to the department
 15 that they have been granted exemption from the federal income
 16 tax by the United States commissioner of internal revenue as
 17 organizations described in Section 501(c)(3) of the United
 18 States Internal Revenue Code of [~~1954~~] 1986, as that section
 19 may be amended or renumbered, except receipts of net patient
 20 care revenue.

21 B. Exempted from the gross receipts tax are the
 22 receipts from carrying on chamber of commerce, visitor bureau
 23 and convention bureau functions of organizations that
 24 demonstrate to the department that they have been granted
 25 exemption from the federal income tax by the United States

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1 commissioner of internal revenue as organizations described in
2 Section 501(c)(6) of the United States Internal Revenue Code of
3 [~~1954~~] 1986, as that section may be amended or renumbered.

4 C. This section does not apply to receipts derived
5 from an unrelated trade or business as defined in Section 513
6 of the United States Internal Revenue Code of [~~1954~~] 1986, as
7 that section may be amended or renumbered."

8 SECTION 15. Section 7-9-73.1 NMSA 1978 (being Laws 1991,
9 Chapter 8, Section 3, as amended) is amended to read:

10 "7-9-73.1. DEDUCTION--GROSS RECEIPTS--~~[HOSPITALS]~~
11 GOVERNMENTAL GROSS RECEIPTS--ENTITIES LICENSED BY THE
12 DEPARTMENT OF HEALTH.--~~[Fifty]~~

13 A. Sixty percent of the receipts of ~~[hospitals]~~ an
14 entity licensed by the department of health that is principally
15 engaged in providing health care services may be deducted from
16 gross receipts; provided that this deduction may be applied
17 only to the taxable gross receipts remaining after all other
18 appropriate deductions have been taken.

19 B. Sixty percent of the receipts from net patient
20 care revenue received by a hospital licensed by the department
21 of health may be deducted from governmental gross receipts;
22 provided that this deduction may be applied only to the taxable
23 governmental gross receipts remaining after all other
24 appropriate deductions have been taken."

25 SECTION 16. Section 7-9-93 NMSA 1978 (being Laws 2004,

1 Chapter 116, Section 6, as amended) is amended to read:

2 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
3 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

4 A. Sixty percent of receipts of a health care
5 practitioner [~~for commercial contract services or medicare part~~
6 ~~C services paid by a managed health care provider or health~~
7 ~~care insurer~~] may be deducted from gross receipts [~~if the~~] for
8 services that are within the scope of practice of the health
9 care practitioner [~~providing the service. Receipts from fee-~~
10 ~~for service payments by a health care insurer may not be~~
11 ~~deducted from gross receipts~~].

12 B. The deduction provided by this section shall be
13 applied only to gross receipts remaining after all other
14 allowable deductions available under the Gross Receipts and
15 Compensating Tax Act have been taken and shall be separately
16 stated by the taxpayer.

17 C. For the purposes of this section,

18 [~~(1) "commercial contract services" means~~
19 ~~health care services performed by a health care practitioner~~
20 ~~pursuant to a contract with a managed health care provider or~~
21 ~~health care insurer other than those health care services~~
22 ~~provided for medicare patients pursuant to Title 18 of the~~
23 ~~federal Social Security Act or for medicaid patients pursuant~~
24 ~~to Title 19 or Title 21 of the federal Social Security Act;~~

25 ~~(2) "health care insurer" means a person that:~~

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1 ~~(a) has a valid certificate of authority~~
2 ~~in good standing pursuant to the New Mexico Insurance Code to~~
3 ~~act as an insurer, health maintenance organization or nonprofit~~
4 ~~health care plan or prepaid dental plan; and~~

5 ~~(b) contracts to reimburse licensed~~
6 ~~health care practitioners for providing basic health services~~
7 ~~to enrollees at negotiated fee rates;~~

8 ~~(3)~~ "health care practitioner" means:

9 ~~(a)~~ (1) a chiropractic physician licensed
10 pursuant to the provisions of the Chiropractic Physician
11 Practice Act;

12 ~~(b)~~ (2) a dentist or dental hygienist
13 licensed pursuant to the Dental Health Care Act;

14 ~~(c)~~ (3) a doctor of oriental medicine
15 licensed pursuant to the provisions of the Acupuncture and
16 Oriental Medicine Practice Act;

17 ~~(d)~~ (4) an optometrist licensed pursuant to
18 the provisions of the Optometry Act;

19 ~~(e)~~ (5) an osteopathic physician or an
20 osteopathic physician's assistant licensed pursuant to the
21 provisions of the Osteopathic Medicine Act;

22 ~~(f)~~ (6) a physical therapist licensed
23 pursuant to the provisions of the Physical Therapy Act;

24 ~~(g)~~ (7) a physician or physician assistant
25 licensed pursuant to the provisions of the Medical Practice

1 Act;

2 ~~[(h)]~~ (8) a podiatrist licensed pursuant to
3 the provisions of the Podiatry Act;

4 ~~[(i)]~~ (9) a psychologist licensed pursuant to
5 the provisions of the Professional Psychologist Act;

6 ~~[(j)]~~ (10) a registered lay midwife registered
7 by the department of health;

8 ~~[(k)]~~ (11) a registered nurse or licensed
9 practical nurse licensed pursuant to the provisions of the
10 Nursing Practice Act;

11 ~~[(l)]~~ (12) a registered occupational therapist
12 licensed pursuant to the provisions of the Occupational Therapy
13 Act;

14 ~~[(m)]~~ (13) a respiratory care practitioner
15 licensed pursuant to the provisions of the Respiratory Care
16 Act;

17 ~~[(n)]~~ (14) a speech-language pathologist or
18 audiologist licensed pursuant to the Speech-Language Pathology,
19 Audiology and Hearing Aid Dispensing Practices Act;

20 ~~[(o)]~~ (15) a professional clinical mental
21 health counselor, marriage and family therapist or professional
22 art therapist licensed pursuant to the provisions of the
23 Counseling and Therapy Practice Act who has obtained a master's
24 degree or a doctorate;

25 ~~[(p)]~~ (16) an independent social worker

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1 licensed pursuant to the provisions of the Social Work Practice
2 Act; and

3 ~~[(q)]~~ (17) a clinical laboratory that is
4 accredited pursuant to 42 U.S.C. Section 263a but that is not a
5 laboratory in a physician's office or in a hospital defined
6 pursuant to 42 U.S.C. Section 1395x.

7 ~~[(4) "managed health care provider" means a~~
8 ~~person that provides for the delivery of comprehensive basic~~
9 ~~health care services and medically necessary services to~~
10 ~~individuals enrolled in a plan through its own employed health~~
11 ~~care providers or by contracting with selected or participating~~
12 ~~health care providers. "Managed health care provider" includes~~
13 ~~only those persons that provide comprehensive basic health care~~
14 ~~services to enrollees on a contract basis, including the~~
15 ~~following:~~

- 16 ~~(a) health maintenance organizations;~~
- 17 ~~(b) preferred provider organizations;~~
- 18 ~~(c) individual practice associations;~~
- 19 ~~(d) competitive medical plans;~~
- 20 ~~(e) exclusive provider organizations;~~
- 21 ~~(f) integrated delivery systems;~~
- 22 ~~(g) independent physician-provider~~
23 ~~organizations;~~
- 24 ~~(h) physician hospital-provider~~
25 ~~organizations; and~~

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underscored material = new
[bracketed material] = delete

1 ~~(i) managed care services organizations;~~
2 and

3 ~~(5) "medicare part C services" means services~~
4 ~~performed pursuant to a contract with a managed health care~~
5 ~~provider for medicare patients pursuant to Title 18 of the~~
6 ~~federal Social Security Act.]"~~

7 SECTION 17. Section 7-14-4 NMSA 1978 (being Laws 1988,
8 Chapter 73, Section 14) is amended to read:

9 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE
10 TAX.--The rate of the motor vehicle excise tax is [~~three~~] four
11 percent and is applied to the price paid for the vehicle. If
12 the price paid does not represent the value of the vehicle in
13 the condition that existed at the time it was acquired, the tax
14 rate shall be applied to the reasonable value of the vehicle in
15 such condition at such time. However, allowances granted for
16 vehicle trade-ins may be deducted from the price paid or the
17 reasonable value of the vehicle purchased."

18 SECTION 18. Section 7-15A-13 NMSA 1978 (being Laws 2003
19 (1st S.S.), Chapter 3, Section 7) is amended to read:

20 "7-15A-13. WEIGHT DISTANCE TAX IDENTIFICATION PERMIT
21 TAX--ADMINISTRATIVE FEE.--

22 A. A person that obtains a weight distance tax
23 identification permit shall pay to the department, in addition
24 to a weight distance tax, special fuel excise tax and other use
25 fee imposed for the use of public highways of this state:

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1 (1) a permit tax in the amount of ninety
2 dollars (\$90.00); and

3 (2) an administrative fee [to the department]
4 for the reasonable and necessary expense that the department
5 incurs for processing and issuing a weight distance tax
6 identification permit [~~The fee shall be paid in addition to a~~
7 ~~weight distance tax, special fuel excise tax and other use fee~~
8 ~~imposed for the use of public highways of this state] in an
9 amount determined by the department [shall determine the amount
10 of the fee pursuant to regulation. The fee shall not exceed]
11 by rule, but not more than ten dollars (\$10.00).~~

12 B. The department shall deposit:

13 (1) to the general fund, all proceeds from
14 permit taxes collected by the department pursuant to Paragraph
15 (1) of Subsection A of this section; and

16 (2) to the weight distance tax identification
17 permit administration fund, all proceeds from administrative
18 fees collected by the department pursuant to Paragraph (2) of
19 Subsection A of this section."

20 SECTION 19. TEMPORARY PROVISION--DEPARTMENT REPORT TO
21 LEGISLATURE--HEALTH CARE INDUSTRY REVENUE AND TAX
22 EXPENDITURES.--The taxation and revenue department shall
23 evaluate health-care-industry-related revenue collections and
24 tax expenditures and shall, by December 1, 2017, report to the
25 legislative finance committee and the revenue stabilization and

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1 tax policy committee the result of that evaluation with a
2 recommendation as to whether existing tax expenditures for that
3 industry should be adjusted.

4 SECTION 20. REPEAL.--Sections 7-9-60, 7-9-77.1 and
5 7-9-96.1 NMSA 1978 (being Laws 1970, Chapter 12, Section 4,
6 Laws 1998, Chapter 96, Section 1 and Laws 2007, Chapter 361,
7 Section 7, as amended) are repealed.

8 SECTION 21. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2017.

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